

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 471

H. P. 355

House of Representatives, February 8, 1979

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Drinkwater of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Reorganize the Department of Defense and Veterans Services within
the Office of the Governor.**

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

Sec. 1. 37-A MRSA, first 7 lines, as enacted by PL 1971, c. 580, § 1, and as amended by PL 1975, c. 13, are repealed and the following enacted in their place:

TITLE 37-A

MILITARY AND VETERANS SERVICES

AND

CIVIL EMERGENCY PREPAREDNESS

PART I

MILITARY AND VETERANS SERVICES

CHAPTER I

DEPARTMENT OF MILITARY AND VETERANS SERVICES

Sec. 2. 37-A MRSA § 1, as last amended by PL 1977, c. 674, § 32, is repealed and the following enacted in its place:

§ 1. Department of Military and Veterans Services

1. **Department.** There is created and established a Department of Military and Veterans Services in this chapter called "department," to coordinate and improve the discharge of State Government's responsibility relating to the military and veterans services, and to consist of the Adjutant General and the following as heretofore created and established: The Military Bureau and the Bureau of Veterans Services.

The Adjutant General shall be the Commissioner of the Department of Military and Veterans Services. The Adjutant General shall be appointed by the Governor and serve at the pleasure of the Governor. He shall have the grade not to exceed that of Major General. The Adjutant General shall administer the department, subordinate only to the Governor and shall adopt any methods of administration not inconsistent with the law as he may deem necessary to render the department efficient. The Adjutant General is authorized to transfer personnel at his discretion from one bureau to another bureau within the department and is authorized to prepare a budget for the department.

The Adjutant General shall appoint a Deputy Adjutant General, subject to the approval of the Governor, whose qualifications shall be those set forth in section 213 for an Assistant Adjutant General. The duly appointed Deputy Adjutant General, regardless of rank, shall have all the powers and duties of the Adjutant General in the case of the absence of the Adjutant General or his inability to act, or in the case of vacancy in that office, until the vacancy shall have been filled by the Governor, as provided by law. He shall not hold any other state office for compensation.

2. **Military Bureau.** The Deputy Adjutant General shall be the Director of the Military Bureau.

3. **Bureau of Veterans Services.** The Bureau of Veterans Services shall have a director, who shall be appointed by the Adjutant General. The director shall be a war veteran and a person qualified by experience, training and a demonstrated interest in veterans' services. The director shall serve at the pleasure of the Adjutant General and shall not hold any other state office for compensation.

Sec. 3. 37-A MRSA c. 3, as enacted by PL 1971, c. 580, § 1, and as amended, is repealed.

Sec. 4. 37-A MRSA § 180, 2nd ¶, as enacted by PL 1973, c. 787, § 2, and as amended by PL 1973, c. 709, § 4, and by PL 1973, c. 728, § 2, is further amended to read:

No person, except the Federal Government, shall exercise any authority over the emergency regulation or supervision of any dams or reservoirs in the State, where such exercise would conflict with the powers and authority vested in the **Bureau Department** of Civil Emergency Preparedness.

Sec. 5. 37-A MRSA § 181, sub-§ 1, as enacted by PL 1973, c. 787, § 2, and as amended by PL 1973, c. 709, § 4, is repealed.

Sec. 5-A. 37-A MRSA § 181, sub-§ 2-A is enacted to read:

2-A. Department. “Department” means the Department of Civil Emergency Preparedness.

Sec. 6. 37-A MRSA § 181, sub-§ 4, as enacted by PL 1973, c. 787, § 2, is amended to read:

4. Emergency or emergency situation. “Emergency” or “emergency situation” means situations deemed by the ~~bureau~~ department, after consultation with other state and federal agencies, if time permits, to present a potential but real and imminent danger to life, limb or property because of flooding or potential and imminent flooding and includes those situations which the Governor declares to be emergency pursuant to section ~~57~~ 1457.

Sec. 7. 37-A MRSA § 183, first ¶, as enacted by PL 1973, c. 787, § 2, is amended to read:

This chapter shall be administered by the ~~bureau~~ department.

Sec. 8. 37-A MRSA § 184, as enacted by PL 1973, c. 787, § 2, and as amended by PL 1977, c. 694, § 744, is repealed and the following enacted in its place:

§ 184. Powers of the department

1. Rules and regulations. The department may, by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq., adopt, modify or repeal regulations for the carrying out of this chapter.

2. Orders. The department may, in emergency situations, issue any reasonable orders that are necessary for carrying out this chapter or regulations issued hereunder.

3. Investigations. For the purpose of enabling it to make decisions as compatible with economy and protection of life and property as possible, and for the purpose of determining compliance with this chapter, the department is empowered to make such investigations and inspections as are necessary. In making the investigations and inspections required or authorized by this chapter, the department or its representatives may, in emergency situations, enter upon such public or private property as may be necessary or otherwise secure administrative warrants from any District Court Judge or Superior Court Justice for the purpose of gaining entry onto private property.

4. Injunction; civil proceedings. In the event of any violation of any of this chapter or of any order, regulation or decisions of the department, the department may institute injunctive proceedings or any other civil action as provided in this chapter.

5. Remedial means. When an emergency situation arises, the department shall warn the public of the emergency and shall employ all reasonable remedial means necessary to protect life and property.

Remedial means which the department may employ include, but are not limited to, the following:

- A. Taking full charge and control of any dam or reservoir;
 - B. Lowering the water level by releasing water from the reservoir;
 - C. Completely emptying the reservoir; and
 - D. Taking any other steps essential to safeguard life and property, including the breaching or removal of the dam itself.
6. Contingency plans. The department shall develop contingency plans for the safe passage of floodwaters and for preparations prior to flood conditions.

Sec. 9. 37-A MRSA Pt. II is enacted to read:

PART II
CIVIL EMERGENCY PREPAREDNESS
CHAPTER 31
DEPARTMENT OF
CIVIL EMERGENCY PREPAREDNESS

§ 1451. Short title

This chapter may be cited as the "Maine Civil Emergency Preparedness Act."

§ 1452. Policy and purposes

The purpose of this chapter is to create the Department of Civil Emergency Preparedness and to authorize the creation of local organizations for civil emergency preparedness in the political subdivisions of the State; to confer upon the Governor and upon the executive heads of governing bodies of the political subdivisions of the State the emergency powers provided; and to provide for the rendering of mutual aid among the political subdivisions of the State and with other states with respect to the carrying out of civil emergency preparedness functions.

It is further declared to be the purpose of this chapter and the policy of the State that all civil emergency preparedness functions be coordinated to the maximum extent with the comparable functions of the Federal Government, including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster or catastrophe that may occur.

§ 1453. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meanings.

1. **Civil emergency preparedness.** "Civil emergency preparedness" shall mean the preparation for the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, economic stabilization, allocation of critical materials in short supply, emergency transportation, existing or properly assigned functions of plant protection and other functions, related to civilian protection, together with all other activities necessary or incidental to the preparation for the carrying out of the foregoing functions.

2. **Disaster.** "Disaster" means occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

3. **Local organization for civil emergency preparedness.** "Local organization for civil emergency preparedness" shall mean an organization created in accordance with this chapter by state, county or local authority to perform local civil emergency preparedness functions.

4. **Political subdivision.** "Political subdivision" includes counties, cities, towns, villages, townships, districts, authorities and other public corporations and entities whether organized and existing under charter or general law.

§ 1454. Department of Civil Emergency Preparedness

The Department of Civil Emergency Preparedness, as heretofore established and hereinafter in this chapter called the "department," shall be under the supervision of the Commissioner of Civil Emergency Preparedness, who hereinafter in this chapter shall be called the "commissioner." He shall be appointed by the Governor and shall serve a term coterminous with the Governor and shall not hold any other state office for compensation.

The commissioner may employ technical, clerical, stenographic, administrative and operative assistants and other personnel, subject to the Personnel Law, and make such expenditures on approval of the Governor as may be necessary to carry out the purposes of this chapter.

The commissioner, subject to the direction and control of the Governor, shall be the executive head of the department and shall be responsible to the Governor for carrying out the program for civil emergency preparedness. He shall coordinate the activities of all organizations for civil emergency preparedness within the State, and shall maintain liaison with and cooperate with civil emergency preparedness and public safety agencies and organizations of other states, the Federal Government and foreign countries, and the political subdivisions thereof,

and shall have such additional authority, duties and responsibilities as may be prescribed by the Governor.

§ 1455. Rules and regulations

The commissioner shall make, amend or rescind by procedures in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., reasonable rules and regulations to carry out this chapter.

The rules and regulations shall become effective when approved in writing by the Governor and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any of these rules or regulations, or any act or order of the commissioner in enforcing any of these rules or regulations, may appeal by filing in the Superior Court a complaint within 30 days, and the court may affirm or reverse the rule, regulation, act or order of the commissioner and the decision of the court shall be final.

§ 1456. Civil Emergency Preparedness Council

A Civil Emergency Preparedness Council, as heretofore established, shall be composed of 5 members. All members shall be appointed by the Governor. They shall serve during the pleasure of the Governor. The members shall serve without compensation, but, other than state officers, may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties. The Civil Emergency Preparedness Council shall meet as many times in each calendar year as it deems necessary and at the call of the chairman or the Commissioner of Civil Emergency Preparedness.

The council shall advise the Governor and the commissioner on all matters pertaining to civil emergency preparedness. The council shall not interfere with any of the operational duties of the commissioner which have been assigned to him, by section 1454. Nothing herein contained shall be construed to mean the council cannot advise on such affairs, or that the creation of this council relieves the commissioner of his responsibility for carrying out the civil emergency preparedness program, pursuant to section 1454.

§ 1457. Emergency proclamation; Governor's powers

1. Disaster proclamation. Whenever any disaster or catastrophe exists or appears imminent arising from attack, sabotage, riot or other hostile action, or by fire, earthquake or other natural or man-made causes, the Governor shall, by proclamation, declare the fact and that an emergency exists in any of all sections of the State.

If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of Governor were vacant shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the State. A copy of the proclamation shall be filed with the Secretary of State. The Governor shall have general direction and control of the department and shall be responsible for the carrying out of this chapter, and, in the event of disaster or catastrophe beyond local control, the Governor may assume direct operational control over all or any part of the civil emergency preparedness functions within the State.

In performing his duties under this chapter, the Governor is authorized and directed to cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries, and the political subdivisions thereof, and with private agencies in all matters pertaining to the civil emergency preparedness of the State and of the nation.

In performing his duties under this chapter, the Governor is further authorized and empowered:

A. To make, amend and rescind the necessary orders, rules and regulations to carry out this chapter within the limits of the authority conferred upon him and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized civil emergency preparedness functions;

B. To prepare a comprehensive plan and program for the civil emergency preparedness of this State. This plan and program shall be integrated into and coordinated with the civil emergency preparedness plans of federal agencies and with the plans of other states and foreign countries, and the political subdivisions thereof, to the fullest possible extent, and to coordinate the preparation of plans and programs for civil emergency preparedness by the political subdivisions of this State. These plans shall be integrated into and coordinated with the civil emergency preparedness plan and program of this State to the fullest possible extent;

C. In accordance with the plan and program for the civil emergency preparedness of this State and consistent with the civil emergency preparedness plans, programs and directives of the Federal Government, to procure supplies and equipment, to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of civil emergency preparedness organizations in advance of actual disaster or catastrophe, to insure the furnishing of adequately trained and equipped forces of civil emergency preparedness personnel in time of need;

D. To conduct such studies and surveys and to take inventories of the industries, resources and facilities of this State as may be necessary to ascertain the capabilities of the State for civil emergency preparedness, and to plan for the most efficient emergency use thereof, including emergency economic controls, to insure adequate production and equitable distribution of essential commodities;

E. Whenever, a shortage of critical material supplies in the State appears imminent, to establish emergency reserves of such products as may be necessary to ensure the health, welfare and safety of the people of this State and in aid thereof to purchase quantities of these materials for resale on a cost plus expenses basis for priority end users within the State;

F. On behalf of this State, to enter into mutual aid arrangements with other states and foreign countries, and the political subdivisions thereof, and to coordinate mutual aid plans between political subdivisions of this State; and

G. To delegate any authority vested in him under this chapter and to provide for the subdelegation of any such authority.

2. Energy emergency proclamation.

A. Whenever an actual or impending acute shortage in usable energy resources threatens the health, safety or welfare of the citizens of the State, the Governor shall, by proclamation, declare that an energy emergency exists in any or all sections of the State, in the manner set forth in subsection 1, first paragraph.

B. Upon the issuance of an energy emergency proclamation and after consulting with the Director of the Office of Energy Resources, the Governor is authorized to exercise all the powers granted in this chapter, except as may be specifically limited by this subsection, and these powers shall include without limitation the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;**
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;**
- (3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;**
- (4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Maine Public Utilities Commission, regulate the generation, distribution and consumption of electricity;**
- (5) Establish temporary state and local boards and agencies;**
- (6) Establish and implement programs and agreements for the purpose of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;**
- (7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations; and**
- (8) Regulate the storage, distribution and consumption of home heating oil.**

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

- (1) The eminent domain powers granted in section 1458; and**
- (2) The enforcement powers granted in section 1459, subsections 7 and 8, and the enforcement powers granted in section 1470, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation. The order shall specify those emergency orders, rules or regulations which shall be enforceable pursuant to this paragraph and shall further specify the enforcement activities civil preparedness organizations are to pursue. No enforcement action may be taken pursuant to this paragraph without publication of the order authorizing that action in a manner reasonably calculated to give persons affected thereby adequate notice of the order, rule or regulation to be enforced and the sanctions to be applied.**

D. Except as provided in subparagraph (2), nothing contained in this subsection shall be construed to authorize the Governor to suspend or to modify

orders, regulations, standards or classifications issued or enforced by the Department of Environmental Protection or the Land Use Regulation Commission.

At any time an energy emergency proclamation is in effect, the Governor may call the Board of Environmental Protection into extraordinary session to consider temporary waivers or suspensions of rules and standards related to air and water quality necessary to relieve then existing energy shortages. Thereupon, the board is empowered notwithstanding any other provision of law to approve such suspensions or waivers as it determines are necessary to relieve or avoid an energy shortage and will not result in environmental degradation of a permanent or enduring nature. In no event shall any suspension or modification be granted which will result in a circumvention of Title 38, sections 481 to 488, 541 and 557. No such waiver or suspension shall remain in effect longer than 60 days or after the date on which the board renders a further order issued pursuant to the regular procedures specified in Title 38, whichever shall first occur.

E. The Superior Court of the county in which there occurs a failure to obey an order, rule or regulation promulgated in accordance with this subsection shall have jurisdiction to issue a restraining order or injunction to enforce that order, rule or regulation. The proceeding shall be held in accordance with the Maine Rules of Civil Procedure, Rule 65.

F. In the event that any order, rule or regulation issued by the Governor pursuant to the powers granted in paragraph B are to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of that order, rule or regulation, convene the Legislature.

3. Termination of emergency. Whenever the Governor is satisfied that an emergency no longer exists, he shall terminate the proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. The proclamation shall be published in such newspapers of the State and posted in such places as the Governor, or the person acting in that capacity, deems appropriate.

§ 1458. Eminent domain and compensation

When the Governor has issued a proclamation as provided for in section 1457, subsection 1, and when thereafter in his judgment, for the better protection and welfare of this State or its inhabitants, the situation so requires as a matter of public necessity or convenience, he may take possession of any property, real or personal, located within this State for public uses in furtherance of this chapter.

If real estate is seized under this section, a declaration of the property seized, containing a full and complete description, shall be filed with the register of deeds in and for the county in which the seizure is located and a copy of the declaration furnished the owner.

If personal property is seized under this section, there shall be entered upon a docket containing a permanent record a description of the personal property and its condition when seized, and there shall be furnished to the owner of the seized property a true copy of the docket recording.

The Governor shall award reasonable compensation to the owners of the property which he may take under this section and for its use and for any injury thereto or destruction thereof caused by such use.

Any owner of property of which possession has been taken under this section to whom no award has been made, or who is dissatisfied with the amount awarded him as compensation, may bring an action in the Superior Court in the county in which he lives or has a usual place of business, or in the County of Kennebec, to have the amount to which he is entitled by way of damages determined. The plaintiff may bring that action within 6 years after the date when possession of the property was taken under this section, except that, if the owner of the property is in the military service of the United States at any time during which he should otherwise have brought his action, he may bring the same within 6 years after his discharge from the military service. The plaintiff and the State shall severally have the right to have the damages assessed by a jury.

In the event, by reason of the death of the owner of property seized under this section, he is unable to bring or to continue the action provided for, the action may be brought or continued by his executor or administrator, as the case may be.

§ 1459. Local organization for civil emergency preparedness

1. Municipal, county and regional agencies. Each municipality of the State shall be served by a local or interjurisdictional agency responsible for disaster preparedness and coordination of disaster response. The Governor, after public hearing, shall determine those municipalities which shall establish civil emergency preparedness agencies. The determinations shall be based on a finding that efficient and effective disaster prevention, preparedness, response and recovery will be promoted thereby. The following functions, among others, shall be considered:

- A. Size and density of the affected population;
- B. Financial ability of the separate municipalities to maintain independent disaster assistance agencies; and
- C. Vulnerability of the area to disaster, as evidenced by past disasters, topographical features, drainage characteristics, disaster potential and existence of disaster prone facilities and operations.

The Governor shall designate such counties or regions as he deems necessary for the purpose of establishing county or regional civil emergency preparedness agencies. Each designated county or regional agency shall be responsible for coordination of the activities of municipal and interjurisdictional civil emergency preparedness agencies within the region or county and shall be concurrently responsible for civil emergency preparedness in the unorganized territories within its jurisdiction. A county or regional civil emergency preparedness agency shall receive support from the municipalities within its jurisdiction.

The commissioner, with the approval of the Governor, shall determine the organizational structure of interjurisdictional and regional civil emergency preparedness agencies, including the manner in which the directors of these agencies shall be appointed by the governing bodies of the municipalities involved.

The department shall publish and maintain a current list of municipal, inter jurisdictional, county and regional civil emergency preparedness agencies established pursuant to this section.

2. **Agency director.** The county commissioners of a county shall appoint the director of a county civil emergency preparedness agency. The governing body of a municipality shall appoint the director of a municipal civil emergency preparedness agency. A director of any civil emergency preparedness agency shall not be simultaneously an executive officer or member of the executive body of a political subdivision of the State. A director of an interjurisdictional, county or regional agency may be appointed only after approval by the commissioner. Any director appointed pursuant to this section may be removed by the appointing authority for cause.

Each municipality which is not required to establish an agency of its own shall designate a liaison officer to the appropriate interjurisdictional agency to facilitate cooperation in the work of disaster prevention, preparedness, response and recovery.

3. **Disaster emergency plan.** Each municipal, interjurisdictional, county and regional civil emergency preparedness agency, in consultation with the department, shall prepare and keep current a disaster emergency plan for the area subject to its jurisdiction, which plan shall include without limitation:

- A. Identification of disasters to which the jurisdiction is or may be vulnerable, specifically indicating the areas most likely to be affected;
- B. Identification of the procedures and operations which will be necessary to prevent or minimize injury and damage in the event disasters occur;
- C. Identification of the personnel, equipment and supplies required to implement those procedures and operations and the means by which their timely availability will be assured;
- D. Recommendation to appropriate public and private agencies of all preventive measures found reasonable in light of risk and cost; and
- E. Such other elements as the commissioner of the department may by regulation require.

4. **Consultations with hospitals.** Each municipal, interjurisdictional, county and regional civil emergency preparedness agency, as part of the development of a disaster emergency plan for the area subject to its jurisdiction, shall consult with hospitals within its jurisdiction to insure that the disaster plans developed by the agencies and the hospitals are compatible.

5. **Compacts and agreements.** If the Governor finds that a vulnerable area lies only partly within this State and includes territory in another state or states or territory in a foreign jurisdiction and that it would be desirable to establish an interstate or international relationship, mutual aid or an area organization for disaster, he shall take steps to that end as desirable. If this action is taken with a jurisdiction that has enacted the Interstate Civil Defense and Disaster Compact, chapter 4, any resulting agreement or agreements may be considered supplemental agreements pursuant to chapter 4, Article VI. If the other

jurisdiction or jurisdictions with which the Governor proposes to cooperate have not enacted that compact, he may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after approval by the Legislature.

6. State Personnel Board services. Civil emergency preparedness agencies organized pursuant to this section may accept the services of the State Personnel Board and adopt the regulations thereof for the purpose of qualifying federal administrative funds. The State Personnel Board may enter into agreements with the civil emergency preparedness agencies for the purpose of furnishing merit system coverage for civil emergency preparedness employees or employees of other agencies and departments assigned full time to civil emergency preparedness duties. The State Personnel Board may charge for services rendered, the fee to be consistent with the cost coverage per state employee multiplied by the number of local, interjurisdictional, county or regional employees covered. Fees thus received shall be credited to the General Fund.

7. Enforcement of regulations. Duly appointed law enforcement officers of local, state and sheriffs organizations are empowered to enforce any of the provisions of this chapter or any rules or regulations promulgated thereunder in times of an emergency or during authorized alerts, including partial or full mobilization necessary to carry out section 1457. It shall be unlawful for any individual to fail or refuse to comply with any just or reasonable order relative to the above from any such duly appointed law enforcement officer. Failure to comply with such an order is a Class E crime.

8. Arrest powers. Duly appointed law enforcement officers of local, state and sheriffs organizations shall have power to make arrests of persons found in violation of any provisions of this chapter or any rules and regulations promulgated thereunder in times of emergency necessary to carry out section 1457.

§ 1460. Mutual aid arrangements.

The director of each local organization for civil emergency preparedness shall, in collaboration with other public and private agencies within this State, develop or cause to be developed mutual aid arrangements for reciprocal civil emergency preparedness aid and assistance in case of disaster too great to be dealt with unassisted. These arrangements shall be consistent with the state civil emergency preparedness program and, in time of emergency, it shall be the duty of each local organization for civil emergency preparedness to render assistance in accordance with the mutual aid arrangements, and for this purpose political subdivisions are authorized to enter into the mutual aid arrangements.

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

§ 1461. Immunity

Neither the State nor any political subdivision thereof, nor other agencies, including the voluntary and uncompensated grantor of a permit for the use of his

premises as a civil emergency preparedness shelter, engaged in any civil emergency preparedness activities, while complying with or attempting to comply with this chapter or any other rule or regulation promulgated pursuant to this chapter, shall be liable for the death of or any injury to persons, or damage to property as a result of that activity. This section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workmen's Compensation Law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

§ 1462. Appropriations and acceptance of aid; authority of commissioner

Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations in the manner provided by law for making appropriations for the ordinary expenses of that political subdivision for the payment of expenses of its local organization for civil emergency preparedness. In making these appropriations, the political subdivision shall specify the amounts and purposes for which the moneys so provided may be used by the local organizations for civil emergency preparedness.

Whenever the Federal Government or any agency or officer thereof of any person, firm or corporation shall offer to the State, or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil emergency preparedness, the State, acting through the Governor, or the political subdivision acting through its executive officer or governing body, may except the offer and upon the acceptance the Governor of the State or executive officer or governing body of the political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive these services, equipment, supplies, materials or funds on behalf of the State or the political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

The commissioner, for purposes of civil emergency preparedness and subject to the approval of the Governor, may convey equipment, supplies, materials or funds by way of sale, lease or grant to any political subdivision of the State. The conveyance shall be subject to the terms of the offer and the rules and regulations, if any, imposed by the State. These rules and regulations are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9.

§ 1463. Disaster relief

1. Major disasters.

A. Whenever the President, at the request of the Governor, has declared a major disaster to exist in this State, the Governor is authorized:

(1) Upon his determination that financial assistance is essential to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept a grant by the Federal Government to fund that financial assistance, subject to such terms and conditions as may be imposed upon the grant; and

(2) To enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the State to participate in the funding of the financial assistance authorized in subparagraph (1), in an amount not to exceed 25% thereof, and, if state funds are not otherwise available to the Governor, to accept an advance of the state's share from the Federal Government to be repaid when the State is able to do so.

B. Notwithstanding any other provision of law or regulation, the Governor is authorized to make financial grants to meet disaster related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed \$5,000 in the aggregate to an individual or family in any single major disaster declared by the President.

C. The Governor shall make such regulations as are necessary for the carrying out of this section, including, but not limited to, standards of eligibility for persons applying for benefits; procedures for applying for and administrative of relief; methods of investigation, filing and approving applications and formation of local or state-wide boards to pass upon applications and procedures for appeals.

D. Any person who knowingly makes a misstatement of fact in connection with an application for financial assistance under this section shall be guilty of a Class D crime.

2. Temporary housing.

A. Whenever the Governor has proclaimed a disaster emergency under the laws of this State, or the President has declared an emergency or a major disaster to exist in this State, the Governor is authorized:

(1) To enter into purchase, lease or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make the units available to any political subdivision of the State;

(2) To assist any political subdivision of this State, which is the locality for temporary housing for disaster victims, to acquire sites necessary for the temporary housing and to do all things required to prepare the sites to receive and utilize temporary housing units, by advancing or lending funds available to the Governor from any appropriation made by the Legislature or from any other source, and "passing through" funds made available by any agency, public or private; or becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for disaster victims and for those purposes to pledge the credit of the State on such terms as he deems appropriate having due regard for current debt transactions of the State; and

(3) Under such regulations as he shall prescribe, to temporarily suspend or modify, for not to exceed 60 days, any public health, safety, zoning, transportation within or across the State or other requirement of law or regulation within this State, when by proclamation he deems the suspension or modification essential to provide temporary housing for disaster victims.

B. Any political subdivision of this State is expressly authorized to acquire, temporarily or permanently, by purchase, lease or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip the sites to utilize the housing units.

C. The Governor is authorized to make rules and regulations necessary to carry out the purposes of this subsection.

D. Nothing contained in this section shall be construed to limit the Governor's authority to apply for, administer and expend any grants, gifts or payments in aid of disaster prevention, preparedness, response or recovery.

E. "Major disaster," "emergency" and "temporary housing," as used in this section, shall have the same meaning as the terms are defined or used in the Disaster Relief Act of 1974 of the United States Public Law 93-288.

3. Community disaster loans. Whenever, at the request of the Governor, the President has declared a major disaster to exist in this State, the Governor is authorized:

A. Upon his determination that a local government of the State will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the Federal Government, on behalf of the local government, for a loan, and to receive and disburse the proceeds of any approved loan to any applicant local government;

B. To determine the amount needed by any applicant local government to restore or resume its governmental functions, and to certify the same to the Federal Government; and

C. To recommend to the Federal Government, based upon his review, the cancellation of all or any part of repayment when, after 3 full fiscal years following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster related expenses of a municipal operation character.

4. Debris removal in major disasters.

A. Whenever the Governor has declared a disaster emergency to exist under the laws of this State, or the President, at the request of the Governor, has declared a major disaster or emergency to exist in this State, the Governor is authorized:

(1) Notwithstanding any other provision of law, through the use of state departments or agencies or the use of any of the state's instrumentalities, to clear or remove from public or privately-owned land or water, debris and wreckage which may threaten public health or safety, or public or private property; and

(2) To accept funds from the Federal Government and utilize the funds to make grants to any local government for the purpose of removing debris or wreckage from public or privately-owned land or water.

B. Conditions of execution of removal or clearance.

(1) Authority under this section shall not be exercised unless the affected local government, corporation, organization or individual shall first present an unconditional authorization for removal of the debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the State Government against any claim arising from the removal.

(2) Whenever the Governor provides for clearance of debris or wreckage pursuant to paragraph A, subparagraph (1) or (2), employees of the designated state agencies or individuals appointed by the State are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

(3) Except in cases of willful misconduct, gross negligence or bad faith, any state employee or agent complying with orders of the Governor and performing duties pursuant thereto under this section shall not be liable for death of or injury to persons or damage to property.

C. The Governor is authorized to make rules and regulations to carry out this subsection.

§ 1464. Utilization of existing services and facilities

In carrying out this chapter, the Governor and the executive officers or governing bodies of the political subdivisions of the State are directed to and shall utilize the services and facilities of existing departments, offices and agencies of the State and all the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all departments, offices and agencies are directed to and shall cooperate with and extend the services and facilities to the Governor and to the civil emergency preparedness organizations of this State upon request.

§ 1465. Political activity prohibited

No organization for civil emergency preparedness established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

§ 1466. Civil emergency preparedness personnel

No person shall be employed or associated in any capacity in any civil emergency preparedness organization established under this chapter who advocates or has advocated a change in the constitutional form of the Government of the United States or in this State or the overthrow of any Government of the United States by force or violence, or who has been convicted of or is under

indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civil emergency preparedness shall, before entering upon his duties, take an oath in writing before a person authorized to administer oaths in this State. That oath shall be substantially as follows.

“I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office which I am about to enter.”

§ 1467. Aid in emergency; penalty

Upon the issuance of a proclamation as provided in section 1457, the Governor shall have the power and authority to utilize any available property and enlist the aid of any person to assist in the effort to control, put out or end the disaster, catastrophe or emergency or aid in the caring for the safety of persons. Any person who thus refuses without reasonable cause shall be guilty of a Class E. crime. The State shall be liable for any damage to any property utilized under this chapter.

§ 1468. Right-of-way; penalty; jurisdiction

Men and equipment required to respond to emergency calls under this chapter shall have the right-of-way over all public ways and roads and the Governor is granted the right to close or restrict traffic on all roads in any area.

Whoever shall fail to give the right-of-way to men, vehicles and equipment required to respond to emergency calls under this chapter, or whoever shall enter upon roads which have been closed to traffic under this chapter, shall be guilty of a Class E crime.

§ 1469. Enforcement

It shall be the duty of every organization for civil emergency preparedness established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the Governor or under his authority.

§ 1470. Violations

Every officer of a political subdivision of this State who, having administrative responsibilities under this chapter, intentionally violates any of the provisions of this chapter commits a civil violation for which a forfeiture of \$20 may be adjudged.

§ 1471. Appropriations and authorizations of expenditures

The Governor is authorized and empowered, whenever an emergency has been declared as provided in section 1457, to transfer to the "Civil Emergency Preparedness," as heretofore established, any state money in the General Fund of the State, including unexpended appropriation balances of any state department or agency, allotted or otherwise. The Governor is authorized to expend the moneys in that fund for the purpose of carrying out this chapter.

§ 1472. Compensation for injuries received in line of duty

All members of the civil emergency preparedness forces shall be deemed to be employees of the State when engaged in training for or on civil emergency preparedness duty and shall have all the rights given to state employees under the Workers' Compensation Act. All claims shall be filed and prosecuted and determined in accordance with the procedure set forth in the Workers' Compensation Act.

In computing the average weekly wage of any claimant under this section, the average weekly wage shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged.

Any sums payable under any Act of Congress or other federal program as compensation for death, disability or injury of civil emergency preparedness workers shall be considered with the determination and settlement of any claim brought under this section. When payments received from the United States are less than an injured member would have been entitled to receive under this section, then he shall be entitled to receive all the benefits to which he would have been entitled under this section, less the benefits actually received from the United States.

Sec. 10. Amendatory clause. Wherever in the Revised Statutes the words "Department of Defense and Veterans Services" appear they shall mean "the Department of Military and Veterans Services;" and wherever the words "Bureau of Civil Emergency Preparedness" appear they shall mean "Department of Civil Emergency Preparedness."

STATEMENT OF FACT

The purpose of this bill is to separate the present Department of Defense and Veterans Services into 2 departments, the Department of Military and Veterans Services and the Department of Civil Emergency Preparedness.