

MAINE STATE LEGISLATURE

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



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

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Chapter 7.

Voting by Armed Forces.

Secs. 1-8. Repealed by Public Laws, 1961, c. 360, § 18.

Cross reference.—See c. 3-A for present election laws.

Chapter 8.

Petitions for People's Veto and Direct Initiative.

Secs. 1-6. Repealed by Public Laws, 1961, c. 360, § 18.

Cross reference.—See c. 3-A for present election laws.

Chapter 9.

Corrupt Practices.

Secs. 1-9. Repealed by Public Laws, 1961, c. 360, § 18.

Cross reference.—See c. 3-A for present election laws.

Chapter 10.

Legislature. Legislative Research Committee. Commission on Interstate Cooperation.

Sections 8-A to 8-0. Emergency Interim Legislative Succession.

Section 21-A. Rules and Regulations.

Section 33-A. Commission on Uniform State Laws.

Organization of the Legislature.

Sec. 2. Salary and travel of members of the legislature and representatives of Indian tribes.—Each member of the senate and house of representatives shall receive \$1,600 for the regular session of the legislature, and shall be paid for travel at each legislative session once each week at the rate of 5¢ per mile to and from his place of abode, the mileage to be determined by the most reasonable direct route. He is entitled to mileage on the first day of the session, and such amounts of his salary and at such times as the legislature may determine during the session, and the balance at the end thereof. Two dollars shall be deducted from the pay of every member for each day that he is absent from his duties, without being excused by the house to which he belongs.

The president of the senate and speaker of the house of representatives shall each receive \$1,850 for each regular session of the legislature, with the same mileage as other members, and subject to the same deductions in case of each absence. Any member acting as president pro tempore of the senate, or speaker pro tempore of the house, shall receive \$2 a day extra therefor.

The member of the Indian tribe elected by it to represent the tribe at the biennial assembly of the legislature shall receive a compensation of \$250 for such attendance. (1955, c. 478, § 1. 1957, c. 1, § 1; c. 414, § 1. 1959, c. 225; c. 373, §§ 1, 2.)

Effect of amendments. — The 1955 day of January, 1957, increased the salary amendment, effective on the first Wednesday of members of the senate and house from

\$1,000 to \$1,250 and the salaries of the president of the senate and the speaker of the house from \$1,150 to \$1,500.

The first 1957 amendment, retroactive in effect to the first Wednesday of January 1957, deleted the provision entitling each member to \$100 of his salary on the first day of each month in the second sentence of the first paragraph, inserted "such amounts of his salary at such times as the legislature may determine" in lieu thereof, and made certain slight changes in phraseology to clarify the wording of the first paragraph. The second 1957 amendment increased the salary of members of the senate and house from \$1,250 to \$1,400 and increased the salary of the president of the senate and speaker of the house from \$1,500 to \$1,650; however, section 2 of such amendatory act provided that this act should take effect on the first Wednesday of January, 1959.

The first 1959 amendment amended the last paragraph by substituting the figures "\$250" for the figures "\$200". The second 1959 amendment substituted the figures "\$1,600" for the figures "\$1,400" in the first paragraph, and also substituted the

figures "\$1,850" for the figures "\$1,650" in the second paragraph. As the first, second and last paragraphs were the only ones affected by the amendments, the rest of this section is not set out.

Effective date. — P. L. 1959, c. 373 amending this section, provided in section 3 thereof as follows: "This act shall take effect on the first Wednesday of January, 1961."

Mileage of legislators for travel to the legislature is not "compensation" within the meaning of article 4, part 3, section 7 of the constitution and provision for an increase in mileage allowances may properly be made by an act or resolve. Opinion of the Justices, 152 Me. 302.

Mileage of legislators for travel to the legislature is personal expense as distinguished from legislative expense. Thus an increase in the mileage allowance may not be provided for in a joint order but can be effected only by an act or resolve of the legislature passed as a law by both branches thereof and submitted to the executive for his executive approval in accordance with the constitution. Opinion of the Justices, 152 Me. 302.

Sec. 3. Senate; organization.

If the secretary of the senate and his assistant are absent at the time set for convening the senate, their duties shall be performed by the secretary of state or his deputy. (R. S. c. 9, § 3. 1955, c. 482, § 1.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the sec-

tion was not changed, only the paragraph added by the amendment is set out.

Sec. 4. Secretary and assistant secretary of the senate; salaries and duties.—The secretary of the senate shall perform the usual duties of the office during the session of the legislature, file and index all papers, which have been subject to adverse legislative action, index and supervise the preparation of the permanent senate journal. He shall also perform the duties required of him by sections 3 and 5. He shall also deliver to the librarian of the state library all papers on file in the office of the secretary of the senate which were considered by a session of the legislature held more than 10 years previously and the state librarian shall inspect said papers and preserve all those having any historical or permanent value. He shall receive a salary of \$5,000 in full for all official services by him performed during the regular session of the legislature.

The assistant secretary of the senate shall receive a salary of \$2,800; his work shall be performed under the direction of the secretary. (R. S. c. 9, § 4. 1945, c. 375, § 1. 1953, c. 422, §§ 1, 2. 1955, c. 482, §§ 2, 3.)

Effect of amendment.—The 1955 amendment increased the salary of the secretary from \$4,000 to \$5,000, and the salary of

the assistant secretary from \$2,400 to \$2,800.

Sec. 6. House of representatives; organization.

If the clerk of the house and his assistant are absent at the time set for convening the house, their duties shall be performed by the secretary of state or his deputy. (R. S. c. 9, § 6. 1955, c. 482, § 4.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the sec-

tion was not changed, only the paragraph added by the amendment is set out.

Sec. 7. Clerk and assistant clerk of the house; salaries and duties.

—The clerk of the house of representatives shall perform the usual duties of his office during the session of the legislature and index the house journal. In the months of November and December next preceding the convening of the regular sessions of the legislature, he shall keep open his office each Wednesday and Thursday for the convenience of the public and members-elect of the legislature. He shall when the legislature is not in session be the executive officer of the legislature, and unless the legislature otherwise order, have custody of all legislative property and material, arrange for necessary supplies, and equipment through the state bureau of purchases, arrange for necessary service, make all arrangements for incoming sessions of the legislature, have general oversight of chambers and rooms occupied by the legislature, permit state departments to use legislative property, dispose of surplus or obsolete material through the continuing property record section of the bureau of public improvements with the approval of the speaker of the house and president of the senate and approve accounts for payment. The clerk shall maintain a perpetual inventory of all legislative property and make an accounting to the legislature upon request. He shall also perform the services required of him by sections 6 and 8. He shall receive a salary of \$5,000 for the year in which the legislature is in regular session and a salary of \$1,000 for the year in which the legislature is not in regular session.

The assistant clerk of the house shall receive a salary of \$2,800; his work shall be performed under the direction of the clerk. (R. S. c. 9, § 7. 1945. c. 375, § 2. 1953, c. 422, §§ 3, 4. 1955, c. 482, § 5. 1959, c. 252.)

Effect of amendments. — The 1955 amendment inserted the second sentence. It also increased the salaries of the clerk and assistant clerk.

The 1959 amendment rewrote the third

sentence, adding the references to the state bureau of purchases and the continuing property record section of the bureau of public improvements. It also inserted the fourth sentence.

Emergency Interim Legislative Succession.

Sec. 8-A. Short title.—Sections 8-A to 8-O shall be known as the “Emergency Interim Legislative Succession Act.” (1961, c. 100.)

Sec. 8-B. Declaration of policy.—The legislature declares that recent technological developments make possible an enemy attack of unprecedented destructiveness, which may result in the death or inability to act of a large proportion of the membership of the legislature; that to conform in time of attack to existing legal requirements pertaining to the legislature would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted legislature; and that it is therefore necessary to adopt special provisions for the effective operation of the legislature. (1961, c. 100.)

Sec. 8-C. Definitions.—As used in section 8-A to 8-O:

I. Attack. “Attack” means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or methods;

II. Unavailable. “Unavailable” means absent from the place of session, other than on official business of the legislature, or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of a legislator, whether or not such absence or inability would give rise to a vacancy under existing constitutional or statutory provisions. (1961, c. 100.)

Sec. 8-D. Designation of emergency interim successors to legislators. — Each legislator shall designate not fewer than 3 nor more than 7 emergency interim successors to his powers and duties and specify their order of suc-

cession. Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his powers and duties to insure that at all times there are at least 3 such qualified emergency interim successors. (1961, c. 100.)

Sec. 8-E. Status, qualifications and term of emergency interim successors.—An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator. No person shall be designated or serve as an emergency interim successor unless he may under the constitution and statutes hold the office of the legislator to whose powers and duties he is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the holder of another office from being a legislator shall be applicable to an emergency interim successor. An emergency interim successor shall serve at the pleasure of the legislator designating him or of any subsequent incumbent of the legislative office. (1961, c. 100.)

Sec. 8-F. Contingent method of designating emergency interim successors.—Prior to an attack, if a legislator fails to designate the required minimum number of emergency interim successors within 30 days following the effective date of sections 8-A to 8-O or, after such period, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below such minimum for a period of 30 days, then the floor leader of the same political party in the same house as such legislator shall promptly designate as many emergency interim successors as are required to achieve such minimum number, but the floor leader shall not assign to any of his designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his own powers and duties. Each emergency interim successor designated by the floor leader shall serve at the pleasure of the person designating him, but the legislator for whom the emergency interim successor is designated or any subsequent incumbent of his office may change the rank in order of succession or replace at his pleasure any emergency interim successor so designated. (1961, c. 100.)

Sec. 8-G. Recording and publication of emergency interim successors to legislators.—Each designation of an emergency interim successor shall become effective when the legislator or alternate as designated in section 8-F making the designation files with the secretary of state the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or alternate as designated in section 8-F so acting files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the state office of civil defense, the official in charge of keeping the journal of the house concerned and all emergency interim successors, of all such designations, removals and changes in order of succession. The official in charge of keeping the journal of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence. (1961, c. 100.)

Sec. 8-H. Oath of emergency interim successors.—Promptly after designation each emergency interim successor shall take the oath required for the legislator to whose powers and duties he is designated to succeed. No other oath shall be required. (1961, c. 100.)

Sec. 8-I. Duty of emergency interim successors. — Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices and current business of the legislature, and each legislator shall assist his emergency interim successors to keep themselves so informed. (1961, c. 100.)

Sec. 8-J. Place of legislative session.—Whenever in the event of an attack, or upon finding that an attack may be imminent, the governor deems the place of session then prescribed to be unsafe, he may change it to any place within or without the state which he deems safer and convenient. (1961, c. 100.)

Sec. 8-K. Convening of legislature in event of attack.—In the event of an attack, the governor shall call the legislature into session as soon as practicable, and in any case within 90 days following the inception of the attack. If the governor fails to issue such call, the legislature shall, on the 90th day from the date of inception of the attack, automatically convene at the place where the governor then has his office. Each legislator and each emergency interim successor, unless he is certain that the legislator to whose powers and duties he is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the attack, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended. (1961, c. 100.)

Sec. 8-L. Assumption of powers and duties of legislator by emergency interim successor.—If in the event of an attack a legislator is unavailable, his emergency interim successor highest in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and assume the duties of such legislator. An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act. Each house of the legislature shall, in accordance with its own rules, determine who is entitled under sections 8-A to 8-O to exercise the powers and assume the duties of its members. All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator. (1961, c. 100.)

Sec. 8-M. Privileges, immunities and compensation of emergency interim successors.—When an emergency interim successor exercises the powers and assumes the duties of a legislator, he shall be accorded the privileges and immunities, compensation, allowances and other perquisites of office to which a legislator is entitled. In the event of an attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his travel in the same manner and amount as a legislator. This section shall not in any way affect the privileges, immunities, compensation, allowances or other perquisites of office of an incumbent legislator. (1961, c. 100.)

Sec. 8-N. Quorum and vote requirements. — In the event of an attack, quorum requirements for the legislature shall be suspended, and where the affirmative vote of a specified proportion of members for approval of a bill, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. (1961, c. 100.)

Sec. 8-O. Termination of operations of sections 8-A to 8-O.—The authority of emergency interim successors to succeed to the powers and duties of legislators, and the operation of sections 8-A to 8-O relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon, shall expire 2 years following the inception of an attack, but nothing herein shall prevent the resumption before such time of the filling of legislative vacancies and the calling of elections for the legislature in accordance with applicable constitutional and statutory pro-

visions. The governor, acting by proclamation, or the legislature, acting by concurrent resolution, may from time to time extend or restore such authority or the operation of any of such provisions upon a finding that events render the extension or restoration necessary, but no extension or restoration shall be for a period of more than one year. (1961, c. 100.)

Representatives of the Press.

Sec. 10. Press facilities.—There shall be maintained and reserved during each legislative session for the use of such representatives of the press as have the privilege of the floor of the senate and the house of representatives under the provisions of section 9, such facilities as may meet their requirements with reasonable convenience and adequacy.

If reasonably consistent with other essential uses of state house office space, these facilities shall continue to be assigned for press use while the legislature is not in session, but in any case, reasonably adequate facilities shall also be made available to the press at all other times.

All facilities so provided shall be properly maintained by the bureau of public improvements. (R. S. c. 9, § 10. 1957, c. 146.)

Effect of amendment. — The 1957 amendment rewrote this section.

Constitutional Amendments.

Sec. 19. Constitutional amendments, explanation of. — The attorney general shall prepare a brief explanatory statement which shall fairly describe the intent and content of each constitutional resolve or state-wide referendum that may be presented to the people. He shall cause to have published this explanatory statement in each daily newspaper of the state, such statement to be published not more than 45 days and not less than 30 days prior to the voting and publish such statement in each daily newspaper of the state a second time, not more than 10 and not less than 7 days prior to the voting. Such explanatory statement may be published in the English language in a foreign language newspaper. (1949, c. 183, § 1. 1957, c. 318, § 2.)

Effect of amendment. — The 1957 amendment added the last sentence.

Rules and Regulations.

Sec. 21-A. Rules and regulations of departments, etc., declared lawful.—Rules and regulations duly and properly promulgated by the various departments boards bureaus, agencies and commissions of the state as authorized under the provisions of laws contained in the revised statutes of 1944, and acts supplemental or amendatory thereto, and which were in effect on December 30, 1954, are hereby declared to be lawful and in effect.

Nothing contained herein shall be construed as depriving the various departments, boards, bureaus, agencies and commissions of the right to amend, revise or otherwise change their rules and regulations in accordance with existing law in their present form or as amended or supplemented. (1955. c. 172.)

Effective date.—The act inserting this section became effective on its approval, April 11, 1955.

Rules of Construction. Affirmations.

Sec. 22. Rules of construction.

VIII. Insane person. The words "insane person" may include an idiotic, non compos, lunatic or distracted person. This rule does not apply to chapter 27.

XX. The word "municipality", except in chapter 90-A, includes cities, towns and plantations.

XXVIII-A. Wherever in the revised statutes the word "chapter" appears without definite reference, it refers to the chapter in which the word "chapter" appears; if the chapter is given a number, it refers to the chapter so numbered in the revised statutes. Wherever in the revised statutes the word "section" appears without reference to a numbered chapter, it refers to a section of the chapter in which the word "section" appears.

XXVIII-B. Wherever in the Revised Statutes or any legislative act a reference is made to several sections and the section numbers given in the reference are connected by the word "to," the reference includes both the sections whose numbers are given and all intervening sections.

XXVIII-C. Wherever in the Revised Statutes or any legislative act a reference is made to several dates and the dates given in the reference are connected by the word "to," the reference includes both the dates which are given and all intervening dates.

XXVIII-D. The provisions of the statutes are severable. The provisions of any session law are severable. If any provision of the statutes or of a session law is invalid, or if the application of either to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

XXXIII. Registered mail. The words "registered mail" when used in connection with any requirement for notice by mail shall mean either registered mail or certified mail. (R. S. c. 9, § 21. 1945, c. 378, § 4. 1953, c. 213. 1955, c. 405, § 2. 1957, c. 397, § 4. 1959, c. 363, § 4. 1961, c. 217; c. 303, § 2; c. 395, § 3.)

Effect of amendments. — The 1955 amendment inserted subsection XXVIII-A. The 1957 amendment inserted subsection XXVIII-B.

The 1959 amendment inserted subsections XXVIII-C and XXVIII-D.

Chapter 217, P. L. 1961, added subsection XXXIII. Chapter 303, P. L. 1961, rewrote subsection VIII. Chapter 395, P. L. 1961, effective on its approval, June 17, 1961, added "except in chapter 90-A," in subsection XX.

As the rest of the section was not

changed by the amendments, it is not set out.

Application of subsection XXV to judges. — See *Hughes v. Black*, 156 Me. 69, 160 A. (2d) 113 and *Russell v. Belcher*, 76 Me. 501.

Applied, as to subsection I, in *Camp Walden v. Johnson*, 156 Me. 160, 163 A. (2d) 356; as to subsection X, in *Owls Head v. Dodge*, 151 Me. 473, 121 A. (2d) 347; *Inhabitants of Winthrop v. Foster*, 157 Me. 22, 170 A. (2d) 152.

Legislative Research Committee.

Sec. 24. Legislative research committee; membership.—A legislative research committee as heretofore established, shall consist of 7 senators to be appointed by the president of the senate, and 7 representatives to be appointed by the speaker of the house of representatives during each regular session. The president of the senate and the speaker of the house of representatives shall be members ex officio. The committee shall elect a chairman who shall serve as such at the pleasure of the committee. (R. S. c. 9, § 23. 1947, c. 392, § 1. 1955, c. 381.)

Effect of amendment.—The 1955 amendment increased the number of senators on the committee from three to seven, and added the last two sentences.

Sec. 26. Authority; studies; purposes.

VII. The legislative research committee shall appoint a qualified director of legislative research. He shall be chosen without reference to party affiliations, and solely on the ground of fitness to perform the duties of his office. He shall be well versed in economics, in political science and law, and in methods of research. He shall hold office for a term of 6 years from the date of his appointment and until his successor has been appointed and qualified. He shall

receive a salary of \$10,000 per year and any necessary traveling expenses; (1951, c. 412, § 1. 1955, c. 473, § 1. 1957, c. 418, § 1. 1959, c. 361, § 1.)

Effect of amendments. — The 1955 amendment increased the salary of the director of legislative research from \$7,000 to \$8,000 per year. The 1957 amendment, effective July 1, 1957, increased his salary from \$8,000 to \$9,000 and carried appropriations for fiscal years ending in 1958 and 1959.

The 1959 amendment substituted the figures "\$10,000" for the figures "\$9,000" in subsection VII. As only subsection VII was changed by the amendments, the rest of the section is not set out.

Editor's note. — The last paragraph of P. L. 1959, c. 361, § 1, amending this section, reads as follows: "(There is hereby appropriated from the General Fund the sum of \$867 for the fiscal year ending June 30, 1960 and \$1,000 for the fiscal year ending June 30, 1961 to carry out the purposes of this section.)"

Effective date. — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

Sec. 27. Certain specific functions and services of the director.

VII-A. After each session of the legislature to cause to be published cumulative pocket supplements of the volumes of the revised statutes, and any replacement or recompiled volumes thereof, which shall contain an accurate transcription of all public laws, the material contained in the next preceding pocket supplement, complete and accurate annotations to the statutes, appendix and other material accumulated since the publication of the next preceding pocket supplement and a cumulative index of said material. (1955, c. 463, § 1.)

XI. The director shall appoint, with the approval of the legislative research committee, an assistant director and such technical assistants, and shall appoint, subject to the provisions of the personnel law, such clerical assistants, as may be necessary to carry out the provisions of sections 24 to 27, inclusive. [1957, c. 397, § 5]. (R. S. c. 9, § 26. 1947, c. 392, § 1. 1955, c. 463, § 1. 1957, c. 397, § 5.)

Effect of amendments. — The 1955 amendment, which became effective on approval, May 21, 1955, added the above subsection VII-A to this section. The 1957 amendment inserted "an assistant di-

rector and" in subsection XI. As only subsections VII-A and XI are changed by the amendments, the rest of the section is not set out.

Commission on Uniform State Laws.

Sec. 33-A. Commission on uniform state laws.—The commission on uniform state laws, as heretofore established, shall consist of 3 members to be appointed for a term of 4 years by the governor with the advice and consent of the council. The commission shall examine subjects on which uniformity of legislation in the different states is desirable; ascertain the best means to effect uniformity; cooperate with the commissioners of other states in the consideration and drafting of uniform acts for submission to the legislature of the several states; and prepare bills for introduction in the legislature.

Each commissioner shall serve without compensation, but shall be entitled to receive his actual disbursements for his expenses in performing the duties of his office. (1955, c. 405, § 3.)

Editor's note.—Section 4 of the act 1895, c. 138, which relates to the commission on uniform state laws, which inserted this section repealed P. L.