

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1593

7 H.P. 1199

House of Representatives, May 17, 1983

8 Reported by Representative Hickey from the Committee on Aging, Retirement and Veterans. Sent up for concurrence and ordered printed.
9

10 EDWIN H. PERT, Clerk

Approved by the Legislative Council, April 6, 1982.

Reported by the Committee on Aging, Retirement and Veterans pursuant to Joint Rule 18.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Recodify the State Military
18 Laws.
19

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

22 Sec. 1. 22 MRSA §3185, 4th ¶, as enacted by PL
23 1977, c. 714, §5, is amended to read:

24 In addition to other payments authorized by this
25 section, the department shall, upon receipt of an ac-
26 counting as authorized under Title 37-A, ~~section~~
27 207-A 37-B, section 183, transfer to the Department
28 of Defense and ~~Veterans~~ Veterans' Services a sum not
29 to exceed \$10,000 from money appropriated pursuant to
30 this section as reimbursement for costs of rendering
31 emergency medical services, including, but not
32 limited to, the costs of liability insurance.

33 Sec. 2. 37-A MRSA, as amended, is repealed.

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

2 TITLE 37-B

3 DEPARTMENT OF DEFENSE AND VETERANS' SERVICES

4 CHAPTER 1

5 GENERAL PROVISIONS - ORGANIZATION

6 §1. Purpose

7 The Department of Defense and Veterans' Services,
8 as previously established and referred to in this
9 Title as the "department," shall coordinate and
10 improve the discharge of the State Government's
11 responsibility for military affairs, veterans' ser-
12 vices and civil emergency preparedness matters.

13 §2. Composition

14 The department shall consist of the following
15 bureaus:

16 1. Military Bureau. The Military Bureau;

17 2. Bureau of Civil Emergency Preparedness. The
18 Bureau of Civil Emergency Preparedness; and

19 3. Bureau of Veterans' Services. The Bureau of
20 Veterans' Services.

21 §3. Commissioner; Deputy Adjutant General

22 1. Adjutant General. The Adjutant General shall
23 be the Commissioner of Defense and Veterans' Services
24 and shall:

25 A. Be appointed by and serve at the pleasure of
26 the Governor;

27 B. Not hold a grade above major general;

28 C. Satisfy the requirements of section 107; and

29 D. Have the following powers and duties.

- 1 (1) He shall administer the department sub-
2 ordinate only to the Governor.
- 3 (2) He shall establish methods of adminis-
4 tration consistent with the law necessary
5 for the efficient operation of the depart-
6 ment.
- 7 (3) He may prepare a budget for the depart-
8 ment.
- 9 (4) He may transfer personnel from one
10 bureau to another within the department.
- 11 (5) He shall supervise the preparation of
12 all state informational reports required by
13 the federal military establishment.
- 14 (6) He shall keep an accurate account of
15 expenses incurred and, in accordance with
16 Title 5, sections 43 to 46, make a full
17 report to the Governor as to the condition
18 of the military forces, and as to all busi-
19 ness transactions of the Military Bureau,
20 including detailed statements of expendi-
21 tures for military purposes.
- 22 (7) He shall be responsible for the cus-
23 tody, care and repair of all military prop-
24 erty belonging to or issued to the State for
25 the military forces and shall dispose of
26 military property belonging to the State
27 which is unserviceable. He shall account
28 for and deposit the proceeds from that dis-
29 posal with the Treasurer of State who shall
30 credit them to the General Fund.
- 31 (8) He may sell for cash to officers of the
32 state military forces, for their official
33 use, and to organizations of the state mili-
34 tary forces, any military or naval property
35 which is the property of the State. He
36 shall, with his annual report, render to the
37 Governor an accurate account of the sales
38 and shall deposit the proceeds of the sales
39 with the Treasurer of State who shall credit
40 them to the General Fund.

1 (9) He shall represent the state military
2 forces for the purpose of establishing the
3 relationship between the federal military
4 establishment and the various State military
5 staff departments.

6 2. Deputy Adjutant General. The Deputy Adjutant
7 General shall have all the powers, responsibilities
8 and duties of the Adjutant General when the Adjutant
9 General is absent or unable to act or, if the office
10 is vacant, until the vacancy is filled by the Govern-
11 or, as provided by law. The deputy shall not con-
12 currently hold any other state office for compensa-
13 tion.

14 §4. Directors of bureaus

15 Each bureau of the department shall have a direc-
16 tor. The Deputy Adjutant General shall be the Direc-
17 tor of the Military Bureau. The Director of Vet-
18 erans' Services and the Director of Civil Emergency
19 Preparedness shall each be appointed by the Adjutant
20 General and shall serve at the pleasure of the Adju-
21 tant General, neither may hold any other state office
22 for compensation. The Director of Veterans' Services
23 shall be a person who served on active duty in the
24 United States Armed Forces during any federally
25 recognized period of conflict as defined in section
26 504, subsection 4, paragraph A, subparagraph (3), and
27 a person qualified by experience, training and a dem-
28 onstrated interest in veterans' services.

29 CHAPTER 3

30 MILITARY BUREAU

31 SUBCHAPTER I

32 ORGANIZATION OF STATE MILITARY FORCES

33 §101. Purpose

34 The Military Bureau shall have jurisdiction over
35 and responsibility for the administration of the
36 state military forces.

1 §102. Composition

2 1. State military forces. The state military
3 forces shall consist of:

4 A. The Maine Army National Guard and the Maine
5 Air National Guard, referred to in this Title as
6 the "National Guard," when either or both are not
7 in federal service; and

8 B. The militia, the naval militia and the Maine
9 State Guard when and if organized by direction of
10 the Governor pursuant to the authority set forth
11 in subchapter 7.

12 §103. Commander in Chief

13 The Governor shall be the constitutional Com-
14 mander in Chief of the military forces of the State,
15 except for components thereof which may, at times, be
16 in the service of the United States. It shall be the
17 duty of the Governor as Commander in Chief to pre-
18 scribe orders, rules and other administrative proce-
19 dures necessary to maintain the standard of organiza-
20 tion and armament for the state military forces re-
21 quired by the laws and regulations of the United
22 States. Subject to regulations prescribed by the
23 federal military establishment, the Governor shall
24 establish administrative procedures necessary to
25 insure that adequate numbers of officers, warrant
26 officers and enlisted men are appointed, commissioned
27 and enlisted into the state military forces.

28 §104. Governor's military staff

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

31 1. Adjutant General; quartermaster general; pay-
32 master general. The Adjutant General, who shall be
33 ex officio chief of staff, a quartermaster general
34 and a paymaster general;

35 2. Senior staff officers. The senior officer on
36 duty with each of the staff sections organized under
37 section 105; and

1 3. Other staff officers. Other staff officers
2 appointed from time to time in accordance with
3 section 110.

4 §105. Staff organization

5 The Governor may create, organize, abolish or
6 reorganize staff sections which he deems necessary to
7 provide for the National Guard and other state mili-
8 tary forces, and appoint staff officers necessary to
9 provide for the operation of the staff sections.
10 Officers of these sections shall perform the duties
11 required of them by law and those other duties not
12 inconsistent with the laws of the State which corre-
13 spond to the duties performed by officers in corre-
14 sponding staff sections in the federal military
15 establishment.

16 §106. Assistant adjutants general

17 The Adjutant General may, subject to the approval
18 of the Governor, appoint an assistant adjutant gen-
19 eral for the Maine Army National Guard and an assis-
20 tant adjutant general for the Maine Air National
21 Guard, each with the qualifications set forth in
22 section 107, who may hold the grade of brigadier gen-
23 eral and shall serve at the pleasure of the Adjutant
24 General. The assistant adjutant general for the
25 Maine Army National Guard shall be responsible for
26 the general supervision of training and administra-
27 tion of the Maine Army National Guard and the assis-
28 tant adjutant general for the Maine Air National
29 Guard shall be responsible for the general super-
30 vision of training and administration of the Maine
31 Air National Guard.

32 §107. Qualifications of Adjutant General and assis-
33 tant adjutants general

34 A person appointed Adjutant General or assistant
35 adjutant general shall:

36 1. Hold commission. Hold or have held a commis-
37 sion of at least field grade or the equivalent in the
38 state military forces, the United States Armed Forces
39 or a reserve component thereof;

1 2. Service. Have served at least 5 years in one
2 or more of those forces or reserve components; and

3 3. Meet federal criteria for recognition. Meet
4 the criteria for federal recognition in the grade to
5 which appointed as prescribed by regulations govern-
6 ing the United States National Guard.

7 §108. Designation of Deputy Adjutant General

8 The assistant adjutant general for the Maine Army
9 National Guard shall serve as Deputy Adjutant Gen-
10 eral, and the deputy, regardless of rank, shall have
11 the powers, responsibilities and duties of the Adju-
12 tant General in the event of the Adjutant General's
13 absence or inability to act, or in case of a vacancy
14 in the office of the Adjutant General, until the
15 vacancy is filled by the Governor, as provided by
16 law.

17 §109. Deputy Adjutant General as bureau director

18 The Deputy Adjutant General shall be the Director
19 of the Military Bureau.

20 §110. Other staff; aides-de-camp

21 Additional military staff officers may be
22 appointed by the Governor as necessary.

23 1. Staff qualifications. Except as required by
24 federal military regulation, members of the staff of
25 the Commander in Chief shall be:

26 A. Residents of the State;

27 B. Commissioned officers in the state military
28 forces or reserve United States Armed Forces; and

29 C. On the active or retired list with a rank of
30 at least captain, except no staff officer may be
31 appointed from the retired list unless he has at
32 least 5 years' service in the regular Army, Army
33 reserve or Maine Army National Guard with the
34 last year of service no more than 5 years prior
35 to appointment.

1 2. Aides-de-camp; appointment; qualifica-
2 tions. The staff may also consist of not more than
3 11 aides-de-camp commissioned by the Governor to
4 serve during his term. Honorably discharged officers
5 or enlisted personnel who served in the Army, Air
6 Force, Navy or Marine Corps during any war, who are
7 not members of the state military forces, may be
8 appointed as aides-de-camp with the rank of colonel.
9 One may be a naval aide with the rank of captain and
10 one may be an Air Force aide with the rank of colo-
11 nel. Aides-de-camp may be detailed from the commis-
12 sioned officers of the state military forces, but
13 officers so detailed shall not be relieved from their
14 regular duties, except when on duty with the Com-
15 mander in Chief.

16 §111. Enlisted personnel

17 As used in this chapter, "enlisted man" or
18 "enlisted men" means enlisted personnel, male or
19 female.

20 SUBCHAPTER II

21 ADMINISTRATION

22 §141. Military Bureau accounts; Military Fund

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

29 For the current expenses of the state military
30 forces, there shall be appropriated biennially a sum
31 known as the "Military Fund" which is necessary for
32 the proper administration of the Military Bureau.

33 §142. Military personnel; appointment of officers;
34 enlistment of enlisted personnel

35 Except as otherwise provided in this chapter, the
36 qualifications for appointment of officers and
37 enlistment of enlisted personnel and the procedures

1 for promoting, transferring, discharging, equipping,
2 uniforming and training personnel of the state mili-
3 tary force shall be consistent with federal laws and
4 regulations prescribed for the National Guard.

5 §143. Pay and allowances

6 Officers, warrant officers and enlisted personnel
7 in the state military forces ordered by the Commander
8 in Chief, or under his authority, for duty at encamp-
9 ment, maneuvers, field exercises, small arms competi-
10 tion or other special duties or for active state duty
11 shall, unless otherwise stated in specific orders
12 regarding that duty, receive for every day actually
13 on duty the same pay and allowances as is payable to
14 persons of the same branch, grade and classification
15 in the federal military establishment.

16 §144. Civilian cooks

17 The Commander in Chief may authorize the employ-
18 ment of civilian cooks in organizations in which
19 there are vacancies in enlisted cooks when those
20 organizations are on duty under his orders or are
21 called upon to aid the civil authorities. The Com-
22 mander in Chief may authorize the employment and pre-
23 scribe the number of cooks for all headquarters and
24 organizations for which the enlistment of cooks is
25 not authorized. Cooks during this employment shall
26 be subject to the laws and regulations for the gov-
27 ernment of the National Guard and shall receive the
28 same pay as enlisted cooks.

29 §145. Property and fiscal officer

30 The Governor shall, subject to the approval of
31 the United States Secretary of the Army or the United
32 States Secretary of the Air Force, designate a quali-
33 fied commissioned officer of the Maine National Guard
34 to be the United States property and fiscal officer.

35 1. Status; United States property and fiscal
36 officer. The status of the United States property
37 and fiscal officer shall be that of a National Guard
38 commissioned officer of the Army or Air Force, as
39 appropriate, on extended active duty and detailed
40 with the United States Department of Defense,
41 National Guard Bureau for administrative purposes.

1 2. Bond. The United States property and fiscal
2 officer shall give a bond to the United States for
3 the faithful performance of his duties and for the
4 safekeeping and proper disposition of federal prop-
5 erty and funds entrusted to his care. The amount of
6 the bond shall be determined by the United States
7 Secretary of the Army or the United States Secretary
8 of the Air Force.

9 §146. Property purchase

10 1. Conflict of interest. No officer authorized
11 to make purchases or sales of military property may
12 be personally interested, directly or indirectly, in
13 the purchase or sale of the property; nor may an
14 officer take pay other than that allowed by law for
15 negotiating or transacting the business of his
16 office.

17 2. Inspection of property. All property pur-
18 chased under the authority of this chapter shall be
19 inspected by an officer designated by the Adjutant
20 General. No payment may be made for the property
21 until the inspecting officer certifies that the prop-
22 erty is of the kind and quality specified in the con-
23 tract of purchase.

24 3. Indebtedness contracted without authoriza-
25 tion. No officer or enlisted man may contract or
26 authorize the contracting of any indebtedness on
27 behalf of the State, unless expressly authorized to
28 do so. Any person in the military service who vio-
29 lates this subsection shall be dishonorably dis-
30 charged and suffer such other punishment as a court-
31 martial may direct.

32 §147. Retired officers and retired list

33 Officers shall be retired from the state military
34 forces and placed on the retired list as follows.

35 1. Discharge. Any officer who accepts an
36 appointment in the Army, Air Force, Navy or Marine
37 Corps of the United States, or who resigns from ser-
38 vice, shall receive an honorable discharge, provided
39 that:

1 A. He is not under arrest or returned to a mili-
2 tary court for any deficiency or delinquency;

3 B. He is not indebted to the State in any man-
4 ner; and

5 C. His accounts for money and public property
6 are correct.

7 2. Rights. Any person who has served as a com-
8 missioned officer in the state military forces for at
9 least 9 years may, upon personal request, be placed
10 upon the retired list. When placed upon the retired
11 list, an officer shall be given the highest rank held
12 by him and federally recognized during his term of
13 service. If, at the time of his retirement, he has
14 served as a commissioned officer in the state mili-
15 tary forces or federal military service for 15 years
16 or more, he may be retired with a rank one grade
17 higher than the highest rank held by him during his
18 service. Retired officers are entitled to wear the
19 uniform of the rank with which they were retired. No
20 commissioned officer in the state military forces may
21 be removed from office without his consent, except by
22 sentence of a court-martial or by a board of officers
23 in a manner prescribed by law.

24 3. Active duty. Whenever the occasion requires,
25 the Governor, with the officer's consent, may order
26 to active duty any retired officer, warrant officer
27 or enlisted man, who shall be entitled to pay and
28 emoluments of his grade while performing the service.

29 §148. Discharge

30 An enlisted person discharged from the state
31 military forces shall receive a discharge in the form
32 and with the classification prescribed for the fed-
33 eral military establishment. Discharges may be given
34 prior to the expiration of periods of enlistment
35 under these regulations, not inconsistent with those
36 established by the national military establishment
37 for the government of the National Guard, as the Gov-
38 ernor may prescribe.

39 §149. New organizations

1 When authorized by the national military estab-
2 lishment, new organizations may be raised on petition
3 to the Governor, or by his order. When the minimum
4 number of persons required by law has been enlisted
5 and notice thereof given to the Governor, he shall
6 order an inspection to be made by an officer of the
7 National Guard, and if it is found that the condition
8 contemplated by law for federal recognition can be
9 met by the new organization, the Governor shall
10 appoint commissioned officers for the new unit and
11 request an inspection to be made by an officer of the
12 national military establishment with a view to fed-
13 eral recognition.

14 §150. Unauthorized volunteer service

15 No unit of the state military forces may perform
16 any voluntary military service, unless authorized by
17 express order of the Governor.

18 SUBCHAPTER III

19 ACTIVATION OF STATE MILITARY FORCES

20 §181. Authority to activate

21 State military forces may be ordered to active
22 service as follows.

23 1. By order of the Governor. In case of, or
24 imminent danger of, insurrection, invasion, tumult,
25 riot, conspiracy to commit a felony, offer violence
26 to persons or property or by force to break the laws
27 of this State or the United States, or, in case of
28 public disaster, the Governor may order members of
29 the state military forces whom he deems appropriate
30 to active service of the State or to the aid of any
31 civil authority.

32 2. By order of a justice or sheriff. In case
33 of, or imminent danger of, insurrection, invasion,
34 tumult, riot, or conspiracy to commit a felony, offer
35 violence to persons or property or by force to break
36 the laws of this State or the United States, a Jus-
37 tice of the Supreme Judicial Court or of the Superior
38 Court or a county sheriff may request in writing aid

1 from a commanding officer in the state military
2 forces. The commanding officer upon whom the request
3 is made shall order out, in aid of the civil authori-
4 ties, all or part of the military forces under his
5 command, and shall immediately report to the Adjutant
6 General and to his immediate commanding officer for
7 further instructions. He shall receive only general
8 directions from the civil authority requesting the
9 aid and shall remain strictly responsible to his
10 military superior for the manner in which the troops
11 are used to accomplish the desired end.

12 3. Upon request of local officials. In the
13 event of an emergency requiring immediate action, the
14 commanding officer may, upon written request of the
15 mayor of a city, the selectmen of a town or the
16 municipal officers of a municipality, order out, for
17 the defense or protection of the community, the
18 forces under his command, or any part thereof. He
19 shall immediately report to the Adjutant General and
20 to his immediate commanding officer for further
21 instructions.

22 §182. Proclamation of state of insurrection

23 Whenever any portion of the state military forces
24 is activated in aid of civilian authority and if, in
25 the Governor's judgment, the maintenance of law and
26 order will thereby be promoted, he may, by procla-
27 mation, declare the county or municipality receiving
28 the assistance, or any specified portion or combina-
29 tion thereof, to be in a state of insurrection.

30 §183. Human health emergencies

31 Personnel and equipment of the state military
32 force may be employed in the case of human health
33 emergencies.

34 1. Activation of state military forces. In the
35 event of illness or injury creating an emergency
36 which requires specialized personnel or equipment of
37 the state military forces to prevent human suffering
38 or loss of life, the Governor, or his designee, may
39 order into active service of the State or in aid of
40 any civil authority the necessary personnel and
41 equipment of the state military forces.

1 2. Immunity from civil liability. Any person
2 ordered into active service of the State, for the
3 purposes of this section, is immune from civil lia-
4 bility for damages to the same extent as any person
5 who renders assistance pursuant to Title 14, section
6 164.

7 3. Accounting. At least 30 days before the end
8 of each fiscal year, the Adjutant General shall pre-
9 pare an accounting of all expenses incurred pursuant
10 to this section since any prior accounting and shall
11 present this accounting to the Commissioner of Human
12 Services for payment pursuant to Title 22, section
13 3185.

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

23 §184. Notice for duty

24 Notices for military duty shall be given as fol-
25 lows.

26 1. When given. Notices for state duty at
27 encampments, maneuvers and field instruction shall be
28 given at least 10 days prior to the duty. Notices
29 for other duty may be given when prescribed by the
30 officer issuing the order.

31 2. How given. Notices shall be given orally or
32 by written notice delivered personally, sent by mail
33 or left at the last and usual place of abode. Orders
34 conspicuously posted during a regular meeting of the
35 unit, not less than 4 days prior to the date fixed in
36 the order, shall be sufficient.

37 3. Dates fixed by law. Where drill dates have
38 been fixed by law, orders or regulations, no further
39 notice is required.

1 §185. Rights and liabilities of military force mem-
2 bers

3 1. Immunity from civil and criminal liabil-
4 ity. No member of the state military forces may be
5 liable civilly or criminally for any act done or
6 caused, ordered or directed to be done by him while
7 on active duty in the performance of his duty. If an
8 action of any nature has been commenced in any court
9 by any person against an officer or enlisted man of
10 the state military forces for such an act, done or
11 caused, ordered or directed to be done, all expenses
12 of the defense of the action, including fees of wit-
13 nesses for the defense, defendant's court costs, and
14 all costs for transcripts of records and abstract
15 thereof on appeal, shall be paid by the State out of
16 the Military Fund. Where the action is civil, it
17 shall be the duty of the Attorney General to defend
18 that officer or enlisted man. Where the action is
19 criminal, the Adjutant General shall designate a
20 judge advocate of the National Guard or other author-
21 ized state military or naval force to conduct the
22 defense of the member. If the services of a judge
23 advocate are not available, the Adjutant General
24 shall select some other competent attorney to conduct
25 the defense. The judge advocate or other attorney
26 selected shall receive a reasonable compensation for
27 his professional services which shall be paid out of
28 the Military Fund. In any civil action, the defen-
29 dant may require the person instituting the action to
30 file security for payment of costs that may be
31 awarded the defendant, which costs, if paid out of
32 the Military Fund, when received, shall be paid into
33 the State Treasury and credited to the Military Fund.

34 2. Exemption from arrest. Persons belonging to
35 the state military forces are exempt from arrest as
36 follows.

37 A. Every person belonging to the state military
38 forces shall, in all cases except a crime punish-
39 able by a maximum term of imprisonment equal to
40 or exceeding one year or breach of the peace, be
41 privileged from arrest while going to, attending
42 or returning from required military duty.

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

11 3. Exemption from jury duty. Every member of
12 the state military forces, while going to, attending
13 or returning from required military duty, is exempt
14 from jury duty. Production of a certificate from the
15 claimant's commanding officer that he qualifies for
16 the exemption is prima facie proof that he is enti-
17 tled to the exemption.

18 §186. Injuries sustained in connection with military
19 duty

20 1. Compensation as an employee of the State. A
21 member of the state military forces shall receive
22 compensation as a state employee according to the
23 provisions of Title 39, if he:

24 A. Has been called to active state duty and is:

25 (1) On duty or assembled for duty;

26 (2) Participating by order of the Governor
27 in the encampment, maneuvers or field
28 instruction of any part of the national
29 military establishment;

30 (3) Participating by order of the Governor
31 in practice marches or camps of instruction;
32 or

33 (4) Assembled for regular or special drill
34 or other duty under the command of a supe-
35 rior officer; and

36 B. Is incapacitated from performing his usual
37 occupation by:

1 (1) An injury, disability or disease
2 received, incurred or contracted as a result
3 of that duty; or

4 (2) A wound, injury or disease incident to
5 that duty received or contracted without
6 willful negligence on his part while per-
7 forming his lawfully ordered duties.

8 2. Average weekly wage; death benefits. The
9 average weekly wage for purposes of calculation of
10 compensation shall be the earning capacity of the
11 injured in the occupation in which he is regularly
12 engaged. In case of death, dependents shall be enti-
13 led to compensation as provided in Title 39, and any
14 amendments thereto.

15 3. Setoff. For purposes of Title 39, section
16 62, federal pay and benefits received by the member
17 as a result of a wound, injury or disease described
18 in subsection 1 shall be considered to be derived
19 from the employer and will constitute a setoff to
20 compensation awarded as a result of this section.

21 4. Federal pay status. Any member of the state
22 military forces who suffers a wound or injury or con-
23 tracts a disease not the result of his own miscon-
24 duct, while in attendance on order of the Governor at
25 a camp of instruction authorized by the national
26 military establishment shall receive the pay provided
27 in section 143 while he remains in federal pay status
28 in lieu of the compensation provided for in this
29 section.

30 §187. Bounds and limits of camps

31 The bounds and limits of camps may be fixed and
32 intrusion within those limits may be restricted as
33 follows.

34 1. Fixing the limits. Every commanding officer
35 on duty may fix necessary bounds and limits to his
36 camp or parade. In doing so, he may not prevent pas-
37 sage along a through road. By order of the Governor,
38 the commanding officer may, as described in subsec-
39 tion 2, restrict use or passage through an extended
40 area not more than 1/2 mile around the camp. The

1 owners of land within that surrounding security area
2 and their agents shall not be prevented from using,
3 occupying or improving their land in the same manner
4 as they were accustomed to do at the time the camp
5 was occupied.

6 2. Confinement of intruders. Any person who
7 intrudes within the fixed limits after being forbid-
8 den, or resists a sentinel attempting to put or keep
9 him out of those limits, or disturbs, interrupts or
10 otherwise hinders the passage of troops or the dis-
11 charge of their duty, may be confined under guard for
12 up to 14 hours at the discretion of the commanding
13 officer.

14 3. Intoxicating beverages. The commanding offi-
15 cer of any camp or armory may prohibit the introduc-
16 tion or sale of any intoxicating beverage within the
17 necessary or extended limits of the camp or armory.

18 §188. Closing of stores

19 Whenever any part of the state military forces is
20 activated to state service pursuant to this subchap-
21 ter, the commanding officer of those troops may order
22 the closing of any place in the area under his con-
23 trol where intoxicating beverages, arms, ammunition
24 or explosives are sold. He may also forbid the
25 exchanging or transfer of those articles for the
26 duration of his troops' assignment to that area
27 whether or not a civil official has issued a compar-
28 able order.

29 SUBCHAPTER IV

30 SPECIAL PROVISIONS GOVERNING STATE MILITARY FORCES

31 OTHER THAN THE NATIONAL GUARD

32 §221. Other state military components

33 1. Organization. When necessary to provide for
34 the adequate protection of the State, the Governor as
35 Commander in Chief may organize as components of the
36 state military forces an adequate number of Army and
37 Navy units for the length of time which he directs.

1 Those components shall consist of the militia, the
2 naval militia and the Maine State Guard.

3 2. Duties. In the event of the organization of
4 other forces described in subsection 1, those units
5 may be ordered by the Governor to perform duties
6 which he directs, including duties that the National
7 Guard would be called to perform, consistent with
8 this chapter and other applicable laws.

9 3. Maine Code of Military Justice. All persons
10 serving in the militia, naval militia and Maine State
11 Guard shall be subject to the Maine Code of Military
12 Justice while in an active state duty status.

13 4. Applicability of provisions. The provisions
14 of this chapter which apply to military forces gener-
15 ally apply to state military forces other than the
16 National Guard, except as otherwise set forth in this
17 subchapter. When any part of state military forces,
18 other than the National Guard, in the service of the
19 United States, is on duty or ordered to assemble for
20 duty by the Governor, the Articles of War governing
21 the Army and Air Force of the United States, the
22 articles for the government of the United States Navy
23 and regulations prescribed for the United States
24 Army, Air Force and Navy, so far as consistent with
25 this chapter and rules issued thereunder, shall be in
26 force and shall be regarded as part of the chapter
27 until those military forces are duly relieved from
28 duty.

29 §222. Militia

30 The militia shall consist of all able-bodied cit-
31 izens of the State, or able-bodied persons who have
32 declared their intention to become citizens of the
33 United States, who are at least 18 years of age and
34 not more than 45 years of age, and who are enrolled
35 pursuant to section 225, or who have been enlisted,
36 appointed or commissioned.

37 §223. Naval militia

38 1. Composition. The naval militia of the State
39 of Maine shall consist of such persons as may be
40 enlisted, appointed or commissioned therein from the
41 militia.

1 2. Administration. The Commander in Chief may
2 organize the forces prescribed in subsection 1 as he
3 deems proper. When in his judgment the efficiency of
4 the naval militia will be increased thereby, or when-
5 ever public interest may demand it, he may alter,
6 reorganize or disband any or all of the naval mili-
7 tia. He may, at any time, change the organization of
8 the naval militia so as to conform to any organiza-
9 tion, or system of drill or instruction adopted for
10 the United States Navy, and increase and decrease for
11 that purpose the number of officers, warrant offi-
12 cers, chief petty officers, petty officers and
13 enlisted men and to change their grades, titles and
14 designations.

15 The system of administration, drill and instruction
16 of the naval militia shall conform, as nearly as
17 practicable, to that of the United States Navy.

18 §224. Maine State Guard

19 The Governor may organize and maintain within
20 this State in time of peace or war or other emer-
21 gency, the Maine State Guard, which organization and
22 maintenance of the Maine State Guard shall be con-
23 sistent with federal regulations prescribing the
24 organization, standard of training, instruction and
25 discipline of state military forces.

26 1. Composition. When activated, the Maine State
27 Guard shall be composed of those persons enlisted,
28 appointed or commissioned from the militia and other
29 able-bodied citizens of the State and such other
30 able-bodied soldiers and sailors who have previously
31 served honorably in the United States Armed Services
32 or the National Guard. A person may not become a
33 member of the Maine State Guard, if he is a member of
34 the National Guard or any component of the United
35 States Armed Forces, active or reserve.

36 2. Administration; rules. The Governor may from
37 time to time prescribe rules not inconsistent with
38 this section, for the enlistment, designation and
39 location of units, and the organization, administra-
40 tion, equipment, maintenance, training and discipline
41 of the Maine State Guard. The organization shall not
42 conflict with the laws of the United States or of

1 this State as applicable to the state military
2 forces, generally. These rules, insofar as the Gov-
3 ernor deems practicable and desirable, shall conform
4 to existing laws, rules and regulations pertaining to
5 the National Guard. The oath to be taken by officers
6 and enlisted men in the Maine State Guard shall be
7 substantially the same as that prescribed for offi-
8 cers and enlisted men of the National Guard. The
9 words "Maine State Guard" shall be substituted where
10 necessary. The term of service of officers or
11 enlisted men in the Maine State Guard shall be the
12 same as that prescribed for officers and enlisted men
13 of the National Guard.

14 3. Officers; appointment; authority. The Gover-
15 nor, acting by and through the Adjutant General,
16 shall appoint officers for such units and organiza-
17 tions of the Maine State Guard as he may establish in
18 conformance with applicable federal regulations, and
19 these officers shall, subject to removal by the Com-
20 mander in Chief, exercise the same military authority
21 over their several commands as officers of the
22 National Guard.

23 4. Pay and allowances. The pay and allowances
24 of members of the Maine State Guard when called to
25 active state duty shall be the same as provided in
26 section 143. When the Maine State Guard is organized
27 for inspection and drill purposes only, that activity
28 shall not be deemed active state duty and no pay may
29 be allowed.

30 5. Requisitions. For the use of the Maine State
31 Guard, the Governor may requisition from the United
32 States Secretary of the Army arms, ammunition, cloth-
33 ing and equipment which the United States Secretary
34 of the Army in his discretion, and under regulations
35 determined by him, may issue and may make available
36 to the Maine State Guard the facilities of state
37 armories and their equipment and other state premises
38 and property which are available.

39 6. Enlistment of civil groups. No civil orga-
40 nization, society, club, post, order, fraternity,
41 association, brotherhood, body, union, league or
42 other combination of persons or civil group may be
43 enlisted in the Maine State Guard as an organization
44 or unit.

1 7. Federal service. Nothing in this subsection
2 may be construed as authorizing the Maine State Guard
3 or any part thereof, to be called, ordered or in any
4 manner drafted as a unit into the military service of
5 the United States. No person may, by reason of his
6 enlistment or commission in the Maine State Guard, be
7 exempted from military service under any law of the
8 United States.

9 8. Disqualifications. No person may be commis-
10 sioned or enlisted in the Maine State Guard who has
11 been expelled or dishonorably discharged from any
12 military or naval organization of this State, of
13 another state or of the United States, or who has
14 been convicted of a felony in any court of this
15 State, of another state or of the United States.

16 §225. Enrollment other than National Guard

17 1. Citizen enrollment; penalty for noncompli-
18 ance. Each citizen who is more than 18 years of age
19 and less than 45 years of age, unless exempted by
20 order of the Governor, who is a resident of this
21 State, shall, whenever the Governor deems it neces-
22 sary, be enrolled with the militia. Each citizen
23 shall be enrolled in the municipality in which he
24 resides by the assessor or assessors for that munici-
25 pality according to rules which the Governor may pre-
26 scribe.

27 Any person knowingly refusing to give required infor-
28 mation concerning himself or another person who is
29 required to be enrolled, or giving false information
30 to an assessor making the enrollment, is for each act
31 of concealment, refusal or falsification guilty of a
32 Class E crime. Within 10 days, the assessor making
33 the enrollment shall report all persons violating
34 this subsection to the Adjutant General.

35 2. Exemptions. The Vice-President of the United
36 States; judicial and executive officers of the gov-
37 ernment of the United States and of the several
38 states and territories; persons in the military or
39 naval service of the United States; customhouse
40 clerks; persons employed by the United States in the
41 transmission of the mail, artificers and workmen
42 employed in the armories, arsenals and navy yards of

1 the United States; pilots; mariners actually employed
2 in the sea service of any citizen or merchant within
3 the United States, shall be exempt from militia duty
4 without regard to age. All persons, who because of
5 religious belief, claim exemption from militia ser-
6 vice, if the conscientious holding of that belief by
7 that person shall be established under regulations
8 prescribed by the President, shall be exempted from
9 militia service in a combatant capacity. A person
10 exempted because of religious beliefs shall not be
11 exempt from militia service in a capacity that the
12 President declares to be noncombatant.

13 3. Burden of proof in exemption. Any person
14 claiming exemption shall satisfy the assessor of his
15 right to the exemption. In case of doubt, the burden
16 of proof shall be upon the person claiming exemption.
17 The assessor may require him to submit to examination
18 under oath and may administer the oath.

19 4. Responsibilities of assessor and clerk; pen-
20 alty for failure to perform. On the roll, opposite
21 the name of each person who is exempt from duty under
22 subsection 2, or who is serving in the active state
23 or federal military forces, or who is unable by
24 reason of physical disability to perform military
25 duty, the assessor shall write the word "exempt" and
26 state in each case the cause of the exemption. The
27 assessor shall subscribe the list and make oath that
28 the list is true to the best of his knowledge and
29 belief, and shall immediately file the list with the
30 clerk of the municipality. Within 10 days, the clerk
31 shall make a certified statement of the total number
32 enrolled, the number marked exempt with the reason
33 for exemption and the number in active service. The
34 clerk shall forward the statement to the Military
35 Bureau. Any assessor neglecting or refusing faith-
36 fully to perform the enrolling duties required by
37 law, making a false entry upon the rolls or commit-
38 ting any other related fraud and any clerk neglecting
39 to make and forward the statement required is guilty
40 of a Class E crime.

41 SUBCHAPTER V

42 UNIFORMS AND EQUIPMENT

1 §261. Officers provide own uniforms and equipment

2 All commissioned officers and warrant officers in
3 the state military forces shall provide themselves
4 with uniforms and equipment required by federal regu-
5 lation. The Adjutant General may purchase and issue
6 as state property on memorandum receipt or sell for
7 cash to these officers the necessary uniforms and
8 equipment.

9 §262. Exemption from attachment and distress

10 The clothes, arms, military outfit and accoutre-
11 ments furnished by or through the State to, or re-
12 quired of, a member of the state military forces are
13 not subject to any civil action, distress, execution
14 or sale for debt or payment of taxes.

15 §263. Repair of equipment

16 The Adjutant General shall make arrangements for
17 the necessary repair, cleansing and renovation of all
18 clothes, arms, military outfits or accoutrements of
19 the state military forces. If the repair, cleansing
20 or renovation is due to the negligence of a member,
21 the cost shall be charged against pay due, or to
22 become due, to the member or recovered in the same
23 manner as a forfeiture under the Maine State Code of
24 Military Justice.

25 §264. Inspection and condemnation

26 The Adjutant General shall designate an officer
27 to inspect and condemn military property which has
28 become unfit for use. No property may be sold until
29 it has been inspected and condemned and the condemna-
30 tion has been approved by the Adjutant General. The
31 proceeds of sales of condemned material, stores, sup-
32 plies or other public property shall be paid into the
33 State Treasury and credited to the Military Fund.

34 §265. State equipment; obsolete ordnance issued to
35 municipalities

36 All property furnished by the State shall remain
37 and continue to be the property of the State to be
38 used for military purposes only. When not in use it

1 shall be kept in an armory or other designated place.
2 Upon order of the Governor, the quartermaster general
3 may issue to the municipal officers of any city or
4 town field ordnance of obsolete pattern under rules
5 prescribed by the Governor. Every officer receiving
6 public property for military use shall be held
7 responsible for the safekeeping and the return of the
8 property when requested. The officer shall account
9 for and return the property as prescribed by the Gov-
10 ernor or other proper authority.

11 §266. Prohibited acts

12 1. Destruction of equipment. Any person who
13 willfully destroys, injures or defaces any article of
14 military property belonging to the State or the
15 United States, or uses it for an unauthorized pur-
16 pose, or has or retains the property in violation of
17 law or rule is guilty of a civil violation for which
18 a forfeiture not to exceed \$50 may be adjudged. In
19 case an officer or enlisted man of the state mili-
20 tary forces through carelessness or inattention
21 loses, destroys or causes the loss or destruction of
22 government property which has been issued for his
23 use, the Adjutant General shall retain, out of the
24 pay, allowances or moneys due the officer or enlisted
25 man for any military services an amount equal to the
26 value of the property lost or destroyed. That por-
27 tion of the money which is for state property shall
28 be turned into the Treasurer of State and credited to
29 the Military Fund. That portion which is for United
30 States property shall be turned into the United
31 States Treasury and credited to the State on its
32 property returns.

33 2. Equipment not to be sold. Except as other-
34 wise provided by law, the clothes, arms, military
35 outfits and accoutrements furnished by or through the
36 State to any member of the state military forces
37 shall not be sold, bartered, exchanged, pledged, loan
38 or given away. Any unauthorized person who has pos-
39 session of clothes, arms, military outfits or accou-
40 trements so furnished as a result of unlawful dispo-
41 sition, shall have no right, title or interest in
42 them. Those items may be seized as contraband by a
43 civil officer of the State, and shall be delivered to
44 a commanding officer or other officer authorized to

1 receive them, who shall make an immediate report to
2 the Adjutant General. The possession of the clothes,
3 arms, military outfits or accoutrements by any person
4 not a member of the military forces of the State or
5 of the United States shall be prima facie evidence of
6 unauthorized sale, barter, exchange, pledge, loan or
7 gift.

8 Any person who sells or offers for sale, barter,
9 exchanges, pledges, loans or gives away, secretes or
10 retains after demand made by any civil or military
11 officer of the State, any clothes, arms, military
12 outfits or accoutrements furnished by or through the
13 State to a member of the state military forces, or
14 who receives by purchase, barter, exchange, pledge,
15 loan or gift, any such clothes, arms, military
16 outfits or accoutrements, is guilty of a Class E
17 crime.

18 3. Uniform forbidden to unauthorized per-
19 sons. It is unlawful for any person not an officer
20 or enlisted man in the federal or state military
21 forces to wear the duly prescribed uniform of any
22 military forces or any distinctive part of the uni-
23 form, or a uniform any part of which is similar to a
24 distinctive part of a prescribed uniform. This sub-
25 section shall not be construed to prevent authorized
26 persons from wearing the uniforms. The term "dis-
27 distinctive part of the uniform" in this subsection
28 shall be construed to mean such parts of the uniform
29 as may be designated as "distinctive" by the regula-
30 tions of the federal military establishment. Viola-
31 tion of this subsection is a Class E crime.

32 SUBCHAPTER VI

33 CONSTRUCTION OF MILITARY FACILITIES

34 §301. Acquisition of property for construction of
35 military facilities

36 1. Duty of municipal officers. Municipal offi-
37 cers shall perform the following duties.

38 A. The municipal officers shall provide and
39 maintain for each unit of the state military

1 forces located within the limits of their municipi-
2 pality, armories and other necessary buildings,
3 the suitability of which shall be determined by
4 the Adjutant General.

5 B. The municipal officers shall provide target
6 ranges for units of the state military forces
7 located within the limits of their municipality,
8 except where ranges are provided from the funds
9 appropriated for that purpose by the Federal Gov-
10 ernment. The municipal officers shall maintain
11 the target ranges in good condition regardless of
12 the method by which they were obtained. The
13 suitability of target ranges shall be determined
14 by the senior officer in the ordnance department
15 of the state military force and approved by the
16 Adjutant General. The target ranges shall be
17 open for the use of members of the state military
18 forces at all times, subject to the approval of
19 the Adjutant General.

20 C. The legislative body of a municipality may
21 raise money for purchasing, leasing, constructing
22 and maintaining, or may accept by, gift or other-
23 wise, real estate and personal property to be
24 used for armories, other necessary buildings and
25 target ranges for units of the state military
26 forces located in the municipality.

27 2. Gifts to the State. The Governor may accept,
28 in the name of the State, donations of real estate
29 and personal property to be used for military pur-
30 poses by the state military forces upon such condi-
31 tions as the doner may prescribe. The Governor may
32 prescribe further rules pertaining to donated prop-
33 erty. The Adjutant General may approve for payment
34 from the appropriation for armory rentals necessary
35 sums for the maintenance and operation of the prop-
36 erty.

37 3. Eminent domain. The Adjutant General may ac-
38 quire real property by right of eminent domain in the
39 manner prescribed by law for the taking of land for
40 highway purposes, and both real and personal property
41 by purchase, gift or otherwise, for the purpose of
42 construction or maintenance of armories, airports,
43 shipyards and other military facilities, including

1 the building or improvement and maintenance of rail-
2 roads or roads necessary for the more efficient use
3 of these facilities for military purposes and the
4 procuring of equipment and supplies for military pur-
5 poses.

6 §302. Construction of armories

7 1. By the State. Whenever the Military Fund is
8 sufficient, the Adjutant General may, with the
9 approval of the Governor, erect armories and other
10 necessary buildings upon land donated to the State
11 for that purpose.

12 2. By municipalities. When a city or town con-
13 structs an armory or other necessary building for the
14 use of the state military forces, the State shall
15 reimburse the city or town for 1/2 of each construc-
16 tion debt installment as it becomes due where the
17 following conditions are observed.

18 A. The city or town shall deposit with the
19 Treasurer of State a recorded deed conveying to
20 the State clear title to all the real estate
21 involved.

22 B. The Adjutant General shall certify in writing
23 to the Treasurer of State that an installment is
24 due.

25 C. The state contribution shall not exceed a
26 total of \$50,000 to each city or town.

27 D. Not more than 3 armory projects shall be
28 erected biennially.

29 §303. Payment of state expenses

30 Payment of the state's share of expenses incurred
31 as a result of this subchapter shall be made from the
32 Military Fund by the Treasurer of State upon vouchers
33 issued by the Adjutant General to the State Control-
34 ler.

35 §304. Rent for use of armories

1 In accordance with applicable federal law and
2 regulations and after consulting with the municipal
3 officers, the Adjutant General shall fix a reasonable
4 compensation, subject to the approval of the Govern-
5 nor, to be paid as rent to the municipality providing
6 and maintaining the buildings. This compensation
7 shall be paid by the State out of the appropriation
8 for armory rental.

9 §305. Use of armories limited

10 The buildings shall be used exclusively for mili-
11 tary purposes, unless otherwise authorized by rules
12 adopted by the Military Bureau, or by special authori-
13 ty granted by the Adjutant General after written
14 application by the municipal officers. The buildings
15 may be jointly used by the National Guard and other
16 state military forces or other reserve components of
17 the United States Armed Forces.

18 §306. Tax exemption

19 All real estate and personal property owned or
20 leased by the State, by any municipality, or by any
21 organization of the state military forces and used
22 for military purposes is exempt from all taxation
23 during the period of that ownership or lease and use.

24 §307. Penalty for violation of this section

25 Any municipal officer who fails to take effective
26 measures for providing and maintaining suitable
27 armories, other necessary buildings and target ranges
28 as prescribed by this section, or who uses the build-
29 ings without authority, or who abuses the authority
30 granted, is guilty of a Class E crime. Any fine
31 imposed by the authority of this section shall be
32 paid into the State Treasury and credited to the Gen-
33 eral Fund.

34 SUBCHAPTER VII

35 PENALTIES

36 §341. Prosecution of offenses

1 Unless otherwise provided, offenses described in
2 this chapter except where committed by a person sub-
3 ject to the Maine Code of Military Justice or the
4 United States Uniform Code of Military Justice, may
5 be prosecuted by complaint or indictment before a
6 court of competent criminal jurisdiction. All fines
7 and forfeitures collected under this chapter and not
8 otherwise specifically provided for shall be paid
9 into the State Treasury and credited to the General
10 Fund.

11 §342. Prohibited acts; penalties

12 1. Failure of civil officers to perform
13 duties. A civil officer named in this chapter, who
14 neglects or refuses to obey the provisions of this
15 chapter, is guilty of a Class E crime.

16 2. Other military organizations prohibited. No
17 group of persons, other than federal or state mili-
18 tary forces, may join together as a military orga-
19 nization or parade in public with firearms. No city
20 or town shall raise or appropriate money toward sup-
21 porting such an organization. Associations wholly
22 composed of honorably discharged servicemen of the
23 United States and the order known as the Sons of Vet-
24 erans may parade in public with firearms with written
25 authorization of the city or town officials in the
26 municipality in which they wish to parade. Students
27 in educational institutions where military science is
28 taught, as a prescribed part of the course of
29 instructions, may, with the consent of the Governor,
30 drill and parade with firearms in public under the
31 supervision of their military instructors.

32 Any person violating this subsection is guilty of a
33 Class E crime.

34 3. Enlistment of minors into the military. Any
35 person who knowingly enlists, or causes or induces, a
36 person under the age of 18 years to enlist into the
37 state military forces without written consent of his
38 parent or guardian is guilty of a Class E crime.

39 4. Obstruction of the right-of-way. The com-
40 mander of any part of the state military forces
41 parading or performing any military duty in any

1 street or highway may require any or all persons to
2 yield the right-of-way to his troops, provided that
3 the transport of the United States mail, the legiti-
4 mate functions, progress and operations of police,
5 ambulances, firefighters and other authorized emer-
6 gency vehicles shall not be interfered with by the
7 troops.

8 Anyone who hinders, delays or obstructs any portion
9 of the state military forces when parading or per-
10 forming their military duty, or who attempts to do
11 so, is guilty of a Class E crime.

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

22 All officials and employees of the State who are mem-
23 bers of the state military forces, or reserves of the
24 United States Armed Forces, shall have a leave of ab-
25 sence from their respective duties, without loss of
26 pay or time, when engaged in all annual training duty
27 days authorized by the Governor or under federal laws
28 and regulations.

29 6. Discrimination against members of the state
30 military forces. Anyone who discriminates against
31 state military personnel shall be punished as fol-
32 lows.

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

1 B. Whoever without good cause discriminates
2 against any uniformed member of the state mili-
3 tary forces or the United States Armed Forces
4 with respect to the enjoyment of any public place
5 of amusement, the use of any public conveyance,
6 access to public lodging or the receipt of other
7 services generally available to the public is
8 guilty of a Class E crime.

9 7. Interference with members in performance of
10 duties. Whoever intentionally molests, abuses or
11 interferes with any member of the state military
12 forces in the performance of his duty is guilty of a
13 Class E crime.

14 8. Unauthorized use of military insign-
15 nia. Anyone who uses military insignia, decorations,
16 badges or buttons in an unauthorized way shall be
17 punished as follows.

18 A. Whoever intentionally wears the badge, button
19 or other insignia of the federal or state mili-
20 tary forces or does so to obtain aid or assis-
21 tance within the State, unless he is entitled to
22 use or wear them under the regulations of the
23 United States Armed Forces or rules issued by the
24 Adjutant General, is guilty of a Class E crime.

25 B. Whoever sells, exposes or offers for sale,
26 pawn or pledge, buys or loans money on any mili-
27 tary badge, button, decoration or other insignia
28 issued under the regulations of the Adjutant Gen-
29 eral for the state military forces is guilty of a
30 Class E crime.

31 SUBCHAPTER VIII

32 MISCELLANEOUS PROVISIONS

33 §381. Fresh pursuit

34 Except as provided in this section, no component
35 of the state military forces, except the National
36 Guard when called to federal service, may leave the
37 State and no military organization of another state,
38 unless acting under authority of the United States,

1 may enter the State, except by permission of the Gov-
2 ernor.

3 1. By state military forces. A component of the
4 state military forces may, upon the order of the
5 officer in immediate command, continue in fresh pur-
6 suit of insurrectionists, saboteurs or enemy forces
7 into another state until those persons are appre-
8 hended or until the military or police forces of the
9 other state or forces of the United States have had a
10 reasonable opportunity to apprehend those persons,
11 provided that the other state has given authority by
12 law for that pursuit by forces of this State. Any
13 person who is apprehended in another state by any
14 element of the state military forces shall be surren-
15 dered without unnecessary delay to the military or
16 police forces of that state or of the United States.
17 That surrender shall not constitute a waiver by this
18 State of its right to extradite or prosecute the
19 person for a crime committed in this State.

20 2. By forces of other states. A component of
21 the military forces of another state, which is in
22 fresh pursuit of insurrectionists, saboteurs or enemy
23 forces, may continue the pursuit into this State
24 until the military or police forces of this State or
25 the forces of the United States have had reasonable
26 opportunity to apprehend these persons. The state
27 military forces of the other state are authorized to
28 detain persons apprehended while in fresh pursuit in
29 this State. Any person who is detained in this State
30 by military forces of the other state shall be sur-
31 rendered without unnecessary delay to the military or
32 police forces of this State to be dealt with accord-
33 ing to law. This subsection shall not be construed
34 to make unlawful any arrest in this State which would
35 otherwise be lawful.

36 §382. Registration of aliens during time of war

37 Whenever a state of war exists or is imminent
38 between the United States and a foreign country, the
39 Governor may by proclamation direct every citizen or
40 subject of that foreign country within this State to
41 personally appear within 24 hours after the procla-
42 mation or within 24 hours after his arrival in this
43 State, whichever is later, before the public authori-

1 ties named by the Governor in the proclamation. At
2 that time the citizen or subject of the foreign country
3 shall register his name, residence, business,
4 length of stay and other information which the Governor
5 may prescribe in the proclamation.

6 The person in control of each hotel, inn,
7 boardinghouse, rooming house and private residence
8 within the State shall within 24 hours after the
9 proclamation notify the public authorities of the
10 presence in their establishment of every citizen or
11 subject of that foreign country, and shall each day
12 notify the public authorities of the arrival and
13 departure of those persons. Failure to comply with
14 the requirements of the Governor's proclamation or to
15 do or perform any of the acts provided in this
16 section is a Class E crime.

17 §383. Awards, medals and prizes

18 1. Certificate of merit. The Governor may award
19 a certificate of merit to members of the state mili-
20 tary forces who have distinguished themselves by
21 gallantry or by meritorious service.

22 2. Other awards. The Adjutant General may award
23 other certificates, medals, citations or other appro-
24 priate recognition of service to members of the state
25 military forces for distinguished or honorable ser-
26 vice.

27 3. Rewards for marksmanship. The Adjutant Gen-
28 eral may annually offer a reward for proficiency in
29 the use of small arms and light and heavy weapons.

30 4. The Adjutant General may adopt suitable rules
31 for awarding medals and prizes.

32 §384. Flag to be carried

33 The flag of the State to be carried by the
34 National Guard shall be the same as the flag de-
35 scribed in Title 1, section 206, with addition of a
36 scroll in red below the coat of arms of the State
37 bearing the inscription, "Maine National Guard."

38 §385. National Guard group life insurance

1 The Adjutant General may enter into insurance
2 agreements with insurance companies for group life
3 insurance on behalf of each participating national
4 guardsman called to state active duty and to pay from
5 departmental funds the cost of each individual's pre-
6 mium for that insurance.

7 Any insurance agreement entered into under this
8 authority shall be reviewed and approved by the
9 Superintendent of Insurance before it become effec-
10 tive. All insurance policies shall be issued by an
11 insurance company licensed by the Bureau of Insurance
12 to do business in the State.

13 §386. National Guard Association

14 1. Commissioned officers. The commissioned
15 officers of the National Guard may organize them-
16 selves into an association. The name of the associa-
17 tion shall be the "National Guard Association of the
18 State of Maine." The association may adopt and amend
19 a constitution and bylaws, not repugnant to law,
20 orders or regulations. The association may take and
21 hold real and personal property necessary for the
22 purposes of the association.

23 2. Enlisted personnel. The enlisted personnel
24 of the National Guard may organize themselves into an
25 association. The name of the association shall be
26 the "Enlisted National Guard Association of the State
27 of Maine." The association may adopt and amend a
28 constitution and bylaws, not repugnant to law, orders
29 or regulations. The association may take and hold
30 real and personal property necessary for the purposes
31 of the association.

32 CHAPTER 5

33 MAINE CODE OF MILITARY JUSTICE

34 §401. Title

35 This chapter may be cited as the "Maine Code of
36 Military Justice."

37 §402. Definitions

1 As used in this Code, unless the context indi-
2 cates otherwise, the following terms have the follow-
3 ing meanings.

4 1. Accuser. "Accuser" means a person who:

5 A. Signs and swears to charges;

6 B. Directs that charges be signed and sworn in
7 the name of another; or

8 C. Has an interest, other than an official
9 interest, in the prosecution of the accused.

10 2. Active state service. "Active state service"
11 means all military duty performed as a member of the
12 state military forces by order of the Governor under
13 this Title or performed under the United States Code,
14 Title 32.

15 3. Code. "Code" means this chapter.

16 4. Commanding officer. "Commanding officer"
17 means any commissioned officer vested with the
18 authority for the direction, coordination and control
19 of a military unit.

20 5. Enlisted person. "Enlisted person" means any
21 person who is serving in an enlisted grade in any
22 military force.

23 6. Military forces. "Military forces" means the
24 state military forces, as defined in section 102,
25 when called into active state service.

26 7. Military judge. "Military judge" means an
27 official of a court-martial detailed in accordance
28 with section 221.

29 8. Military unit. "Military unit" means any
30 military element whose structure is prescribed by a
31 competent authority, such as a table of organization
32 and equipment.

33 9. Officer. "Officer" means a commissioned or
34 warrant officer.

1 10. Superior officer. "Superior officer" means
2 an officer superior in rank or command.

3 §403. Persons subject to the Code

4 1. Active member. All persons in the military
5 forces who are not in the active service of the
6 United States are subject to this Code.

7 2. Fraudulent discharge. All persons discharged
8 from the military forces subsequently charged with
9 having fraudulently obtained the discharge shall be
10 subject to trial by court-martial on that charge and
11 shall after apprehension be subject to this Code
12 while in the custody of the military forces for the
13 trial. Upon conviction on that charge, they shall be
14 subject to trial by court-martial for all offenses
15 under this Code committed prior to the fraudulent
16 discharge.

17 3. Deserters. Persons who have deserted from
18 the military forces shall not be relieved from amena-
19 bility to the jurisdiction of this Code by virtue of
20 a separation from any subsequent period of service.

21 §404. Places where applicable

22 This Code applies in all places where personnel
23 of military forces are present.

24 §405. State judge advocate

25 The Adjutant General shall appoint as state judge
26 advocate one of the judge advocates from the National
27 Guard.

28 §406. Apprehension

29 1. Meaning. Apprehension is the taking into
30 custody of a person.

31 2. By military authority. Any person authorized
32 by law or regulations governing the military forces
33 to apprehend persons subject to this Code or to trial
34 thereunder may do so upon reasonable belief that an
35 offense under this Code has been committed and that
36 the persons apprehended committed it.

1 3. By civil authority. Any civil officer having
2 authority to apprehend offenders under the laws of
3 this State may apprehend a deserter or a member of
4 the military forces absent without leave and deliver
5 him into the custody of the appropriate component of
6 the military force.

7 §407. Arrest or confinement

8 1. Definitions. As used in this section, unless
9 the context otherwise indicates, the following words
10 have the following meanings.

11 A. "Arrest" is the restraint of a person by an
12 order directing him to remain within certain
13 specified limits and which is not imposed as a
14 punishment for an offense.

15 B. "Confinement" is the physical restraint of a
16 person.

17 2. Order. A person subject to this Code who is
18 charged with an offense under this Code shall be
19 ordered into arrest or confinement, as circumstances
20 require.

21 A. An enlisted person may be ordered into arrest
22 or confinement by any officer by an order, oral
23 or written, delivered in person or through other
24 persons subject to this Code. A commanding offi-
25 cer may authorize warrant officers or noncommis-
26 sioned officers to order enlisted persons of his
27 command or subject to his authority into arrest
28 or confinement.

29 B. An officer or warrant officer may be ordered
30 into arrest or confinement only by a commanding
31 officer to whose authority he is subject. The
32 order may be oral or written and delivered in
33 person or by another officer. The authority to
34 order officers or warrant officers into arrest or
35 confinement may not be delegated.

36 3. Not a limitation. Nothing in this section
37 may be construed to limit the authority of persons
38 authorized to apprehend offenders to secure the cus-
39 tody of an alleged offender until the proper author-
40 ity may be notified.

1 §408. Designated jails

2 Confinement other than in a guard house, whether
3 prior to, during or after trial by a military court,
4 shall be executed in correctional centers designated
5 by the Governor or by the Adjutant General for that
6 purpose.

7 §409. Probable cause

8 A person shall not be ordered into arrest or con-
9 finement except for probable cause.

10 §410. Information on charges; speedy trial

11 When any person subject to this Code is arrested
12 or confined prior to trial, immediate steps shall be
13 taken to inform him of the specific wrong of which he
14 is accused and to try him or to dismiss the charges
15 and release him.

16 §411. Quelling of disorders

17 All officers, warrant officers and noncommis-
18 sioned officers may quell all quarrels, frays and
19 disorders among persons subject to this Code and
20 apprehend persons subject to this Code who take part
21 in those disorders.

22 §412. Receiving prisoners

23 When an officer of the military forces delivers a
24 prisoner and furnishes a statement of the offense
25 charged against that prisoner to a provost marshal,
26 commander of the guard, warden, keeper or officer of
27 a city or county jail or other correctional center
28 designated under section 408, that official shall
29 commit the prisoner to his charge.

30 §413. Report of persons held

31 Every provost marshal, commander of the guard,
32 warden, keeper or officer of a city or county jail or
33 other correctional center designated under section
34 408 to whose charge a prisoner is committed shall,
35 within 24 hours after such commitment or as soon as
36 he is relieved from guard, report to his commanding

1 officer the name of the prisoner, the offense charged
2 against him and the name of the person who ordered or
3 authorized commitment.

4 §414. Application of the United States Manual for
5 Courts-Martial

6 Insofar as it is not inconsistent with this Code,
7 the United States Manual for Courts-Martial, as
8 established by executive order of the President of
9 the United States, shall apply to the military
10 forces.

11 §415. Nonjudicial punishment

12 1. Limitations. Under rules prescribed by the
13 Governor, limitations may be placed on the kind and
14 amount of punishment authorized by this section and
15 on the categories of commanding officers and warrant
16 officers exercising command authorized to impose that
17 punishment. The Governor may also prescribe rules
18 for the suspension of punishment authorized by this
19 section. Punishment may not be imposed under this
20 section if the person charged with an offense demands
21 a trial by court-martial prior to imposition of pun-
22 ishment.

23 2. Disciplinary punishment. Subject to subsec-
24 tion 1, a commanding officer may, in addition to or
25 in lieu of admonition or reprimand, impose one or
26 more of the following disciplinary punishments for
27 minor offenses without the intervention of a court-
28 martial:

29 A. Upon officers of his command:

30 (1) Restriction to certain specified
31 limits, with or without suspension from
32 duty, for not more than 10 consecutive days;
33 or

34 (2) If imposed by a general officer, arrest
35 in quarters for not more than 14 consecutive
36 days; forfeiture of not more than 1/2 of one
37 month's pay per month for 2 months; restric-
38 tion to certain specified limits, with or
39 without suspension from duty, for not more

1 than 14 consecutive days; or detention of
2 not more than 1/2 of one month's pay per
3 month for 3 months; and

4 B. Upon other personnel of his command:

5 (1) Correctional custody for not more than
6 7 consecutive days;

7 (2) Forfeiture of not more than 7 days'
8 pay;

9 (3) Reduction to the next inferior pay
10 grade, if the grade from which demoted is
11 within the promotion authority of the offi-
12 cer imposing the reduction or any officer
13 subordinate to the one who imposes the
14 reduction;

15 (4) Extra duties, including fatigue or
16 other duties, for not more than 10 consecu-
17 tive days;

18 (5) Restriction to certain specified
19 limits, with or without suspension from
20 duty, for not more than 10 consecutive days;

21 (6) Detention of not more than 14 days'
22 pay; or

23 (7) If imposed by an officer of the grade
24 of major or above, correctional custody for
25 not more than 14 consecutive days; forfei-
26 ture of not more than 1/2 of one month's pay
27 per month for 2 months; reduction to the
28 lowest or any intermediate pay grade, if the
29 grade from which demoted is within the pro-
30 motion authority of the officer imposing the
31 reduction or any officer subordinate to the
32 one who imposes the reduction, but an
33 enlisted member in a pay grade above E-4 may
34 not be reduced more than 2 pay grades; extra
35 duties, including fatigue or other duties,
36 for not more than 14 consecutive days; re-
37 strictions to certain specified limits, with
38 or without suspension from duty, for not
39 more than 14 consecutive days; or detention

1 of not more than 1/2 of one month's pay per
2 month for 3 months.

3 Detention of pay shall be for a stated period but if
4 the offender's term of service expires earlier, the
5 detention shall terminate upon that expiration. No 2
6 or more of the punishments of arrest in quarters,
7 correctional custody, extra duties and restriction
8 may be combined to run consecutively in the maximum
9 amount imposed for each. Whenever any of those pun-
10 ishments are combined to run consecutively, there
11 shall be an apportionment. In addition, forfeiture
12 of pay may not be combined with detention of pay
13 without an apportionment. For the purposes of this
14 subsection, correctional custody is the physical
15 restraint of a person during duty or nonduty hours
16 and may include extra duties, fatigue duties or hard
17 labor. If practicable, correctional custody shall
18 not be served in immediate association with persons
19 awaiting trial or held in confinement pursuant to
20 trial by court-martial.

21 3. By officer in charge. An officer in charge
22 may impose upon enlisted members assigned to the unit
23 of which he is in charge such of the punishments,
24 authorized under subsection 2, paragraph B as the
25 Governor may specifically prescribe by regulation.

26 4. Suspend; remit; mitigate. The officer who
27 imposes punishment authorized in subsection 2, or his
28 successor in command, may at any time:

29 A. Suspend probationally, any part or amount of
30 the unexecuted punishment;

31 B. Suspend probationally, a reduction in grade
32 or forfeiture whether or not executed;

33 C. Remit all or part of any punishment whether
34 or not executed and restore all rights, privi-
35 leges and property;

36 D. Mitigate any part or amount of an unexecuted
37 punishment; and

38 E. Mitigate reduction in grade to forfeiture or
39 detention of pay.

1 When mitigating arrest in quarters or extra duties to
2 restriction, the mitigated punishment shall not be
3 for a greater period than the punishment mitigated.
4 When mitigating forfeiture of pay to detention of
5 pay, the amount of the detention shall not be greater
6 than the amount of the forfeiture. When mitigating
7 reduction in grade to forfeiture or detention of pay,
8 the amount of the forfeiture or detention shall not
9 be greater than the amount that could have been
10 imposed initially under this section by the officer
11 who imposed the punishment being mitigated.

12 5. Appeal. A person punished under this section
13 may appeal, through the proper channels, to the next
14 superior authority. The appeal shall be promptly
15 forwarded and decided, but the person punished may in
16 the meantime be required to undergo the punishment
17 adjudged. The superior authority to whom the appeal
18 is referred may exercise the same powers with respect
19 to the punishment imposed as may be exercised under
20 subsection 4 by the officer who imposed the punish-
21 ment. Before ruling, the authority who is to act on
22 the appeal may refer the case to a judge advocate for
23 consideration and advice when the appeal is from any
24 punishment imposed under subsection 2. He shall
25 refer the case to a judge advocate when the appeal is
26 from a punishment of arrest in quarters for more than
27 7 days, correctional custody for more than 7 days,
28 forfeiture of 7 days' pay, reduction of one or more
29 pay grades from the 4th or a higher pay grade, extra
30 duties for more than 10 days, restriction for more
31 than 10 days or detention of more than 14 days' pay.

32 6. Serious crime. The imposition and enforce-
33 ment of disciplinary punishment under this section
34 for any act or omission is not a bar to trial by
35 court-martial for a serious crime or offense growing
36 out of the same act or omission, and not properly
37 punishable under this section. The fact that a dis-
38 ciplinary punishment has been enforced may be shown
39 by the accused at trial, and shall be considered in
40 determining the measure of punishment to be adjudged
41 in the event of a finding of guilty.

42 7. Records. The Governor may by rule prescribe
43 the form of records to be kept of proceedings under
44 this section and may prescribe that the records shall
45 be in writing.

1 8. Days interpreted. Any punishment authorized
2 by this section which is measured in terms of days
3 shall, when served in a status other than annual
4 field training, be construed to mean consecutive ac-
5 tive service days for pay purposes.

6 §416. Court-martial

7 A court-martial shall have jurisdiction to try
8 persons subject to this Code for any offense defined
9 and made punishable by this Code.

10 A court-martial shall consist of:

11 1. With panel. A military judge and a panel of
12 not less than 3 members; or

13 2. Without panel. A military judge, if before
14 the court is assembled the accused, knowing the iden-
15 tity of the military judge and after consultation
16 with defense counsel, requests in writing a court
17 composed only of a military judge and the military
18 judge approves the request.

19 §417. Sentences

20 Except as limited by rules prescribed by the Gov-
21 ernor a court-martial may adjudge any one or a combi-
22 nation of the following punishments:

23 1. Confinement. Confinement at hard labor for
24 not more than 6 months;

25 2. Hard labor. Hard labor without confinement
26 for not more than 3 months;

27 3. Forfeiture or detention of pay. Forfeiture
28 or detention of pay not exceeding 2/3 of base pay
29 entitlement per month for 6 months;

30 4. Dismissal. Dismissal;

31 5. Bad conduct discharge. Bad conduct dis-
32 charge;

33 6. Dishonorable discharge. Dishonorable dis-
34 charge;

1 7. Reprimand. Reprimand; or

2 8. Reduction to the ranks. Reduction of noncom-
3 missioned officers to the ranks.

4 §418. Jurisdiction

5 The jurisdiction of a court-martial is limited to
6 trial of persons subject to this Code who are accused
7 of military offenses described in this Code. Persons
8 subject to this Code who are accused of offenses cog-
9 nizable by the civil courts of this State or any
10 other state where the military forces are present
11 may, upon accusation of a civil offense, be surren-
12 dered promptly to civil authorities for disposition
13 if the mission of the military force will not be com-
14 promised. If the person subject to this Code is ac-
15 cused of both a military offense under this Code and
16 a civil offense by the civil authorities, he shall be
17 released to the civil authorities if the crime for
18 which he is accused by the civil authorities carries
19 a penalty greater than the maximum penalty for the
20 military offense provided by this Code.

21 §419. Convening a court-martial

22 The convening authority of a court-martial under
23 this Code shall be the Governor or the Adjutant Gen-
24 eral.

25 §420. Composition of court-martial

26 1. Commissioned officer. A commissioned officer
27 is eligible to serve on any court-martial for the
28 trial of a person who may lawfully be brought before
29 the court for trial.

30 2. Warrant officer. A warrant officer is eligi-
31 ble to serve on a court-martial for the trial of a
32 person, other than a commissioned officer, who may
33 lawfully be brought before the court for trial.

34 3. Enlisted member. An enlisted member, who is
35 not a member of the same unit as the accused, is eli-
36 gible to serve on a court-martial for the trial of an
37 enlisted member of an armed force who may lawfully be
38 brought before the court for trial, but he shall

1 serve as a member of a court only if the accused
2 personally has requested in writing that enlisted
3 members serve on it. That request shall occur before
4 the conclusion of a session called by the military
5 judge prior to trial or, in the absence of such a
6 session, before the court is assembled for the trial
7 of the accused. After the request, the accused may
8 not be tried by a court-martial which does not
9 include in its membership enlisted members in a
10 number comprising at least 1/3 of the total member-
11 ship of the court, unless eligible enlisted members
12 cannot be obtained on account of physical conditions
13 or military exigencies. If enlisted members cannot
14 be obtained, the court may be assembled and the trial
15 held without them, but the assembling authority shall
16 make a detailed written statement, in the record,
17 stating why they could not be obtained.

18 In this subsection, the word "unit" means any regu-
19 larly organized body as defined by the Governor, but
20 in no case may it be a body larger than a company,
21 squadron or corresponding body.

22 4. Rank or grade. Except where it cannot be
23 avoided, a member of the military forces shall not be
24 tried by a court-martial any member of which is jun-
25 ior to him in rank or grade. When convening a court-
26 martial, the convening authority shall detail persons
27 in the military forces who, in his opinion, are qual-
28 ified for the duty by reason of age, education,
29 training, experience, length of service and judicial
30 temperament. No member of the military forces may
31 serve as a member of a court-martial when he is the
32 accuser or a witness for the prosecution or has acted
33 as investigating officer or as counsel in the same
34 case.

35 §421. Military judge

36 1. Appointment. The authority convening a
37 court-martial shall designate a military judge to
38 preside over each case.

39 2. Qualifications. A military judge shall:

40 A. Possess the following military qualifica-
41 tions:

1 (1) Be a commissioned officer of the state
2 military forces;

3 (2) Be a commissioned officer of the United
4 States Armed Forces; or

5 (3) Be a retired officer of the United
6 States Armed Forces; and

7 B. Possess the following other qualifications:

8 (1) Be a member of the bar of the Supreme
9 Judicial Court; and

10 (2) Be certified as being qualified to
11 serve as military judge by the state judge
12 advocate.

13 3. Accuser or witness ineligible. No person is
14 eligible to act as military judge in a case if he is
15 the accuser or a witness for the prosecution or has
16 acted as investigation officer or a counsel in the
17 same case.

18 4. Duties. A commissioned officer who is certi-
19 fied to be qualified for duty as a military judge of
20 a court-martial may perform those duties only when he
21 is assigned and directly responsible to the Adjutant
22 General. He may perform duties of a judicial or non-
23 judicial nature other than those relating to his duty
24 as a military judge of a court-martial when those
25 duties are assigned to him by or with the approval of
26 the state judge advocate. The military judge of a
27 court-martial may not consult with the members of the
28 court, except in the presence of the accused, trial
29 counsel and defense counsel, nor may he vote with the
30 members of the court.

31 §422. Counsel

32 1. Appointment. For each court-martial, the
33 authority convening the court shall detail trial
34 counsel and defense counsel, and such assistants as
35 he considers appropriate. No person who has acted as
36 investigating officer, military judge or court member
37 in any case may act later as trial counsel, assistant
38 trial counsel, or unless expressly requested by the

1 accused, as defense counsel or assistant defense
2 counsel in the same case. No person who has acted
3 for the prosecution may act later in the same case
4 for the defense, nor may any person who has acted for
5 the defense act later in the same case for the prose-
6 cution.

7 2. Qualifications. Trial counsel or defense
8 counsel detailed for a court-martial:

9 A. Shall be a judge advocate of the military
10 forces, who is:

11 (1) A graduate of an accredited law school;
12 and

13 (2) A member of:

14 (a) The bar of this State;

15 (b) The bar of a federal court; or

16 (c) The bar of the highest court of
17 another state; and

18 B. Shall be certified as competent to perform
19 those duties by the state judge advocate.

20 §423. Court reporters

21 Under rules prescribed by the Governor, the con-
22 vening authority of a court-martial, shall detail or
23 employ qualified court reporters, who shall record
24 the proceedings of and testimony taken before that
25 court. Under like rules the convening authority of a
26 court-martial, may detail or employ interpreters who
27 shall interpret for the court.

28 §424. Members of court-martial

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

1 2. Vacancies. Whenever a court-martial other
2 than a court-martial composed of a single military
3 judge is reduced below 3 members, the trial may not
4 proceed until the convening authority details suffi-
5 cient new members to provide at least 3 members. The
6 trial may proceed with the new members present after
7 the recorded evidence previously introduced to the
8 court has been read to the court in the presence of
9 the military judge, the accused and counsel for both
10 sides.

11 3. Military judge. If the military judge of a
12 court-martial composed of a military judge only is
13 unable to proceed with the trial because of physical
14 disability, as a result of a challenge, or for other
15 good cause, the trial shall proceed, subject to any
16 applicable conditions of section 425, after the
17 detail of a new military judge as if no evidence had
18 previously been introduced, unless a verbatim record
19 of the evidence previously introduced or a stipu-
20 lation thereof is read in court in the presence of
21 the new military judge, the accused and counsel for
22 both sides.

23 §425. Pretrial procedures

24 Except as provided otherwise by this Code, the
25 pretrial and trial procedures before a court-martial
26 shall be in accordance with the procedures set forth
27 in the United States Uniform Code of Military Jus-
28 tice, Title 10, United States Code, Chapter 47, for a
29 special court-martial and the United States Manual
30 for Courts-Martial.

31 §426. Limitation of charges

32 A person shall not be tried by court-martial or
33 punished under section 415 if the offense with which
34 he is charged was committed more than 2 years before
35 the receipt of sworn charges and specifications by an
36 officer exercising court-martial jurisdiction.

37 §427. Witnesses

38 1. Oaths. A military judge detailed under this
39 Code may administer oaths.

1 2. Subpoena. A notary public or clerk of any
2 District Court or Superior Court may issue subpoenas
3 for witnesses and subpoenas duces tecum to compel the
4 production of books, papers and photographs relating
5 to any questions in dispute before the court-martial
6 or to any matters involved in a trial by court-
7 martial.

8 3. Fees and mileage. Fees and mileage payments
9 shall be paid to witnesses at the rate allowed to
10 witnesses attending the District Courts. The fees
11 and mileage payments shall be paid out of the Mili-
12 tary Fund.

13 4. Violation. It is a Class E crime for a
14 person not subject to this Code intentionally to fail
15 to appear as a witness, refuse to qualify as a
16 witness or refuse to produce evidence if that person:

17 A. Has been subpoenaed to give testimony or pro-
18 duce evidence; or

19 B. Has been paid fees and mileage as a witness.

20 5. Prosecution. The Attorney General may prose-
21 cute persons who violate this section.

22 §428. Execution of sentences

23 1. Imprisonment. Under instructions issued by
24 the Governor, a sentence of imprisonment adjudged by
25 a court-martial or other military tribunal, whether
26 or not the sentence includes discharge or dismissal
27 and whether or not the discharge or dismissal has
28 been executed, may be carried into execution by
29 imprisonment in any place designated as provided in
30 section 408. Persons confined in a correctional cen-
31 ter not under the control of one of the military
32 forces are subject to the same discipline and treat-
33 ment as persons committed by the courts of the State.

34 Any period of imprisonment included in a sentence of
35 a court-martial begins to run from the date the sen-
36 tence is adjudged by the court-martial, but periods
37 during which the sentence to imprisonment is sus-
38 sended or deferred, shall be excluded in computing
39 the service of the term of imprisonment.

1 2. Forfeiture. Whenever a sentence includes
2 both a forfeiture of pay and allowances and imprison-
3 ment and the imprisonment is not suspended or
4 deferred, the forfeiture may apply only to pay or
5 allowances becoming due on or after the date the sen-
6 tence is approved by the convening authority.

7 3. Effective date. Sentences of courts-martial
8 are effective on the date ordered executed, except
9 another date may be required by subsection 1 or 2.

10 §429. Record of trial

11 After a trial by court-martial, the record shall
12 be forwarded to the convening authority, and action
13 thereon may be taken by the person who convened the
14 court, a commissioned officer commanding for the time
15 being, a successor in command or any officer exer-
16 cising court-martial jurisdiction.

17 §430. State judge advocate's opinion

18 The convening authority shall refer the record of
19 each court-martial to the state judge advocate, who
20 shall submit written opinion thereon to the convening
21 authority. If the final action of the court has
22 resulted in an acquittal of all charges and speci-
23 fications, the opinion shall be limited to questions
24 of jurisdiction.

25 §431. Approval of findings and sentence

26 In acting on the findings and sentence of a
27 court-martial, the convening authority may approve
28 only such findings of guilty, and the sentence or
29 such part or amount of the sentence, as he finds cor-
30 rect in law and fact and as he in his discretion
31 determines should be approved. Unless he indicates
32 otherwise, approval of the sentence is approval of
33 the findings and sentence.

34 §432. Reconsideration

35 1. Return of record. If a specification before
36 a court-martial has been dismissed on motion and the
37 ruling does not amount to a finding of not guilty,
38 the convening authority may return the record to the

1 court for reconsideration of the ruling and any fur-
2 ther appropriate action.

3 2. Errors. Where there is an apparent error or
4 omission in the record or where the record shows
5 improper or inconsistent action by a court-martial
6 with respect to a finding or sentence which can be
7 rectified without material prejudice to the substan-
8 tial rights of the accused, the convening authority
9 may return the record to the court for appropriate
10 action. In no case may the record be returned:

11 A. For reconsideration of a finding of not
12 guilty of any specification or a ruling which
13 amounts to a finding of not guilty;

14 B. For reconsideration of a finding of not
15 guilty of any charge, unless the record shows a
16 finding of guilty under a specification laid
17 under that charge, which sufficiently alleges a
18 violation of some section of this Code; or

19 C. For increasing the severity of the sentence,
20 unless the sentence imposed is less than the
21 mandatory sentence prescribed for the offense.

22 3. Rehearing. A rehearing shall be ordered as
23 follows.

24 A. If the convening authority disapproves of the
25 findings and sentence, he shall state the reasons
26 for disapproval, and he may order a rehearing,
27 except where there is lack of sufficient evidence
28 in the record to support the findings. If he
29 disapproves the findings and sentence and does
30 not order a rehearing, he shall dismiss the
31 charges.

32 B. Each rehearing shall take place before a
33 court-martial composed of members who were not
34 members of the court-martial which first heard
35 the case. Upon a rehearing, the accused may not
36 be tried for any offense of which he was found
37 not guilty by the first court-martial. No sen-
38 tence more severe than the original sentence may
39 be imposed, unless the sentence is based upon a
40 finding of guilty of an offense not considered

1 upon the merits in the original proceedings, or
2 unless the sentence prescribed for the offense is
3 mandatory.

4 §433. Appeal

5 Upon petition of the accused, the Supreme Judi-
6 cial Court shall review the record of any case
7 approved by the convening authority.

8 The accused shall file the petition for review
9 within 30 days of the time he is notified of the
10 approval of his case by the convening authority.

11 On the same date that he files his petition for
12 review in the Supreme Judicial Court, the accused
13 shall file a notice of his intention to appeal with
14 the convening authority. Within 30 days, the conven-
15 ing authority shall forward the complete transcript
16 of the case to the Supreme Judicial Court.

17 §434. Judicial review

18 In any case reviewed by it, the Supreme Judicial
19 Court may act with respect to any of the findings and
20 sentence as approved by the convening authority. The
21 Supreme Judicial Court shall take action only with
22 respect to matters of law.

23 If the Supreme Judicial Court sets aside the
24 findings and sentence, it may order a rehearing,
25 except where the setting aside is based on lack of
26 sufficient evidence in the record to support the
27 findings. If it sets aside the findings and sentence
28 and does not order a rehearing, it shall order that
29 the charges be dismissed.

30 After it has acted on a case, the Supreme Judi-
31 cial Court may direct the convening authority to take
32 action in accordance with its decision. If the court
33 has ordered a rehearing, but the convening authority
34 finds a rehearing impracticable, the convening
35 authority may dismiss the charges.

36 §435. Approval by the Governor

1 No court-martial sentence may be executed until
2 approved by the Governor. The Governor shall approve
3 the sentence or such part, amount or commuted form of
4 the sentence as he sees fit, and may suspend the
5 execution of the sentence or any part of the sen-
6 tence.

7 §436. New trial

8 At any time after approval by the convening
9 authority of a court-martial sentence, the accused
10 may petition the state judge advocate for a new trial
11 on the grounds of newly discovered evidence or fraud
12 on the court. The state judge advocate shall refer
13 the petition to the court-martial which last heard
14 the case. The court-martial shall review the peti-
15 tion and the record and report to the convening
16 authority its recommendation for granting or denying
17 a new trial. If a new trial is recommended, the con-
18 vening authority shall order a rehearing as provided
19 in section 432, subsection 3. Upon filing of the
20 petition for a new trial, any proceedings pending
21 upon appeal or review of sentence shall be dismissed.

22 §437. Restoration of rights

23 All rights, privileges and property affected by
24 an executed part of a court-martial sentence which
25 has been set aside or disapproved, except an executed
26 dismissal or discharge, shall be restored unless a
27 new trial or rehearing is ordered and that executed
28 part is included in a sentence imposed upon the new
29 trial or rehearing.

30 §438. Included offenses

31 An accused may be found guilty of an offense nec-
32 essarily included in the offense charged or of an
33 attempt to commit either the offense charged or an
34 offense necessarily included therein.

35 §439. Attempts

36 An act done with specific intent to commit an
37 offense under this Code, amounting to more than mere
38 preparation and tending, even though failing, to
39 effect its commission is an attempt to commit that
40 offense.

1 Any person subject to this Code who attempts to
2 commit any offense punishable by this Code shall be
3 punished as a court-martial may direct, unless other-
4 wise specifically prescribed.

5 Any person subject to this Code may be convicted
6 of an attempt to commit an offense although it
7 appears at the trial that the offense was consum-
8 mated.

9 §440. Conspiracy

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

15 §441. Desertion

16 1. Acts constituting. Any member of the mili-
17 tary forces who commits any of the following acts is
18 guilty of desertion:

19 A. Without authority, goes or remains absent
20 from his unit, organization or place of duty with
21 intent to remain away permanently;

22 B. Quits his unit, organization or place of duty
23 with intent to avoid hazardous duty or to shirk
24 important service; or

25 C. Being a commissioned officer of the military
26 forces who, after tender of his resignation and
27 before notice of his acceptance, quits his post
28 or proper duties without leave and with intent to
29 remain away permanently.

30 2. Punishment. Any person found guilty of
31 desertion or attempt to desert shall be punished as a
32 court-martial may direct.

33 §442. Absent without leave

34 Any member of the military forces who, without
35 authority, fails to go to his appointed place of duty
36 at the time prescribed, or goes from that place, or

1 absents himself or remains absent from his unit,
2 organization or place of duty at which he is required
3 to be at the time prescribed, shall be punished as a
4 court-martial may direct.

5 §443. Missing movement

6 Any person subject to this Code who through
7 neglect or design misses the movement of a ship, air-
8 craft or unit with which he is required in the course
9 of duty to move shall be punished as a court-martial
10 may direct.

11 §444. Disrespect to officer

12 Any person subject to this Code who behaves with
13 disrespect toward his superior commissioned officer
14 shall be punished as court-martial may direct.

15 §445. Striking or disobeying an officer

16 Any person subject to this Code who strikes his
17 superior commissioned officer or draws or lifts up
18 any weapon or offers any violence against him while
19 that officer is in the execution of his office or
20 willfully disobeys a lawful command of his superior
21 commissioned officer shall be punished as a court-
22 martial may direct.

23 §446. Striking or disobeying a noncommissioned offi-
24 cer

25 Any warrant officer or enlisted member who
26 strikes or assaults a warrant officer or noncommis-
27 sioned officer while that officer is in the execution
28 of his office, willfully disobeys the lawful order of
29 a warrant officer or noncommissioned officer, or
30 treats with contempt or is disrespectful in language
31 or deportment toward a warrant officer or noncommis-
32 sioned officer while that officer is in the execution
33 of his office shall be punished as a court-martial
34 may direct.

35 §447. Failure to obey order

36 Any person subject to this Code who violates or
37 fails to obey any lawful general order or regulation,

1 or having knowledge of any other lawful order issued
2 by a member of the military forces, which it is his
3 duty to obey, fails to obey the order, or is derelict
4 in the performance of his duties, shall be punished
5 as a court-martial may direct.

6 §448. Mutiny; sedition

7 1. Offense. Any person subject to this Code
8 who:

9 A. With intent to usurp or override lawful mili-
10 tary authority, refuses, in concert with any
11 other person, to obey orders or otherwise do his
12 duty or creates any violence or disturbance is
13 guilty of mutiny;

14 B. With intent to cause the overthrow or
15 destruction of lawful civil authority, creates,
16 in concert with any other person, revolt, vio-
17 lence or other disturbance against that authority
18 is guilty of sedition; or

19 C. Fails to do his utmost to prevent and sup-
20 press a mutiny or sedition being committed in his
21 presence, or fails to take all reasonable means
22 to inform his superior commissioned officer or
23 commanding officer of a mutiny or sedition which
24 he knows or has reason to believe is taking
25 place, is guilty of a failure to suppress or
26 report a mutiny or sedition.

27 2. Punishment. A person who is found guilty of
28 attempted mutiny, mutiny, sedition or failure to sup-
29 press or report a mutiny or sedition shall be pun-
30 ished as a court-martial may direct.

31 §449. Breaking arrest

32 Any person subject to this Code who resists
33 apprehension or breaks arrest or who escapes from
34 custody or confinement shall be punished as a court-
35 martial may direct.

36 §450. Under influence of alcohol or drugs on duty

1 Any person subject to this Code who is found
2 under the influence of alcoholic liquor or any drug
3 while on duty shall be punished as a court-martial
4 may direct.

5 §451. Sentinels

6 Any sentinel or lookout who is found sleeping
7 upon his post or who leaves it before he is regularly
8 relieved shall be punished as a court-martial may
9 direct.

10 §452. Feigning illness to avoid duty

11 Any person subject to this Code who for the pur-
12 pose of avoiding work, duty or service feigns ill-
13 ness, physical disablement, mental lapse or derange-
14 ment or intentionally inflicts self-injury shall be
15 punished as a court-martial may direct.

16 §453. False testimony

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

24 CHAPTER 7

25 BUREAU OF VETERANS' SERVICES

26 §501. Purpose

27 The Bureau of Veterans' Services, as previously
28 established and referred to in this chapter as the
29 "bureau," shall provide informational services, pro-
30 gram assistance, memorial facilities and financial
31 aid to veterans in the State and their dependents in
32 order to insure that they receive all entitlements
33 due under the law, are relieved to the extent pos-
34 sible of financial hardship, receive every oppor-
35 tunity for self-improvement through higher education
36 and are afforded proper recognition for their service
37 and sacrifice to the Nation.

1 §502. Director of Veterans' Services

2 The Director of Veterans' Services shall be
3 appointed, as provided in section 4, and shall super-
4 vised the operation of the bureau.

5 §503. Powers and duties

6 The director has the following powers and duties.

7 1. Employment of personnel. The director may
8 employ, subject to the Personnel Law, the personnel
9 necessary to administer this chapter. All full-time
10 permanent employees, except clerical employees, shall
11 be persons who served on active duty in the United
12 States Armed Forces during any federally recognized
13 period of conflict, as defined in section 504, sub-
14 section 4, paragraph A, subparagraph (3).

15 2. Expenditures. The director may make expendi-
16 tures approved by the Adjutant General which are
17 necessary to carry out this chapter.

18 3. Agent. The director shall act, upon request,
19 as the agent of any Maine resident who has a claim
20 against the United States for any compensation, pen-
21 sion, insurance, loan or other benefit accruing as a
22 result of any federal military service and, in coop-
23 eration with all public and private agencies, shall
24 prosecute the claim without charge.

25 4. Record. The director shall maintain a perma-
26 nent record of all Maine residents who served in the
27 armed services after December 7, 1941.

28 5. Rules. The director may, in accordance with
29 the Maine Administrative Procedure Act, Title 5,
30 chapter 375, subchapter II, adopt reasonable rules
31 necessary to carry out this chapter, provided that
32 regulations pertaining to the management of the Vet-
33 erans' Memorial Cemetery are not rules within the
34 meaning of Title 5, section 8002, subsection 9.

35 6. Other duties. The director shall perform
36 other duties required by this chapter.

37 §504. Veterans' Memorial Cemetery

1 1. Land acquisition. The director may acquire
2 by eminent domain in accordance with Title 35, chap-
3 ter 263 and with approval of the Governor, or by pur-
4 chase, gift or otherwise, real estate in fee simple,
5 or any interest therein, for use as a Veterans' Memo-
6 rial Cemetery. The land shall not exceed 200 acres in
7 area and shall be located near the center of popu-
8 lation of the State.

9 2. Superintendent. The director shall appoint a
10 competent and trustworthy cemetery superintendent and
11 shall arrange for personnel, material and equipment
12 which is necessary for adequate maintenance of the
13 cemetery. The superintendent shall be an honorably
14 discharged war veteran or a war veteran currently a
15 member of the armed services in nonactive or reserve
16 status.

17 3. Monuments, buildings and markers. The direc-
18 tor shall cause to be erected a suitable monument in
19 the center of the cemetery.

20 A. The monument shall be suited to the topog-
21 raphy of the land and shall display, on suitable
22 flag poles, the national emblem and the state
23 flag in accordance with the Flag Code.

24 B. The immediate area surrounding the monument
25 shall be prepared and reserved as a suitable
26 place for commemorating Memorial Day and other
27 appropriate observances. The remaining grounds
28 shall be laid out in a wheel-like pattern around
29 the monument, expanding from the center as re-
30 quired. Suitable buildings may be erected for
31 purposes which the director deems necessary.

32 C. All grave markers shall be flat-type granite,
33 as furnished by the United States Department of
34 the Army, Memorial Division, or flat-type granite
35 facsimiles of a marker. All boxes used for bur-
36 ial shall be protected with permanent vaults or
37 grave liners. Stones and vaults shall not be pro-
38 vided at state expense.

39 4. Burials. Burials in the cemetery shall be as
40 follows.

1 A. As used in this subsection, unless the con-
2 text indicates otherwise, the following terms
3 have the following meanings.

4 (1) "Eligible dependent" means the wife,
5 husband, surviving spouse, unmarried minor
6 child or unmarried adult child who became
7 incapable of self-support before reaching 18
8 years of age on account of mental or physi-
9 cal defects.

10 (2) "Eligible veteran" means any person who
11 served on active duty in the United States
12 Armed Forces during any federally recognized
13 period of conflict or was eligible for an
14 Armed Forces Expeditionary Medal or campaign
15 medal, and who:

16 (a) If discharged, received an honor-
17 able discharge or a general discharge
18 under honorable conditions, provided
19 that the discharge was not upgraded
20 through a program of general amnesty;
21 and

22 (b) Was a resident of the State at the
23 time of entering military service, his
24 death or the death of an eligible
25 dependent.

26 (3) "Federally recognized period of con-
27 flict" means World War I, April 6, 1917 to
28 November 11, 1918, March 31, 1920, if ser-
29 vice was in Russia; World War II, December
30 7, 1941 to December 31, 1946; Korean Con-
31 flict, June 27, 1950 to January 31, 1955;
32 and the Viet Nam War, August 5, 1964 to May
33 7, 1975.

34 B. An eligible veteran may be buried in the cem-
35 etry without charge.

36 C. An eligible dependent of a veteran may be
37 buried in the cemetery if, at the date of the
38 dependent's death, the veteran would be eligible
39 for burial. Dependents may be buried in graves
40 adjacent to the veteran without charge, provided
41 that:

1 (1) If the veteran dies first, the depend-
2 ents specify in writing their intention to
3 be so buried;

4 (2) If the dependent dies first, the vet-
5 eran specifies in writing his intention to
6 be buried in the cemetery; or

7 (3) Eligible family members of servicemen
8 or veterans who are permanently buried over-
9 seas, buried at sea, missing in action and
10 declared dead, or whose bodies are inaccess-
11 ible for other reasons, may be buried in
12 this cemetery, provided that the deceased
13 serviceman or veteran was eligible for the
14 burial at the time of his death.

15 D. The plots shall be reserved as necessary and
16 a permanent record of all burials shall be kept.

17 E. Remains of eligible veterans previously bur-
18 ied in other locations may be reinterred in the
19 cemetery upon request, provided that no cost
20 other than that which would be incurred in an
21 original burial is borne by the State.

22 F. This subsection shall not be construed to
23 obligate the State beyond the furnishing of a
24 grave site, opening and closing of the grave and
25 maintenance of the grave and the cemetery there-
26 after in perpetuity.

27 §505. Aid to veterans and their dependents

28 1. Financial assistance. Financial assistance
29 shall be granted as follows.

30 A. As used in this subsection, unless the con-
31 text otherwise indicates, the following terms
32 have the following meanings.

33 (1) "Child" means a person who is under the
34 age of 18 years; over the age of 18 years
35 but under the age of 20 years, regularly
36 attending school; or over the age of 18
37 years and not attending school if, prior to
38 reaching the age of 18 years, the child

1 becomes or has become permanently incapable
2 of self-support by reason of mental or
3 physical defect, and who is:

4 (a) A natural, legitimate child of a
5 veteran;

6 (b) A foster child of a veteran;

7 (c) A legally adopted child of a vet-
8 eran;

9 (d) A stepchild, if a member of a
10 veteran's household either at the time
11 of application or, in the event of the
12 veteran's death, at the time of death,
13 and who thereafter continues as a
14 member of the household; or

15 (e) An illegitimate child, where a
16 veteran has been judicially ordered or
17 decreed to contribute to his support,
18 or judicially decreed to be the
19 putative father, or has acknowledged
20 under oath and in writing that he is
21 the father of the child.

22 (2) "Federally recognized period of con-
23 flict" means World War I, April 6, 1917 to
24 November 11, 1918, or to March 31, 1920, if
25 service was in Russia; World War II, Decem-
26 ber 7, 1941 to December 31, 1946; Korean
27 Conflict June 27, 1950 to January 31, 1955
28 and the Viet Nam War, August 5, 1964 to May
29 7, 1975.

30 (3) "Parent" means the father or mother of
31 a veteran with whom the veteran lived during
32 his minority and for whom he would be
33 legally responsible under the laws of this
34 State; or the foster father or mother of the
35 veteran.

36 (4) "Spouse" means the person currently
37 legally married to a living veteran or the
38 widow or widower of a deceased veteran who
39 has not become the dependent of another
40 person.

1 (5) "Veteran" means any person who served
2 in the United States Armed Forces during any
3 federally recognized period of conflict and
4 was not dishonorably discharged; is disabled
5 and a resident of the State; or is deceased
6 and at time of death was a resident of the
7 State. A veteran of the Viet Nam War must
8 have served on active duty for a period of
9 more than 90 days unless he died in service,
10 or was discharged for a service-connected
11 disability and any part of that active duty
12 service occurred after August 4, 1964 and
13 before May 7, 1975.

14 B. Application for financial assistance under
15 this subsection shall be made to the bureau on
16 forms provided by the bureau. Application may be
17 made by the veteran or his dependent or a person
18 recognized by the bureau as entitled to act on
19 behalf of that person.

20 C. Eligibility for aid shall be determined as
21 follows.

22 (1) Financial assistance shall be granted
23 under this subsection to a veteran who is:

24 (a) Single;

25 (b) A resident of the State; and

26 (c) In dire need.

27 (2) Financial assistance shall be granted
28 under this subsection to a spouse, a child,
29 a parent or the parents of a veteran if that
30 person is a resident and in need.

31 (3) Financial assistance under this subsec-
32 tion shall not be forfeited because of
33 temporary absence from the State.

34 (4) The bureau shall give preference to
35 applications where the death or disability
36 of the veteran is due to military service or
37 where the death or disability may be pre-
38 sumed to be due to military service.

1 D. The bureau shall require proof of the
2 veteran's disability and its effect on his abil-
3 ity to provide for himself and his dependents.

4 E. The bureau shall determine the amount of
5 financial assistance to be allowed under this
6 subsection. In making that determination, the
7 bureau shall give consideration to the following:

8 (1) The resources of the veteran and his
9 dependents, including all other income and
10 resources available to provide the depend-
11 ents with a reasonable subsistence compati-
12 ble with health and decency;

13 (2) Budgetary standards compiled by the
14 bureau which reasonably reflect current
15 costs of average standards of living; and

16 (3) Other necessary expenditures and condi-
17 tions applicable in each case.

18 F. Financial assistance approved by the bureau
19 and audited by the State Controller shall be paid
20 by the Treasurer of State and may, in the discre-
21 tion of the bureau, be paid to any person whom it
22 may designate for the benefit of eligible depend-
23 ents.

24 G. The bureau shall administer funds appropri-
25 ated for the purpose of carrying out this subsec-
26 tion and shall, in accordance with the Maine
27 Administrative Procedure Act, Title 5, chapter
28 375, subchapter II, adopt rules necessary to ad-
29 minister these funds.

30 H. Any person who is denied financial assistance
31 under this subsection or who is not satisfied
32 with the amount allotted to him by the bureau may
33 appeal to the director. Each applicant for
34 financial assistance shall be advised, at the
35 time a decision on his application is made, of
36 his right of appeal and of the method and time
37 for making the appeal. The appellant shall be
38 provided with reasonable notice and a fair hear-
39 ing. At the hearing, the director or a member of
40 the bureau authorized by him shall hear all evi-

1 dence pertinent to the matter at issue and render
2 a decision in the name of the director, within a
3 reasonable time after the hearing. On request of
4 the appellant, the director shall arrange for the
5 hearing to be recorded in writing or on tape. A
6 copy of the record shall be provided to the
7 appellant at his request and expense. An appeal
8 to the Superior Court may be had in accordance
9 with the Maine Administrative Procedure Act,
10 Title 5, chapter 375, subchapter VII.

11 I. An applicant eligible for financial assist-
12 ance under this subsection who is also eligible
13 for public assistance under any state law for
14 which federal funds are available shall receive
15 that public assistance. Financial assistance may
16 be granted under this subsection pending receipt
17 of the public assistance by eligible applicants.

18 2. Educational benefits. Educational benefits
19 shall be granted as follows.

20 A. As used in this subsection, unless the con-
21 text otherwise indicates, the following terms
22 have the following meanings.

23 (1) "Child" means a child whose mother or
24 father is or was a veteran and the child:

25 (a) Is at least 16 years of age;

26 (b) Has graduated from high school;
27 and

28 (c) Is not over 21 years of age at the
29 time of first entering a vocational
30 school or post-secondary educational
31 institution or, if over 21 years of age
32 upon that entry, is not over 25 years
33 of age and had been unable to enter
34 before the age of 21 years due to ser-
35 vice in the United States Armed Forces.

36 (2) "Spouse" means the person currently
37 legally married to a living veteran or the
38 widow or widower of a deceased veteran, not
39 previously divorced from that veteran.

1 (3) "Veteran" means any person who served
2 in the military or naval forces of the
3 United States and entered the service from
4 this State or resided in this State for 5
5 years immediately preceding application for
6 aid and who:

7 (a) Is living and is determined to
8 have a total permanent disability
9 resulting from a service-connected dis-
10 ability as a result of service;

11 (b) Was killed in action;

12 (c) Died from a service-connected dis-
13 ability as a result of service;

14 (d) At the time of death was totally
15 and permanently disabled due to serv-
16 ice-connected disability, but whose
17 death was not related to the service-
18 connected disability; or

19 (e) Is a member of the Armed Forces on
20 active duty who has been listed for
21 more than 90 days as missing in action,
22 captured or forcibly detained or
23 interned in the line of duty by a for-
24 ign government or power.

25 B. The bureau shall pay to a spouse or child of
26 a veteran a maximum of \$300 per year toward the
27 cost of higher education during a period not
28 exceeding 8 semesters of attendance or 6 consec-
29 utive academic years from the date of first
30 entrance. The director may waive the limitation
31 of 6 consecutive academic years where the
32 recipient's education has been interrupted by
33 severe medical disability or illness making con-
34 tinued attendance impossible. These educational
35 benefits shall be used for the purpose of provid-
36 ing tuition, matriculation fees, board, room
37 rent, books and supplies. Assistance under this
38 subsection shall not be paid to any eligible
39 person receiving benefits under paragraph C.

1 C. Spouses and children of veterans who are
2 attending state-supported post-secondary voca-
3 tional schools or institutions of collegiate
4 grade shall be admitted free of tuition.

5 D. Appropriations for the administration of this
6 subsection shall be determined from the recom-
7 mendation of the director, who shall furnish
8 estimates of the costs of carrying out this sub-
9 section in the same manner as for other appropri-
10 ations allocated to the bureau.

11 3. Fraud. Whoever knowingly makes a false
12 statement, oral or written, relating to a material
13 fact in support of application for aid under this
14 section is guilty of a violation of Title 17-A,
15 section 353.

16 §506. Certain documents confidential

17 All claims and documents pertaining to claims for
18 benefits under this chapter, whether pending or adju-
19 dicated, are confidential and privileged. No disclo-
20 sure of those claims or documents may be made without
21 the written consent of the claimant, except that dis-
22 closure may be made:

23 1. Claimant or representative. To the claimant
24 personally, as to matters concerning himself alone,
25 where, in the director's judgment, the disclosure
26 would not be injurious to the claimant's physical or
27 mental health, or to the claimant's duly appointed
28 guardian or duly authorized representative holding a
29 power or appointment approved by the director;

30 2. Veterans' organization. To the representa-
31 tive of a veterans' organization holding power of
32 appointment from the claimant, provided that the
33 organization is recognized by the United States Gov-
34 ernment and duly certified as such by the state
35 department of the organization;

36 3. Courts. To any court of competent jurisdic-
37 tion, when required by the process of the court, in
38 an action pending under the laws of this State or the
39 United States; and

1 1. Borrower. "Borrower" means a Maine veteran
2 who is the original borrower under a note and his
3 successors and assigns.

4 2. Cost of project. "Cost of project" means the
5 cost or fair market value of lands, buildings, real
6 estate improvements, fishing vessels, new machinery
7 and equipment, including the installation thereof,
8 stock, merchandise, used machinery and equipment,
9 property rights, easements, franchises, financing
10 charges, interest, engineering and legal services,
11 plans, specifications, surveys, cost estimates,
12 studies and other expenses necessary to the develop-
13 ment, construction, financing and placing in opera-
14 tion of an eligible project.

15 3. Eligible project. "Eligible project" means:

16 A. Any business or recreational facilities, any
17 land, buildings, real estate improvements,
18 machinery and equipment or merchandise and stock,
19 including auxiliary real and personal property
20 which is located in the State and used by a com-
21 mercial, industrial, manufacturing, mining, fish-
22 ing or agricultural enterprise;

23 B. Any sales and service enterprise;

24 C. The manufacturing, processing, assembling or
25 preparing of raw materials for market; and

26 D. Research and development activities necessary
27 for these undertakings.

28 4. Federal agency. "Federal agency" means the
29 United States, the President of the United States and
30 any department, corporation, agency or instrumentali-
31 ty established by the United States.

32 5. Lender. "Lender" means the original lender
33 of funds and his successors and assigns approved by
34 the authority and may include insurance companies,
35 trust companies, banks, investment companies and
36 savings banks, executors, trustees and other fiduci-
37 aries, including pension and retirement funds.

1 6. Loan payments. "Loan payments" means peri-
2 odic payments called for by a note, including, but
3 not limited to, payments covering interest,
4 installments of principal, taxes and assessments,
5 loan insurance premiums and hazard insurance pre-
6 miums.

7 7. Maturity date. "Maturity date" means the
8 date on which the loan indebtedness would be extin-
9 guished if paid in accordance with periodic payments
10 provided for in the note.

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

17 9. Resident. "Resident" means anyone who enters
18 the United States Armed Forces from Maine or who has
19 established a legal residence in Maine of at least 6
20 months' duration immediately prior to making applica-
21 tion for a loan under this chapter and who has
22 received certification as an eligible Maine resident
23 veteran from the Bureau of Veterans' Services.

24 10. Veteran. "Veteran" means any person who
25 served in the United States Armed Forces on active
26 duty during World War I, World War II, the Korean
27 Conflict or Viet Nam War who is not dishonorably dis-
28 charged. A veteran of the Viet Nam War shall have
29 served on active duty for a period of more than 180
30 days, any part of which occurred after August 4, 1964
31 and before May 7, 1975, except if he was discharged
32 for a service-connected disability after that date.

33 §553. Maine Veterans' Small Business Loan Authority
34 Board

35 The Maine Veterans' Small Business Loan Authority
36 Board, previously established as a body corporate and
37 politic and called the "loan authority board" in this
38 chapter, is a public instrumentality of the State.
39 The exercise of the powers conferred in this chapter
40 by the loan authority board shall be deemed to be the
41 performance of essential governmental functions.

1 §554. Membership

2 The loan authority board shall consist of 10 mem-
3 bers, including the Director of Veterans' Services;
4 the Treasurer of State or his designee who shall be
5 the Deputy Treasurer of State, ex officio, serving as
6 a nonvoting member; and 8 members-at-large appointed
7 by the Governor to serve 4-year terms. A vacancy in
8 the office of an at-large member, other than by
9 expiration, shall be filled for the unexpired term of
10 the former member. At-large members may be removed
11 by the Governor for cause. The loan authority board
12 shall elect one of its members as chairman, one as
13 vice-chairman, one as treasurer and shall employ a
14 manager who shall be the secretary. The secretary
15 and treasurer shall be bonded as the loan authority
16 board directs. Five members of the loan authority
17 board constitute a quorum. The affirmative vote of
18 5 members present and voting is necessary for any ac-
19 tion taken by the loan authority board. No vacancy
20 in the membership of the loan authority board may
21 impair the right of the quorum to exercise all rights
22 and perform all duties of the loan authority board.

23 §555. Manager

24 1. Appointment; term; compensation. The manager
25 shall be appointed by the Director of Veterans' Ser-
26 vices with the approval of the loan authority board
27 and his term of office shall be at the pleasure of
28 the director. He shall receive compensation fixed by
29 the director with the approval of the loan authority
30 board.

31 2. Powers and duties. The manager shall be the
32 chief administrative officer for the loan authority
33 board and in that capacity shall supervise the admin-
34 istrative affairs and technical activities of the
35 loan authority board in accordance with rules and
36 policies adopted by the loan authority board. It is
37 the duty of the manager to:

38 A. Attend all meetings of the loan authority
39 board and to act as its secretary and keep min-
40 utes of all its proceedings;

- 1 B. Approve all accounts for salaries, per diems,
2 allowable expenses of the loan authority board,
3 or any employee or consultant thereof, and
4 expenses incidental to the operation of the loan
5 authority board;
- 6 C. Appoint, under the Personnel Law, employees
7 required by the loan authority board and other
8 assistants, agents or consultants necessary for
9 carrying out the purposes of this chapter;
- 10 D. Report annually to the loan authority board
11 and the Bureau of Veterans' Services on the oper-
12 ation of the loan authority board and any other
13 subject which the loan authority board may
14 request;
- 15 E. Make recommendations and reports to the loan
16 authority board on the merits of proposed eligi-
17 ble projects; and
- 18 F. Perform other duties directed by the loan
19 authority board to carry out the purposes of this
20 chapter.

21 §556. Board powers

22 The loan authority board may:

- 23 1. Rules. Adopt rules in accordance with the
24 Maine Administrative Procedure Act, Title 5, chapter
25 375, subchapter II, for the regulation of its affairs
26 and the conduct of its business;
- 27 2. Seal. Adopt an official seal and alter the
28 seal at its pleasure;
- 29 3. Office. Maintain an office at such place or
30 places within the State as it may designate;
- 31 4. Legal actions. Sue and be sued in its own
32 name; plead and be impleaded. Service of process in
33 any legal action shall be made by service upon the
34 manager of the loan authority board, either in hand
35 or by leaving a copy of the process at the office of
36 the manager;

1 5. Agreements for projects. Enter into agree-
2 ments with prospective borrowers and lenders for the
3 purpose of planning, designing, constructing, acquir-
4 ing, altering and financing eligible projects;

5 6. Use of property; contracts. Acquire, hold
6 and dispose of real and personal property, and enter
7 into all contracts, leases, agreements and arrange-
8 ments necessary to the performance of its duties and
9 the execution of its powers under this chapter;

10 7. Federal loans. Accept from a federal agency
11 loans or grants for the planning or financing of any
12 eligible project, and enter into agreements with that
13 agency respecting those loans or grants; and

14 8. Other powers. Do all acts necessary to carry
15 out the powers expressly granted in this chapter.

16 §557. Reimbursement

17 All members of the loan authority board shall be
18 reimbursed for their actual expenses necessary for
19 the performance of their duties. At-large members
20 shall receive \$25 per day for each authorized meeting
21 attended.

22 §558. Members prohibited from certain acts

23 No member of the loan authority board may par-
24 ticipate in any decision involving insurance of pay-
25 ments on a loan if the member has any interest in or
26 connection with any firm, partnership, corporation or
27 association which intends to rent, lease or otherwise
28 use the property securing the loan.

29 §559. Mortgages insured; credit of State pledged

30 The loan authority board may insure the payment
31 of up to 80% of mortgage loans which are secured by
32 eligible projects. The full faith and credit of the
33 State is pledged, consistent with the Constitution of
34 Maine, Article IX, Section 14-E.

35 §560. Veterans' Small Business Loan Insurance Fund

1 1. Fund created. There is established a Vet-
2 erans' Small Business Loan Insurance Fund, referred
3 to in this chapter as the "fund," which shall be used
4 by the loan authority board as a nonlapsing, revolving
5 fund for carrying out this chapter. This fund
6 shall initially be \$200,000. To this sum shall be
7 charged any and all expenses of the loan authority
8 board in connection with its operation under this
9 chapter, including interest and principal payments
10 required by loan defaults, and to the sum shall be
11 credited all income of the board, including loan
12 insurance premiums and sale disposal, lease or rental
13 proceeds.

14 2. Excess funds. Money in the fund, not needed
15 currently to meet the obligations of the loan author-
16 ity board to exercise its responsibilities as insurer
17 as provided in this chapter, shall be deposited with
18 the Treasurer of State to the credit of the fund or
19 may be invested as provided for by statute.

20 §561. Additions to fund

21 When in the opinion of the loan authority board,
22 the addition of money to the fund is required to meet
23 obligations, the loan authority board shall, in writ-
24 ing, request the Governor to provide the money neces-
25 sary for that purpose. The Governor shall transfer
26 to this fund sufficient money for that purpose from
27 the State Contingent Account or from the proceeds of
28 bonds to be issued as provided in this chapter. If
29 bonds are to be issued, the Governor shall order the
30 Treasurer of State to issue bonds in the amount
31 requested, provided that the amount of bonds out-
32 standing at one time may not exceed the amount set in
33 the Constitution of Maine, Article IX, Section 14-E,
34 as it may from time to time be amended. The bonds
35 may be issued to mature serially or made to run for
36 such periods of time and at such rates of interest
37 and on such terms and conditions as the Governor
38 determines, but none of them shall run for a period
39 longer than 20 years. The bonds issued shall be
40 deemed a pledge of the faith and credit of the State.

41 §562. Insurance of loans

1 Upon application of the proposed lender, the loan
2 authority board may insure loan payments required by
3 the first mortgage on any eligible project in accor-
4 dance with terms and conditions which the loan
5 authority board may prescribe by rule. The aggregate
6 amount of principal obligations of all mortgages so
7 insured outstanding at any one time shall not exceed
8 \$4,000,000. To be eligible for insurance under this
9 section, a loan shall:

10 1. Lender. Be one which is to be made and held
11 by a lender approved by the loan authority board as
12 responsible and able to service the loan properly;

13 2. Maturity; limit. Have a maturity satisfac-
14 tory to the loan authority board;

15 3. Amortization. Contain complete amortization
16 provisions satisfactory to the loan authority board
17 requiring periodic payments by the mortgagor which
18 shall include principal and interest payments, cost
19 of local property taxes and assessments, land lease
20 rents, if any, hazard insurance on the property and
21 any loan insurance premiums required under section
22 564;

23 4. Other terms. Contain such terms and provi-
24 sions with respect to property insurance, repairs,
25 alterations, payment of taxes and assessments, de-
26 fault reserves, delinquency charges, default reme-
27 dies, anticipation of maturity, additional and
28 secondary liens and other matters as the loan author-
29 ity board may prescribe by rule; and

30 5. Principal obligation; limit. Involve a prin-
31 cipal obligation not to exceed \$30,000.

32 §563. Nonassignability of proceeds

33 No right, payment or proceeds of any loan made
34 under this chapter may be subject to garnishment,
35 attachment or execution of the claim of any creditor
36 other than the lender, nor may any such right or pay-
37 ment be capable of assignment except under rules pre-
38 scribed by the loan authority board.

39 §564. Loan insurance premiums

1 The loan authority board may fix loan insurance
2 premiums for the insurance of loan payments under
3 this chapter. Those premiums shall be computed as a
4 percentage of the principal obligation of the loan
5 outstanding at the beginning of each year and shall
6 not be less than 1/2 of 1% each year nor more than 2%
7 each year of the outstanding principal obligation.
8 The premiums shall be payable by the lenders in the
9 manner prescribed by rule of the loan authority
10 board.

11 §565. Default

12 The loan authority board may take assignments of
13 insured loans and other forms of security and may
14 take title by foreclosure or conveyance to any eligi-
15 ble project when an insured loan thereon is clearly
16 in default and when in the opinion of the loan
17 authority board that acquisition is necessary to
18 safeguard the loan insurance fund. The loan author-
19 ity board may sell or, on a temporary basis, lease or
20 rent an eligible project for a use other than that
21 specified.

22 §566. Loans eligible for investment

23 Loans insured by the loan authority board shall
24 be legal investments for insurance companies, trust
25 companies, banks, investment companies, savings
26 banks, savings and loan associations, executors,
27 trustees and other fiduciaries and pension or retire-
28 ment funds.

29 §567. Loans with little or no collateral

30 The loan authority board may insure a loan to a
31 borrower with less than full collateral, provided
32 that the borrower is of good character and has a good
33 personal credit record.

34 §568. Action to safeguard the fund

35 When a loan insured under this section is clearly
36 in default, the loan authority board may assent to
37 the extension of the time of payment of the insured
38 loan, may extend the insurance thereon accordingly
39 and may waive loan insurance premiums thereon, when

1 in the opinion of the loan authority board this ac-
2 tion is necessary to safeguard the fund.

3 §569. Accounts

4 The loan authority board shall keep proper
5 records of accounts and shall make an annual report
6 of its condition to the Superintendent of Banking.

7 §570. Expenses of the board

8 All expenses, including administrative, legal and
9 actuarial, incurred by the loan authority board shall
10 be paid by the loan authority board and shall be
11 charged to the fund. All proceeds received by the
12 loan authority board, from the disposal by sale or in
13 some other manner of property it may have acquired in
14 accordance with this section, shall be credited to
15 the fund.

16 §571. Records confidential

17 A member, agent or employee of the loan authority
18 board shall not divulge or disclose any information
19 obtained from the records and files or by virtue of
20 the person's office concerning the name of any lessee
21 or tenant or information supplied by any lessee,
22 tenant or lender in support of any application for
23 loan insurance. Annual returns filed with the loan
24 authority board by a lender, lessee or tenant are
25 privileged and confidential.

26 CHAPTER 11

27 MAINE VETERANS' HOME

28 §601. Home established; purpose

29 As previously established, there shall be a home
30 for veterans in Maine known as the "Maine Veterans'
31 Home." The primary purpose of the home shall be to
32 provide support and care for honorably discharged
33 veterans who served in the United States Armed Forces
34 during wartime, including the Korean Conflict and the
35 Viet Nam War.

1 §602. Body corporate; powers

2 The Maine Veterans' Home is a body corporate. In
3 addition to other powers granted by this chapter, the
4 Maine Veterans' Home may:

5 1. Contracts. Make and execute contracts and
6 all other instruments necessary or convenient for the
7 exercise of its powers and functions under this chap-
8 ter;

9 2. Acquire property. Acquire, in the name of
10 the home, real or personal property or any interest
11 therein, including rights or easements, on either a
12 temporary or long-term basis by gift, purchase,
13 transfer, foreclosure, lease or otherwise;

14 3. Hold or dispose of property. Hold, sell,
15 assign, lease, rent, encumber, mortgage or otherwise
16 dispose of any real or personal property, or any
17 interest therein, or mortgage interest owned by it or
18 in its control, custody or possession and release or
19 relinquish any right, title, claim, lien, interest,
20 easement or demand however acquired, including threat
21 of foreclosure;

22 4. Procure insurance. Procure insurance against
23 any loss in connection with its property and other
24 assets in amounts and from insurers which it deems
25 desirable;

26 5. Receive bequests and donations. Receive, on
27 behalf of the State, bequests and donations that may
28 be made to improve the general comfort and welfare of
29 the members of the home or for the betterment of the
30 home;

31 6. Borrow funds. Borrow funds, not in excess of
32 \$1,000,000 in the aggregate, make and issue bonds and
33 negotiate notes and other evidences of indebtedness
34 or obligations of the veterans' home for prudent and
35 reasonable capital, operational and maintenance pur-
36 poses. The home may secure payments of all or part
37 of the obligations by pledge of part of the revenues
38 or assets of the home which are available for pledge
39 and which may be lawfully pledged or by mortgage of
40 part, or all, of any property owned by the home. The

1 home may do all lawful things necessary and inci-
2 dental to those powers. The home may borrow money
3 from the Federal Government and its agencies, from
4 state agencies and from any other source. The home
5 may borrow money from the State subject to approval
6 by the Treasurer of State and the Governor. Bonds,
7 notes and other evidences of indebtedness issued
8 under this subsection shall not be deemed to consti-
9 tute debts of the State, nor a pledge of the credit
10 of the State, but shall be payable solely from the
11 funds of the home; and

12 7. Other acts. Do other acts necessary or con-
13 venient to exercise the powers granted or reasonably
14 implied in this section.

15 §603. Board of trustees

16 The administration of the home is vested in the
17 Board of Trustees of the Maine Veterans' Home. The
18 board shall consist of 9 members, one of whom shall
19 be the Director of the Bureau of Veterans' Services,
20 ex officio, who shall serve without term. The Gover-
21 nor shall appoint the remaining trustees, who shall
22 be honorably discharged war veterans. One member
23 shall be appointed from and shall represent each of
24 the largest veterans' organizations, not exceeding 5,
25 which are nationally chartered and have a department
26 in Maine. The remaining members shall be appointed
27 at large and shall serve staggered 3-year terms. In
28 the event of a vacancy, the successor shall be
29 appointed to complete the unexpired term. Each
30 trustee shall continue to hold office until his suc-
31 cessor is appointed and qualified.

32 §604. Conduct of board business

33 1. Fiscal year. The board shall adhere to the
34 same fiscal year as the State.

35 2. Meetings. The board shall meet at least 6
36 times annually. Five members shall constitute a quo-
37 rum.

38 3. Selection of officers. At its first annual
39 meeting, which shall be held in July each year, the
40 board shall elect a chairman and secretary for that
41 fiscal year.

1 4. Special meetings. Special meetings may be
2 called by agreement of a majority of the trustees.

3 5. Appointment of administrator. The board
4 shall appoint an administrator in accordance with
5 section 606.

6 6. Other funds. The board may apply for and
7 receive any grants-in-aid for which the State or the
8 home may be eligible.

9 7. Rules. The board shall adopt rules necessary
10 to administer the home, to establish just charges for
11 the maintenance of members and to oversee the opera-
12 tion of the home. In adopting rules, the board shall
13 seek comments and information from home staff, mem-
14 bers, members' families and other relevant sources,
15 but the Maine Administrative Procedure Act provisions
16 regarding rulemaking, Title 5, chapter 375, subchap-
17 ter II, shall not apply.

18 §605. Compensation of the board

19 Trustees shall not be compensated for services
20 rendered to the home, but necessary expenses incurred
21 by a trustee in the performance of his official
22 duties shall be paid by the State.

23 §606. Administrator

24 The administrator shall be an honorably dis-
25 charged war veteran who shall administer the home in
26 accordance with the rules, guidelines and general
27 policies established by the board. He shall serve an
28 indefinite term, but may be removed for cause by the
29 board. His salary shall be set by the board. The
30 administrator shall hire the necessary employees to
31 operate the home and, whenever possible, shall give
32 preference in hiring to war veterans. These employ-
33 ees shall not be deemed employees of the State.

34 §607. Admission

35 Veterans desiring admission to the home shall
36 apply on forms prescribed by the administrator.
37 Admission shall be granted by the administrator only
38 to veterans who were residents of Maine at the time

1 of their entry into the United States Armed Forces or
2 who are residents of Maine at the time of applica-
3 tion, and to the spouses of eligible veterans, pro-
4 vided that suitable facilities are available. Admis-
5 sion shall be granted when provisions of the rules
6 are met, when there is a vacancy and in order of
7 application, unless otherwise provided in the rules.

8 §608. Charges

9 Each veteran admitted to the home shall pay to
10 the State, as prescribed by the board, the share of
11 the costs of his maintenance which he can afford.

12 §609. Custody of funds

13 The administrator shall deposit with the Treasur-
14 er of State funds paid by veterans for their mainte-
15 nance, funds received from the United States Treasury
16 and other funds given or granted to the home, other
17 than state funds.

18 §610. Support and maintenance fund

19 All funds received by the Treasurer of State
20 shall be held by him in a permanent fund to be used
21 as required by the administrator for the support and
22 maintenance of the home. A percentage of these funds
23 approved by the board of trustees shall be placed in
24 reserve for capital improvement expenditures. The
25 board of trustees shall operate the home, when con-
26 structed, as a self-liquidating project until all the
27 bonds issued as provided by this chapter are retired.
28 Any funds received in excess of that necessary for
29 the support and maintenance of the home, the capital
30 reserve fund and funds necessary for retirement of
31 any outstanding bonds or indebtedness as those pay-
32 ments become due shall lapse at the end of each
33 fiscal year to the General Fund. The Department of
34 Human Services shall not modify its principles of
35 reimbursement for long-term care facilities to spe-
36 cifically exclude reimbursement for the depreciation
37 of the assets created with federal or state grants.

38 §611. Reports

1 The board shall make an annual report to the Gov-
2 ernor. This report shall contain an accounting for
3 all money received and expended, statistics on mem-
4 bers who resided in the home during the year, recom-
5 mendations to the Governor and Legislature and such
6 other matters as the board deems pertinent. The
7 administrator, subject to approval of the board,
8 shall compile a biennial budget on the forms and at
9 the time required of other state agencies.

10 CHAPTER 13

11 BUREAU OF CIVIL EMERGENCY PREPAREDNESS

12 SUBCHAPTER I

13 ORGANIZATION

14 §701. Title; purpose

15 This chapter may be cited as the "Maine Civil
16 Emergency Preparedness Act." It is the purpose of
17 this chapter to:

18 1. Bureau. Establish the Bureau of Civil Emer-
19 gency Preparedness;

20 2. Local organizations. Authorize the creation
21 of local organizations for civil emergency
22 preparedness in the political subdivisions of the
23 State;

24 3. Emergency powers. Confer upon the Governor
25 and the executive heads of governing bodies of the
26 political subdivisions of the State certain emergency
27 powers; and

28 4. Mutual aid. Provide for the rendering of
29 mutual aid among the political subdivisions of the
30 State and with other states for the accomplishment of
31 civil emergency preparedness functions.

32 §702. Policy

33 It is declared to be the policy of the State that
34 all emergency preparedness functions be coordinated

1 to the maximum extent with the comparable functions
2 of the Federal Government, including its various
3 departments and agencies, of other states and local
4 ities, and of private agencies so that the most
5 effective preparation and use may be made of the
6 nation's manpower, resources and facilities for deal-
7 ing with any disaster which may occur.

8 §703. Definitions

9 As used in this chapter, unless the context indi-
10 cated otherwise, the following terms have the follow-
11 ing meanings.

12 1. Civil emergency preparedness. "Civil emer-
13 gency preparedness" means the preparation for and the
14 carrying out of all emergency functions, other than
15 functions for which military forces are primarily
16 responsible, to minimize and repair injury and damage
17 resulting from disasters or catastrophes caused by
18 enemy attacks, sabotage, riots or other hostile ac-
19 tion, or by fire, flood, earthquake or other natural
20 or man-made causes. These functions include, without
21 limitation, fire fighting, police, medical and
22 health, emergency welfare, rescue, engineering, air
23 raid warning and communications services;
24 radiological, chemical and other special weapons
25 defense; evacuation of persons from stricken areas;
26 economic stabilization; allocation of critical mate-
27 rials in short supply; emergency transportation;
28 existing or properly assigned functions of plant pro-
29 tection; other activities related to civilian protec-
30 tion and other activities necessary to the prepara-
31 tion for the carrying out of these functions.

32 2. Disaster. "Disaster" means the occurrence or
33 imminent threat of widespread or severe damage,
34 injury or loss of life or property resulting from any
35 natural or man-made cause, including, but not limited
36 to, fire, flood, earthquake, wind, storm, wave ac-
37 tion, oil spill or other water contamination requir-
38 ing emergency action to avert danger or damage, epi-
39 demie, air contamination, blight, drought, critical
40 material shortage, infestation, explosion, riot or
41 hostile military or paramilitary action.

1 3. Local organization for civil emergency
2 preparedness. "Local organization for civil emergency
3 preparedness" means an organization created in accor-
4 dance with this chapter by state, county or local
5 authority to perform local civil emergency
6 preparedness functions.

7 4. Political subdivision. "Political subdivi-
8 sion" means counties, cities, towns, villages, town-
9 ships, districts, authorities and other public corpo-
10 rations and entities organized and existing under
11 charter or general law.

12 §704. Director; duties

13 The Bureau of Civil Emergency Preparedness, as
14 previously established and in this chapter called the
15 "bureau," shall be under the supervision of the
16 Director of Civil Emergency Preparedness, who in this
17 chapter shall be called the "director."

18 The director may employ technical, clerical,
19 stenographic, administrative and operative assistants
20 and other personnel, subject to the Personnel Law,
21 and make expenditures, with approval of the Adjutant
22 General, which are necessary to carry out the pur-
23 poses of this chapter.

24 The director, subject to the direction and con-
25 trol of the Adjutant General, shall be the executive
26 head of the bureau and shall be responsible for
27 carrying out the program for civil emergency
28 preparedness. He shall coordinate the activities of
29 all organizations for civil emergency preparedness
30 within the State, and shall maintain liaison with and
31 cooperate with civil emergency preparedness and
32 public safety agencies and organizations of other
33 states, the Federal Government and foreign countries,
34 and the political subdivisions thereof, and shall
35 have additional authority, duties and responsibili-
36 ties as may be prescribed by the Adjutant General.

37 §705. Rules; appeal from administrative action

38 The director shall adopt reasonable rules to
39 carry out this chapter in accordance with the Maine
40 Administrative Procedure Act, Title 5, chapter 375,

1 subchapter II. Those rules shall not become effec-
2 tive until approved in writing by the Governor.

3 Any person aggrieved by rule or an act or order
4 of the director enforcing a rule may appeal by filing
5 a complaint in the Superior Court within 30 days.
6 The court may affirm or reverse the rule, act or
7 order of the director and the decision of the court
8 shall be final.

9 SUBCHAPTER II

10 STATE CIVIL EMERGENCY PREPAREDNESS PROVISIONS

11 §741. Governor's powers

12 1. Control during emergencies. In the event of
13 disaster beyond local control, the Governor may
14 assume direct operational control over all or any
15 part of the civil emergency preparedness and public
16 safety functions with the State.

17 2. Cooperation. In performing his duties re-
18 quired by this chapter, the Governor shall, directly
19 or through the Adjutant General, cooperate with all
20 departments and agencies of the Federal Government,
21 with the offices and agencies of other states and
22 foreign countries and the political subdivisions
23 thereof, and with private agencies in all matters
24 pertaining to the civil emergency preparedness of the
25 State and of the Nation.

26 3. Authority. In performing his duties required
27 by this chapter, the Governor may:

28 A. Make, amend and rescind the necessary orders
29 and rules to carry out this chapter within the
30 limits of the authority conferred upon him and
31 not inconsistent with the rules, regulations and
32 directives of the President of the United States
33 or of any federal department or agency having
34 specifically authorized civil emergency
35 preparedness functions;

36 B. Prepare a comprehensive plan and program for
37 the civil emergency preparedness of this State.

1 That plan and program shall be integrated into
2 and coordinated with the civil emergency
3 preparedness plans of federal agencies and with
4 the plans of other states and foreign countries,
5 and their political subdivisions, to the fullest
6 possible extent;

7 C. Coordinate the preparation of plans and pro-
8 grams for civil emergency preparedness by the
9 political subdivisions of the State. These plans
10 shall be integrated into and coordinated with the
11 civil emergency preparedness plan and program of
12 the State to the fullest possible extent;

13 D. In accordance with the plan and program for
14 the civil emergency preparedness of the State,
15 and consistent with the civil emergency
16 preparedness plans, programs and directives of
17 the Federal Government, procure supplies and
18 equipment, institute training programs and public
19 information programs and take all other prepara-
20 tory steps, including the partial or full mobili-
21 zation of civil emergency preparedness organiza-
22 tions in advance of actual disaster or catastro-
23 phe, insure the furnishing of adequately trained
24 and equipped forces of civil emergency
25 preparedness personnel in time of need;

26 E. Conduct studies and surveys and take inven-
27 tories of the industries, resources and facili-
28 ties of the State necessary to ascertain the
29 state's civil emergency preparedness capabili-
30 ties, and plan for their most efficient emergency
31 use, including emergency economic controls to
32 insure adequate production and equitable distri-
33 bution of essential commodities;

34 F. Whenever a shortage of critical material sup-
35 plies appears imminent in the State, establish
36 emergency reserves of those products necessary to
37 ensure the health, welfare and safety of the
38 people of the State. To establish those
39 reserves, the Governor may purchase quantities of
40 those materials for resale on a cost plus
41 expenses basis for priority end users within the
42 State;

1 G. On behalf of the State, enter into mutual aid
2 arrangements with other states and foreign coun-
3 tries, and their political subdivisions, and
4 coordinate mutual aid plans between political
5 subdivisions of the State. If an arrangement is
6 entered into with a jurisdiction that has enacted
7 the Interstate Civil Defense and Disaster Com-
8 compact, chapter 15, any resulting agreement or
9 agreements may be considered supplemental agree-
10 ments pursuant to Article VI of that compact. If
11 the other jurisdiction or jurisdictions with
12 which the Governor proposes to cooperate have not
13 enacted that compact, he may negotiate special
14 agreements with the jurisdiction or jurisdic-
15 tions. Any agreement, if sufficient authority
16 for the making thereof does not otherwise exist,
17 becomes effective only after approval by the
18 Legislature; and

19 H. Delegate any authority vested in him under
20 this chapter and provide for the subdelegation of
21 that authority.

22 §742. Emergency proclamation

23 1. Disaster proclamation. Whenever disaster
24 exists, or appears imminent, from attack, sabotage,
25 riot or other hostile action, or by fire, flood,
26 earthquake or other natural or man-made causes, the
27 Governor shall, by proclamation, declare that fact
28 and that an emergency exists in the State or any
29 section of the State. If the Governor is temporarily
30 absent from the State or is otherwise unavailable,
31 the next person in the State who would act as Gover-
32 nor, if the office of Governor were vacant, shall
33 make that proclamation. A copy of the proclamation
34 shall be filed with the Secretary of State.

35 2. Energy emergency proclamation. Energy emer-
36 gency proclamations shall be issued as follows.

37 A. When an actual or impending acute shortage in
38 energy resources threatens the health, safety or
39 welfare of the citizens of the State, the Gover-
40 nor shall, by proclamation, declare that fact and
41 that an energy emergency exists in the State or
42 in any section of the State. A copy of the

1 proclamation shall be filed with the Secretary of
2 State.

3 B. Upon the issuance of an energy emergency
4 proclamation and after consulting with the Direc-
5 tor of Energy Resources, the Governor may exer-
6 cise all the powers granted in this chapter,
7 except as specifically limited by paragraph C.
8 The powers of the Governor shall include, without
9 limitation, the authority to:

10 (1) Establish and implement programs, con-
11 trols, standards, priorities and quotas for
12 the allocation, conservation and consumption
13 of energy resources;

14 (2) Regulate the hours and days during
15 which nonresidential buildings may be open
16 and the temperatures at which they may be
17 maintained;

18 (3) Regulate the use of gasoline and
19 diesel-powered land vehicles, watercraft and
20 aircraft;

21 (4) After consulting, when appropriate,
22 with the New England governors and upon the
23 recommendations of the Maine Public Utili-
24 ties Commission, regulate the generation,
25 distribution and consumption of electricity;

26 (5) Establish temporary state and local
27 boards and agencies;

28 (6) Establish and implement programs and
29 agreements for the purposes of coordinating
30 the emergency energy response of the State
31 with those of the Federal Government and of
32 other states and localities;

33 (7) Temporarily suspend truck weight and
34 size regulations, but not in conflict with
35 federal regulations; and

36 (8) Regulate the storage, distribution and
37 consumption of home heating oil.

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

4 (1) The eminent domain powers granted in
5 section 821; and

6 (2) The enforcement powers granted in sec-
7 tions 786 and 829, unless the Governor spe-
8 cifically invokes these powers by an order
9 issued pursuant to an energy emergency
10 proclamation and approved by a majority of
11 the membership of the Legislative Council.
12 That order shall specify those emergency
13 orders or rules which shall be enforceable
14 pursuant to this paragraph and shall further
15 specify the enforcement activities civil
16 emergency preparedness organizations are to
17 pursue. No enforcement action may be taken
18 pursuant to this paragraph without publi-
19 cation of the order authorizing the action
20 in a manner reasonably calculated to give
21 affected persons adequate notice of the
22 order or rule to be enforced and the sanc-
23 tions to be applied.

24 D. During a declared energy emergency, the fol-
25 lowing provisions relating to environmental rules
26 apply.

27 (1) Except as provided in subparagraph (2),
28 nothing contained in this subsection may be
29 construed to authorize the Governor to sus-
30 pend or to modify orders, rules, standards
31 or classifications issued or enforced by the
32 Department of Environmental Protection or
33 the Maine Land Use Regulation Commission.

34 (2) When an energy emergency proclamation
35 is in effect, the Governor may call the
36 Board of Environmental Protection into
37 extraordinary session to consider temporary
38 waivers or suspensions of rules and stan-
39 dards related to air and water quality
40 necessary to relieve then existing energy
41 shortages. At an extraordinary session, the
42 board is empowered, notwithstanding any

1 other provision of law, to approve suspen-
2 sions or waivers which it determines are
3 necessary to relieve or avoid an energy
4 shortage and will not result in environ-
5 mental degradation of a permanent or
6 enduring nature. In no event may any sus-
7 pension or modification be granted which
8 will result in a circumvention of Title 38,
9 sections 481 to 488, 541 and 557. The
10 waiver or suspension shall not remain in
11 effect longer than 60 days or after the date
12 on which the board renders a further order
13 issued pursuant to the regular procedures
14 specified in Title 38, whichever shall first
15 occur.

16 E. The Superior Court of the county in which a
17 person fails to obey an order or rule promulgated
18 in accordance with this subsection shall have
19 jurisdiction to issue a restraining order or
20 injunction to enforce the order or rule. That
21 proceeding shall be held in accordance with the
22 Maine Rules of Civil Procedure, Rule 65.

23 F. In the event that an order or rule issued by
24 the Governor, pursuant to the powers granted in
25 paragraph B, are to be in effect for longer than
26 90 days, the Governor shall, before the 80th day
27 following the issuance of the order or rule, con-
28 vene the Legislature.

29 §743. Termination of emergency

30 Whenever the Governor is satisfied that an emer-
31 gency no longer exists, he shall terminate the emer-
32 gency proclamation by another proclamation affecting
33 the sections of the State covered by the original
34 proclamation, or any part thereof. That proclamation
35 shall be published in newspapers of the State and
36 posted in places which the Governor deems appropri-
37 ate.

38 §744. Disaster relief

39 1. Financial assistance to individuals. When-
40 ever the President has declared a major disaster to
41 exist in this State, the Governor may:

1 A. Accept a grant of financial assistance from
2 the Federal Government, subject to such terms and
3 conditions as may be imposed upon the grant and
4 upon his determination that financial assistance
5 is essential to meet necessary expenses or
6 serious needs of individuals or families caused
7 by the disaster which cannot otherwise adequately
8 be met;

9 B. Enter into an agreement with the Federal Gov-
10 ernment, or any officer or agency thereof, pledg-
11 ing the State to participate in up to 25% of the
12 financial assistance authorized in this subsec-
13 tion. If state funds are not otherwise avail-
14 able, the Governor may accept an advance of the
15 state's share from the Federal Government to be
16 repaid when the State is able to do so; and

17 C. Notwithstanding any other provision of law or
18 regulation, make financial grants to meet neces-
19 sary expenses or serious needs of individuals or
20 families caused by the disaster which cannot
21 otherwise adequately be met. A grant to an indi-
22 vidual or family shall not exceed \$5,000 in the
23 aggregate for any single major disaster declared
24 by the President.

25 2. Community disaster loans. Whenever the
26 President has declared a major disaster to exist in
27 the State, the Governor may:

28 A. Apply for a loan from the Federal Government
29 on behalf of a unit of local government when he
30 determines that the unit will suffer a substan-
31 tial loss of tax and other revenues as a result
32 of a major disaster and has demonstrated a need
33 for financial assistance to perform its govern-
34 mental functions;

35 B. Receive and disburse the proceeds of any
36 approved loan to an applicant local government;

37 C. Determine the amount needed by any applicant
38 local government to restore or resume its govern-
39 mental functions, and certify the amount to the
40 Federal Government, provided that no application
41 amount may exceed 25% of the annual operating

1 budget of the applicant for the fiscal year in
2 which the major disaster occurs; and

3 D. Recommend to the Federal Government, based
4 upon his review, the cancellation of all or any
5 part of repayment when, after 3 full fiscal years
6 following the major disaster, the revenues of the
7 local government are insufficient to meet its
8 operating expenses, including additional municipi-
9 pal expenses related to the disaster.

10 3. Temporary housing. Temporary housing may be
11 provided as follows.

12 A. Whenever the Governor has proclaimed a disas-
13 ter emergency under the laws of this State, or
14 the President has declared an emergency or a
15 major disaster to exist in this State, the Gover-
16 nor may:

17 (1) Enter into purchase, lease or other
18 arrangements with any agency of the United
19 States for temporary housing units to be
20 occupied by disaster victims and make these
21 units available to any political subdivision
22 of the State;

23 (2) Assist any political subdivision of the
24 State, in which is located temporary housing
25 for disaster victims, acquire sites neces-
26 sary for the temporary housing and do all
27 things required to prepare the sites to ac-
28 commodate temporary housing units. This may
29 be accomplished by advancing or lending
30 funds available to the Governor from any
31 appropriation made by the Legislature or
32 from any other source, and "passing through"
33 funds made available by any agency, public
34 or private; or by becoming a partner with
35 the political subdivision for the execution
36 and performance of any temporary housing
37 project for disaster victims. For those
38 purposes, the Governor may pledge the credit
39 of the State on terms which he deems appro-
40 priate, having due regard for current debt
41 transactions of the State; and

1 (3) Suspend or modify a state health,
2 safety, zoning, transportation or other re-
3 quirement of law or rule when he deems sus-
4 pension or modification necessary to provide
5 temporary housing for disaster victims.
6 That suspension or modification shall be in
7 accordance with rules adopted by the Gover-
8 nor and shall not exceed 60 days' duration.

9 B. Any political subdivision of this State is
10 expressly authorized to acquire, temporarily or
11 permanently, by purchase, lease or otherwise,
12 sites required for installation of temporary
13 housing units for disaster victims, and to enter
14 into whatever arrangements, including purchase of
15 temporary housing units and payment of trans-
16 portation charges, which are necessary to prepare
17 or equip those sites to accommodate the housing
18 units.

19 4. Debris removal in major disasters. In major
20 disasters, debris may be removed as follows.

21 A. Whenever the Governor has declared a disaster
22 emergency to exist under the laws of this State,
23 or the President has declared a major disaster or
24 emergency to exist in this State, the Governor
25 may:

26 (1) Notwithstanding any other provision of
27 law, through the use of state departments or
28 agencies or the use of any of the state's
29 instrumentalities, clear or remove from pub-
30 licly-owned or privately-owned land or
31 water, debris and wreckage which may
32 threaten public health or safety, or public
33 or private property; and

34 (2) Accept funds from the Federal Govern-
35 ment and utilize those funds to make grants
36 to any local government for the purpose of
37 removing debris or wreckage from publicly-
38 owned or privately-owned land or water.

39 B. The following conditions apply to the execu-
40 tion of removal or clearance.

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

11 (2) Whenever the Governor provides for
12 clearance of debris or wreckage pursuant to
13 paragraph A, employees of the designated
14 state agencies or individuals appointed by
15 the State are authorized to enter upon pri-
16 vate land or waters and perform any tasks
17 necessary to the removal or clearance opera-
18 tion.

19 (3) 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 section shall not be lia-
24 ble for death of or injury to persons or
25 damage to property occurring during perfor-
26 mance of those duties.

27 5. Terms. As used in this section, "major
28 disaster," "emergency" and "temporary housing" have
29 the same meaning as in the United States Disaster
30 Relief Act of 1974, Public Law 93-288.

31 6. Rules. The Governor shall make rules neces-
32 sary for carrying out this section, including, but
33 not limited to, standards of eligibility for persons
34 applying for benefits; procedures for applying for
35 and administration of relief; methods of investiga-
36 tion, filing and approving applications and formation
37 of local or statewide boards to pass upon applica-
38 tions and procedures for appeals.

39 7. Authority not limited. Nothing contained in
40 this section may be construed to limit the Governor's
41 authority to apply for, administer and expend any
42 grants, gifts or payments in aid of disaster preven-
43 tion, preparedness, response or recovery.

1 8. Penalty. Any person who knowingly makes a
2 misstatement of fact in connection with an applica-
3 tion for financial assistance under this section is
4 guilty of a Class D crime.

5 SUBCHAPTER III

6 LOCAL CIVIL EMERGENCY PREPAREDNESS PROGRAMS

7 §781. Municipal, county and regional agencies

8 1. Municipal or interjurisdictional agen-
9 cies. Each municipality of the State shall be served
10 by a municipal or interjurisdictional agency respon-
11 sible for disaster preparedness and coordination of
12 disaster response. The Governor, after public hear-
13 ing, shall determine those municipalities which shall
14 establish civil emergency preparedness agencies of
15 their own and those which shall participate in and
16 provide support for interjurisdictional civil emer-
17 gency preparedness agencies. Those determinations
18 shall be based on a finding that efficient and effec-
19 tive disaster prevention, preparedness, response and
20 recovery will be promoted by formation of an inter-
21 jurisdictional agency. The following factors shall
22 be considered:

23 A. Size and density of the affected population;

24 B. Financial ability of the separate municipali-
25 ties to maintain independent disaster assistance
26 agencies; and

27 C. Vulnerability of the area to disaster, as
28 evidenced by past disasters, topographical fea-
29 tures, drainage characteristics, disaster poten-
30 tial and existence of disaster-prone facilities
31 and operations.

32 2. County or regional agencies. The Governor
33 shall designate the counties or regions he deems
34 necessary for the purposes of establishing county or
35 regional civil emergency preparedness agencies. Each
36 designated county or regional agency shall be respon-
37 sible for coordination of the activities of municipal
38 and interjurisdictional civil emergency preparedness

1 agencies within the region or county and for civil
2 emergency preparedness in the unorganized territories
3 within its jurisdiction. A county or regional civil
4 emergency preparedness agency shall receive support
5 from the municipalities within its jurisdiction.

6 3. Structure of interjurisdictional and regional
7 agencies. The director, with the approval of the
8 Governor, shall determine the organizational struc-
9 ture of interjurisdictional and regional civil emer-
10 gency preparedness agencies, including the manner in
11 which the directors of those agencies shall be
12 appointed by governing bodies of the municipalities
13 involved.

14 4. List of agencies. The bureau shall publish
15 and maintain a current list of municipal, inter-
16 jurisdictional, county and regional civil emergency
17 preparedness agencies established pursuant to this
18 section.

19 §782. Agency directors

20 A director shall be appointed for each local
21 civil preparedness agency. A director of a civil
22 emergency preparedness agency shall not be at the
23 same time an executive officer or member of the
24 executive body of a political subdivision of the
25 State. A director may be removed by the appointing
26 authority for cause.

27 1. Municipal agency director; liaison officer.
28 The governing body of a municipality shall appoint
29 the director of the municipality's civil emergency
30 preparedness agency. Each municipality which is not
31 required to establish an agency of its own shall des-
32 ignate a liaison officer to the appropriate inter-
33 jurisdictional agency to facilitate cooperation in
34 the work of disaster prevention, preparedness,
35 response and recovery.

36 2. County agency director. The county commis-
37 sioners shall appoint the director of that county's
38 civil emergency preparedness agency.

39 3. Interjurisdictional and regional agency
40 directors. The director of an interjurisdictional or

1 regional civil emergency preparedness agency shall be
2 appointed in the manner prescribed by the director in
3 accordance with section 781, subsection 3, and shall
4 be approved by the director.

5 §783. Disaster emergency plan

6 Each municipal, interjurisdictional, county and
7 regional civil emergency preparedness agency, in con-
8 sultation with the bureau, shall prepare and keep a
9 current disaster emergency plan for the area subject
10 to its jurisdiction. That plan shall include without
11 limitation:

12 1. Identification of disasters. Identification
13 of disasters to which the jurisdiction is or may be
14 vulnerable, specifically indicating the areas most
15 likely to be affected;

16 2. Action to minimize damage. Identification of
17 the procedures and operations which will be necessary
18 to prevent or minimize injury and damage in the event
19 those disasters occur;

20 3. Personnel, equipment and supplies. Identifi-
21 cation of the personnel, equipment and supplies re-
22 quired to implement those procedures and operations
23 and the means by which their timely availability will
24 be assured;

25 4. Recommendations. Recommendations to appro-
26 priate public and private agencies of all preventive
27 measures found reasonable in light of risk and cost;
28 and

29 5. Other. Other elements required by bureau
30 rule.

31 Each municipal, interjurisdictional, county and
32 regional civil emergency preparedness agency, as part
33 of the development of a disaster emergency plan for
34 the area subject to its jurisdiction, shall consult
35 with hospitals within its jurisdiction to insure that
36 the disaster plans developed by the agency and the
37 hospitals are compatible.

38 §784. Mutual aid arrangements

1 The director of each local organization for civil
2 emergency preparedness shall, in collaboration with
3 other public and private agencies within the State,
4 develop or cause to be developed mutual aid arrange-
5 ments for reciprocal civil emergency preparedness aid
6 and assistance in case of a disaster too great to be
7 dealt with unassisted. These arrangements shall be
8 consistent with the state civil emergency
9 preparedness program, and in time of emergency it
10 shall be the duty of each local organization for
11 civil emergency preparedness to render assistance in
12 accordance with the mutual aid arrangements. For
13 this purpose, political subdivisions are authorized
14 when geographical locations make mutual aid arrange-
15 ments desirable to enter into mutual aid arrangements
16 subject to the approval of the director.

17 §785. State Personnel Board services

18 Local civil emergency preparedness agencies
19 organized pursuant to this subchapter may accept the
20 services of the State Personnel Board and adopt board
21 rules for the purpose of qualifying for federal
22 funds. The State Personnel Board may enter into
23 agreements with the civil emergency preparedness
24 agencies for the purpose of furnishing merit system
25 coverage for civil emergency preparedness employees
26 or employees of other agencies and departments
27 assigned full time to civil emergency preparedness
28 duties. The State Personnel Board may charge for
29 services rendered. The fee shall be consistent with
30 the cost of coverage per state employee multiplied by
31 the number of local, interjurisdictional, county or
32 regional employees covered. Fees received by the
33 board shall be credited to the General Fund.

34 §786. Enforcement

35 1. Law enforcement officers. Duly appointed law
36 enforcement officers of local, state and sheriffs'
37 organizations are empowered to enforce any of the
38 provisions of this chapter or any rules promulgated
39 thereunder in times of an emergency or during author-
40 ized alerts, including partial or full mobilization
41 necessary to carry out section 742. Failure to com-
42 ply with any just or reasonable order relative to
43 enforcement from a duly appointed law enforcement
44 officer is a Class E crime.

1 2. Arrest powers. Duly appointed law enforce-
2 ment officers of local, state and sheriffs' organiza-
3 tions shall have the power to arrest persons found in
4 violation of any provision of this chapter or any
5 rules promulgated in times of emergency to carry out
6 section 742.

7 SUBCHAPTER IV

8 ADMINISTRATION

9 §821. Eminent domain

10 When the Governor has issued a proclamation in
11 accordance with section 742 and, when in his judgment
12 for the protection and welfare of the State and its
13 inhabitants, the situation requires it as a matter of
14 public necessity or convenience, he may take posses-
15 sion of any real or personal property located within
16 the State for public uses in furtherance of this
17 chapter.

18 1. Real property. If real estate is seized
19 under this section, a declaration of the property
20 seized, containing a full and complete description,
21 shall be filed with the register of deeds for the
22 county in which the seizure is located and a copy of
23 that declaration shall be furnished to the owner.

24 2. Personal property. If personal property is
25 seized under this section, there shall be entered,
26 upon a docket containing a permanent record, a de-
27 scription of that personal property and its condition
28 when seized, and there shall be furnished to the
29 owner of the seized property a true copy of the
30 docket recording.

31 3. Compensation. The Governor shall award
32 reasonable compensation to the owners of the property
33 which he takes under this section and for its use and
34 for any injury thereto or destruction thereof caused
35 by that use.

36 4. Appeal. The owner of property of which pos-
37 session has been taken under this section and to whom
38 no award has been made or who is dissatisfied with

1 the amount awarded him as compensation may bring an
2 action in the Superior Court in the county in which
3 he lives or has a usual place of business or in the
4 County of Kennebec to have the amount of damages to
5 which he is entitled determined. The plaintiff may
6 bring the action within 6 years after the date when
7 possession of the property was taken under this
8 section, except that, if the owner of the property is
9 in the military service of the United States at any
10 time during which he should otherwise have brought
11 his action, he may bring the action within 6 years
12 after his discharge from that military service. The
13 plaintiff and the State shall severally have the
14 right to have the damages assessed by a jury.

15 5. Continuation of right of action. In the
16 event the owner of property seized under this section
17 dies, preventing him from bringing or continuing the
18 action provided in subsection 4, his executor or
19 administrator may bring or continue the action.

20 §822. Immunity

21 Neither the State nor any of its agencies or
22 political subdivisions, including a voluntary and
23 uncompensated grantor of a permit for the use of his
24 premises as a civil emergency preparedness shelter,
25 may, while engaged in any civil emergency
26 preparedness activities and while complying with or
27 attempting to comply with this chapter or any rule
28 promulgated pursuant to this chapter, be liable for
29 the death of or injury to any person, or damage to
30 property, as a result of those activities. This
31 section shall not affect the right of any person to
32 receive benefits to which he would otherwise be enti-
33 tled under this chapter, under the Workers' Compensa-
34 tion Act, under any pension law or under any act of
35 Congress.

36 §823. Compensation for injuries received in line of
37 duty

38 All members of the civil emergency preparedness
39 forces shall be deemed to be employees of the State
40 while on, or training for, civil emergency
41 preparedness duty. They shall have all the rights
42 given to state employees under the Workers' Compensa-

1 tion Act. All claims shall be filed, prosecuted and
2 determined in accordance with the procedure set forth
3 in the Workers' Compensation Act.

4 1. Average weekly wage. In computing the average
5 weekly wage of any claimant under this section,
6 the average weekly wage shall be taken to be the
7 earning capacity of the injured person in the occupa-
8 tion in which he is regularly engaged.

9 2. Setoff. Any sums payable under any act of
10 Congress or other federal program as compensation for
11 death, disability or injury of civil emergency
12 preparedness workers shall be considered with the
13 determination and settlement of any claim brought
14 under this section. When payments received from the
15 Federal Government are less than an injured member
16 would have been entitled to receive under this
17 section, he shall be entitled to receive all the ben-
18 efits to which he would have been entitled under this
19 section, less the benefits actually received from the
20 Federal Government.

21 §824. Appropriations

22 1. General Fund. The Governor may whenever an
23 emergency has been declared, as provided in section
24 742, transfer to the bureau money from the General
25 Fund of the State, including unexpended appropriation
26 balances of any state department or agency, allotted
27 or otherwise. The Governor may expend that money for
28 the purpose of carrying out this chapter.

29 2. For local civil emergency preparedness
30 expenses. Each political subdivision may make appro-
31 priations for the payment of expenses of its local
32 organization for civil emergency preparedness in the
33 same manner as for its other ordinary expenses. In
34 making those appropriations, the political subdivi-
35 sion shall specify the amounts and purposes for which
36 the money appropriated may be used by the local orga-
37 nizations.

38 §825. Acceptance of aid

39 Whenever the Federal Government or any of its
40 agencies or officers or any person, firm or corpora-

1 tion offers to the State or to any of its political
2 subdivisions services, equipment, supplies, materials
3 or funds by way of gift, grant or loan, for purposes
4 of civil emergency preparedness, the State, acting
5 through the Governor, or the political subdivision,
6 acting through its executive officer or governing
7 body, may accept that offer. Upon acceptance, the
8 Governor of the State or the executive officer or
9 governing body of the political subdivision may
10 authorize any officer of the State or of the polit-
11 ical subdivision, as the case may be, to receive
12 those services, equipment, supplies, materials or
13 funds on behalf of the State or the political sub-
14 division subject to the terms of the offer and the
15 rules and regulations, if any, of the agency making
16 the offer.

17 §826. Transfer of equipment

18 Subject to the approval of the Governor, the
19 director may convey equipment, supplies, materials or
20 funds by sale, lease or grant to any political sub-
21 division of the State for civil emergency
22 preparedness purposes. The conveyance shall be sub-
23 ject to the terms of the offer and any rules or regu-
24 lations of the State. Those rules and regulations
25 are not rules within the meaning of the Maine Admin-
26 istrative Procedure Act, Title 5, section 8002, sub-
27 section 9.

28 §827. Aid in emergency; penalty

29 Upon the issuance of a proclamation as provided
30 in section 742, the Governor may utilize any avail-
31 able property and enlist the aid of any person to
32 assist in the effort to control, put out or end the
33 disaster, catastrophe or emergency or aid in the
34 caring for the safety of persons. Any person who
35 refuses to render the aid requested without reason-
36 able cause is guilty of a Class E crime. The State
37 is liable for damage to any property utilized under
38 this chapter.

39 §828. Right-of-way; violation

40 Personnel and equipment required to respond to
41 emergency calls under this chapter shall have the

1 right-of-way over all public ways and roads and the
2 Governor is granted the right to close or restrict
3 traffic on all roads in any area. Whoever fails to
4 give the right-of-way to personnel, vehicles and
5 equipment required to respond to emergency calls
6 under this chapter, or whoever enters upon roads
7 which have been closed to traffic under this chapter,
8 is guilty of a Class E crime.

9 §829. Enforcement

10 It shall be the duty of every agency for civil
11 emergency preparedness established pursuant to this
12 chapter and of the officers to execute and enforce
13 orders and rules adopted by the Governor under
14 authority of this chapter. Each civil emergency
15 preparedness agency shall have available for inspec-
16 tion at its office all orders and rules made by the
17 Governor or issued under his authority.

18 §830. Violations

19 Every officer of a political subdivision of the
20 State with administrative responsibilities under this
21 chapter who intentionally violates any of the provi-
22 sions of this chapter commits a civil violation for
23 which a forfeiture of \$20 may be adjudged.

24 §831. Utilization of existing services and facili-
25 ties

26 In carrying out this chapter, the Governor and
27 the executive officers or governing bodies of the
28 political subdivisions of the State shall utilize the
29 services and facilities of existing departments,
30 offices and agencies of the State and all the polit-
31 ical subdivisions thereof to the maximum extent
32 practicable. The officers and personnel of all
33 departments, offices and agencies shall cooperate
34 with and extend their services and facilities to the
35 Governor and to the civil emergency preparedness
36 organizations of the State upon request.

37 §832. Political activity prohibited

38 No civil emergency preparedness organization
39 established under the authority of this chapter may

1 participate in any form of political activity, nor
2 may it be employed directly or indirectly for polit-
3 ical purpose.

4 §833. Civil emergency preparedness personnel

5 No person may be employed or associated in any
6 capacity in any civil emergency preparedness orga-
7 nization established under this chapter who advocates
8 or has advocated a change in the constitutional form
9 of the Federal Government or of this State or the
10 overthrow of the Federal Government by force or vio-
11 lence, or who has been convicted of or is under
12 indictment or information charging any subversive act
13 against the United States. Each person who is
14 appointed to serve in an organization for civil emer-
15 gency preparedness shall, before entering upon his
16 duties, take an oath, in writing, before a person
17 authorized to administer oaths in this State, which
18 oath shall be substantially as follows.

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

28 §834. Inconsistent laws suspended

29 Except as otherwise provided, all existing laws,
30 rules and regulations inconsistent with this chapter
31 or of any order or rule issued under the authority of
32 this chapter shall be suspended during the period of
33 time and to the extent that the inconsistency exists.

34 CHAPTER 15

35 INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

36 §901. Purpose--Article I

37 The purpose of this compact is to provide mutual
38 aid among the states in meeting any emergency or

1 disaster arising from natural or man-made causes,
2 including enemy invasion, sabotage, subversive acts
3 and direct attack by bombs, shellfire and atomic,
4 radiological, chemical or bacteriological means and
5 other weapons. The prompt, full and effective util-
6 ization of the resources of this and other states,
7 including such resources as may be available from the
8 United States Government or any other source, are
9 essential to the safety, care and welfare of the
10 people in the event of enemy action or other emer-
11 gency or disaster. These and other resources,
12 including personnel, equipment or supplies, shall be
13 incorporated into a plan or plans of mutual aid to be
14 developed among the agencies responsible for civil
15 emergency preparedness in the states that are parties
16 to this compact. The directors of civil emergency
17 preparedness agencies of all party states shall con-
18 stitute a committee to formulate plans and take all
19 necessary steps for the implementation of this com-
20 compact.

21 §902. Standards; rules--Article II

22 It shall be the duty of each party state to
23 formulate civil emergency preparedness plans and pro-
24 grams for application within that state. There shall
25 be frequent consultation between the representatives
26 of the states and with officials of the United States
27 Government. The free exchange of information and
28 plans, including inventories of any materials and
29 equipment available for civil emergency preparedness
30 shall be pursued. In carrying out civil emergency
31 preparedness plans and programs, the party states
32 shall so far as possible provide and follow uniform
33 standards, practices and rules, including:

34 1. Insignia. Insignia, armbands and any other
35 distinctive articles to designate and distinguish the
36 different civil emergency preparedness services;

37 2. Blackouts. Blackouts and practice blackouts,
38 air raid drills, mobilization of civil emergency
39 preparedness forces and other tests and exercises;

40 3. Warnings. Warnings and signals for drills or
41 attacks and the mechanical devices to be used in con-
42 nection therewith;

1 4. Screening of lights. The effective screening
2 or extinguishing of all lights and lighting devices
3 and appliances;

4 5. Suspension of utilities. Shutting off water
5 mains, gas mains, electric power connections and the
6 suspension of all other utility services;

7 6. Materials and equipment. All materials or
8 equipment used or to be used for civil emergency
9 preparedness purposes in order to assure that the
10 materials and equipment will be easily and freely
11 interchangeable when used in or by another party
12 state;

13 7. Traffic. The conduct of civilians and the
14 movement and cessation of movement of pedestrian and
15 vehicular traffic prior, during and subsequent to
16 drills or attacks;

17 8. Public meetings. The safety of public meet-
18 ings or gatherings; and

19 9. Support units. Mobile support units.

20 §903. Request for mutual aid--Article III

21 Any party state requested to render mutual aid
22 shall take the action which is necessary to provide
23 the resources covered by this compact in accordance
24 with the terms prescribed in this compact. It is
25 understood that the state rendering aid may withhold
26 resources to the extent necessary to provide reason-
27 able protection for itself. Each party state shall
28 extend to the civil emergency preparedness forces of
29 any other party state, while operating within its
30 state limits under the terms and conditions of this
31 compact, the same powers, duties, rights, privileges
32 and immunities as if they were performing their
33 duties in the state in which normally employed,
34 except that the power of arrest shall not be extended
35 unless specifically authorized by the receiving
36 state. While rendering services in another state,
37 civil emergency preparedness forces will continue
38 under the command and control of their regular
39 leaders, but the organizational units will come under
40 the operational control of the civil emergency

1 preparedness authorities of the state receiving
2 assistance.

3 §904. Special skills--Article IV

4 Whenever any person holds a license, certificate
5 or other permit issued by any state evidencing the
6 meeting of qualifications for professional, mechanical
7 or other skills, that person may render aid
8 utilizing that skill in any party state to meet an
9 emergency or disaster. The party state in which the
10 service is rendered shall give recognition to the li-
11 cence, certificate or other permit as if issued in
12 the state in which aid is rendered.

13 §905. Liability--Article V

14 No party state or its officers or employees
15 rendering aid in another state pursuant to this com-
16 compact shall be liable on account of any act or omis-
17 sion performed in good faith while so engaged. Nor
18 shall a party state or its officers or employees be
19 liable on account of the maintenance or use of any
20 equipment or supplies in connection with rendering
21 aid in another party state.

22 §906. Supplementary agreements--Article VI

23 Inasmuch as it is probable that the pattern and
24 detail of the machinery for mutual aid among 2 or
25 more states may differ from that appropriate among
26 other states party to the compact, this instrument
27 contains elements of a broad base common to all
28 states, and nothing herein contained shall preclude
29 any state from entering into supplementary agreements
30 with other states. The supplementary agreements may
31 include, but shall not be limited to, provisions for
32 evacuation and reception of injured and other per-
33 sons, and the exchange of medical, fire, police,
34 public utility, reconnaissance, welfare, transporta-
35 tion and communications personnel, equipment and sup-
36 plies.

37 §907. Compensation and death benefits--Article VII

38 Each party state shall provide for the payment of
39 compensation and death benefits to injured members of

1 the civil emergency preparedness forces of that state
2 and the representatives of deceased members of those
3 forces in case those members sustain injuries or are
4 killed while rendering aid pursuant to this compact
5 in the same manner and on the same terms as if the
6 injury or death were sustained within that state.

7 §908. Reimbursement--Article VIII

8 Any party state rendering aid in another state
9 pursuant to this compact shall be reimbursed by the
10 party state receiving that aid for any loss or damage
11 to, or expense incurred in the operation of, any
12 equipment used to answer a request for aid and for
13 the cost incurred in connection with those requests.
14 Any aiding party state may assume in whole or in part
15 the loss, damage, expense or other cost, or may loan
16 equipment or donate the services to the receiving
17 party state without charge or cost. Any 2 or more
18 party states may enter into supplementary agreements
19 establishing a different allocation of cost between
20 those states. The United States Government may
21 relieve the party state receiving aid from any lia-
22 bility and reimburse the party state supplying civil
23 emergency preparedness forces for the compensation
24 paid to and the transportation, subsistence and
25 maintenance expenses of those forces while rendering
26 aid or assistance outside the state and may pay fair
27 and reasonable compensation for the use of the sup-
28 plies, materials, equipment or facilities utilized or
29 consumed.

30 §909. Evacuation--Article IX

31 Plans for the orderly evacuation and reception of
32 the civilian population as the result of an emergency
33 or disaster shall be worked out from time to time
34 between representatives of the party states and the
35 various local civil emergency preparedness areas
36 within them. Those plans shall include the manner of
37 transporting such evacuees, the number of evacuees to
38 be received in different areas, the manner in which
39 food, clothing, housing and medical care will be pro-
40 vided, the registration of the evacuees, the provid-
41 ing of facilities for the notification of relatives
42 or friends and the forwarding of the evacuees to
43 other areas or the bringing in of additional mate-

1 rials or supplies. The plans shall provide that the
2 party state receiving evacuees shall be reimbursed
3 generally for the out-of-pocket expenses incurred in
4 receiving and caring for those evacuees, for expendi-
5 tures for transportation, food, clothing, medicines
6 and medical care and like items. Those expenditures
7 shall be reimbursed by the party state of which the
8 evacuees are residents or by the United States Gov-
9 ernment under plans approved by it. After the termi-
10 nation of the emergency or disaster, the party state
11 of which the evacuees are resident shall assume the
12 responsibility for the support or repatriation of the
13 evacuees.

14 §910. Availability of compact--Article X

15 This compact may be entered into by any state,
16 territory or possession of the United States, the
17 District of Columbia and any neighboring foreign
18 country or province or state thereof.

19 §911. Participation of federal agency--Article XI

20 The committee established pursuant to Article I
21 of this compact may request the civil emergency
22 preparedness agency of the United States Government
23 to act as an informational and coordinating body
24 under this compact, and representatives of the United
25 States Government agency may attend meetings of that
26 committee.

27 §912. Entry into force--Article XII

28 This compact shall become operative immediately
29 upon its ratification by any state as between it and
30 any other state or states which have ratified and
31 shall be subject to approval by Congress unless prior
32 congressional approval has been given. Duly authen-
33 ticated copies of this compact and of any supplemen-
34 tary agreements entered into shall, at the time of
35 their approval, be deposited with each of the party
36 states and with the civil emergency preparedness
37 agency and other appropriate agencies of the United
38 States Government.

39 §913. Withdrawal--Article XIII

1 This compact shall continue in force and remain
2 binding on each party state until the legislature or
3 the governor of such party state takes action to
4 withdraw from it. That action shall not be effective
5 until 30 days after notice has been sent by the gov-
6 ernor of the party state desiring to withdraw to the
7 governors of all other party states.

8 §914. Construction and separability of provisions--
9 Article XIV

10 This compact shall be construed to effectuate the
11 purposes stated in Article I. If any provision of
12 this compact is declared unconstitutional, or its
13 applicability to any person or circumstance is held
14 invalid, the constitutionality of the remainder of
15 this compact and the applicability of it to other
16 persons and circumstances shall not be affected.

17 §915. Approval of compact

18 The Governor may approve the Interstate Civil
19 Defense and Disaster Compact and after approving it
20 shall cause it to be filed with the Secretary of
21 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,
25 81st Congress, or with other states, governments or
26 their political subdivisions as may be necessary or
27 desirable under statutes of this State.

28 CHAPTER 17

29 NUCLEAR EMERGENCY PLANNING

30 §951. Short title

31 This chapter may be cited as the "Maine Nuclear
32 Emergency Planning Act."

33 §952. Findings and purpose

34 The Legislature finds that there is the possibil-
35 ity of an accident at any nuclear power plant and
36 that a major accident could create significant haz-
37 ards to human health and the environment, which are

1 unique to this method of electric power generation.

2 The Legislature further finds that proper emer-
3 gency planning could mitigate the consequences of a
4 major accident at a nuclear power plant, and that it
5 is prudent to conduct such planning.

6 The Legislature notes that it is the responsibil-
7 ity of state and local authorities to carry out emer-
8 gency planning, but that there are expenses involved.

9 The Legislature further finds that it is equi-
10 table for the cost of emergency planning to be
11 included as part of the cost of nuclear generation of
12 electricity.

13 The Legislature intends by the enactment of this
14 chapter to require that the operators of any nuclear
15 power plants in the State pay the costs of planning
16 and making necessary preparation for an emergency at
17 a nuclear power plant or related fuel-cycle activity.

18 §953. Definitions

19 As used in this chapter, unless the context indi-
20 cates otherwise, the following terms have the follow-
21 ing meanings.

22 1. Committee. "Committee" means the
23 Radiological Emergency Preparedness Committee.

24 2. Fund. "Fund" means the Maine Nuclear Emer-
25 gency Planning Fund.

26 3. License holder. "License holder" means the
27 person who holds the federal license for operation of
28 the nuclear power reactor from the United States
29 Nuclear Regulatory Commission or its successor.

30 §954. Radiological Emergency Preparedness Committee

31 1. Created. There is created a Radiological
32 Emergency Preparedness Committee composed of the fol-
33 lowing people or their designees:

34 A. The Director of Civil Emergency Preparedness,
35 ex officio, who shall act as chairman;

1 B. The Commissioner of Public Safety, ex
2 officio;

3 C. The Director of Health Engineering, ex
4 officio; and

5 D. Each license holder as a nonvoting member.

6 2. Annual review of plan. The committee shall
7 prepare an emergency radiological response plan. The
8 purpose of the plan shall be to protect the public
9 and property in the State from dangers posed by
10 radiation, radioactive materials, nuclear materials
11 or the occurrence of a radiological incident as a
12 result of the presence of, release of or emissions
13 from radioactive or nuclear materials in this State.
14 The committee shall establish and annually determine
15 the adequacy of the plan. The plan shall include,
16 but not be limited to, evacuation plans and the re-
17 quirements for programs established by the Federal
18 Emergency Management Agency and the United States
19 Nuclear Regulatory Commission. Any agency of State
20 Government, county or local government may make
21 requests and recommendations under this program to
22 meet differing needs. This plan shall only apply to
23 those hazards or dangers which arise from the peace-
24 ful use of nuclear materials. The committee may re-
25 quire municipalities and state agencies to assist in
26 the preparation of the plan.

27 3. Budget. The committee shall make a determi-
28 nation of the cost of implementing the plan for the
29 ensuing year. Those costs shall include funding for:

30 A. Equipment;

31 B. Supplies;

32 C. Personnel costs; and

33 D. Services, including contractual services.

34 §955. Maine Nuclear Emergency Planning Fund

35 The Maine Nuclear Emergency Planning Fund is
36 established to be used by the committee as a nonlap-
37 sing revolving fund for carrying out the purposes of

1 this chapter. The fund shall be limited to \$250,000.
2 All fees collected under this chapter shall be cred-
3 ited to this fund. Moneys in the fund not needed to
4 meet the current obligations of the committee in the
5 exercise of its responsibilities under this chapter
6 shall be deposited with the Treasurer of State to the
7 credit of the fund, and may be invested as provided
8 for by statute. Interest received on the investment
9 shall be credited to the fund.

10 §956. Funding

11 1. Fee. The license holder for any nuclear
12 power reactor operating in this State shall be
13 assessed a fee of \$75,000 for the 1982 fiscal year
14 and \$50,000 for each year thereafter. License fees
15 shall be paid to the committee and, upon receipt by
16 it, credited to the fund. The committee may waive
17 all or part of this fee if a reactor is shut down for
18 extended periods of time.

19 2. Suspension. Whenever the balance in the fund
20 has reached the limit provided under this chapter,
21 license fees shall be temporarily suspended. There-
22 after, the license holder shall be assessed an annual
23 fee, at the end of each fiscal year, sufficient to
24 reimburse the fund for any expenditures made during
25 the year.

26 §957. Disbursements from fund

27 Moneys in the fund shall be disbursed only for
28 the preparation and implementation of emergency plan-
29 ning related to nuclear power plants and their
30 fuel-cycle activities. Expenditures shall be limited
31 to support of state agency activities, grants to
32 counties, municipalities, interjurisdictional or
33 regional civil emergency preparedness agencies and
34 contractual services necessary to carry out the pur-
35 poses of this chapter. Except as provided in section
36 959, disbursements from the fund may not exceed
37 \$50,000 each year.

38 §958. Budget approval

39 The committee shall report to each Legislature
40 its budget recommendations for disbursements from the

1 fund, together with an allocation bill, as provided
2 in Title 5, section 1664. The report shall be
3 reviewed by the legislative committee having jurisdic-
4 tion over energy and natural resources prior to
5 action by the legislative committee having jurisdic-
6 tion over appropriations and financial affairs. Upon
7 approval of the allocation Act, the State Controller
8 shall authorize expenditures from the fund, as
9 approved by the committee.

10 §959. Emergency assistance

11 In the event of an actual emergency at a nuclear
12 power plant or related fuel-cycle activity, as
13 declared by the Governor in accordance with section
14 742, any moneys in the fund at that time may be used
15 to assist the state, counties or municipalities or
16 any interjurisdictional or regional civil emergency
17 preparedness agency in meeting the emergency, subject
18 to approval by the committee.

19 CHAPTER 19

20 SABOTAGE PREVENTION

21 §1001. Short title

22 This chapter may be cited as the "Sabotage Pre-
23 vention Act."

24 §1002. Relation to other statutes

25 All Acts and parts of Acts inconsistent with this
26 chapter are suspended in their application to any
27 proceedings under this chapter. If conduct prohib-
28 ited by this chapter is made unlawful by another or
29 other laws, the offender may be convicted for the
30 violation of this chapter or of the other law or
31 laws.

32 §1003. Rights of labor unaffected

33 Nothing in this chapter may be construed to
34 impair, curtail or destroy the lawful rights of
35 employees and their representatives to self-
36 organization, to form, join or assist labor organiza-
37 tions, to bargain collectively through representa-

1 tives of their own choosing, to strike, to picket and
2 to engage in concerted activities for the purpose of
3 collective bargaining or other mutual aid or protec-
4 tion.

5 §1004. Definitions

6 As used in this chapter, unless the context indi-
7 cates otherwise, the following terms have the follow-
8 ing meanings.

9 1. Highway. "Highway" includes any private or
10 public street, way or other place used for travel to
11 or from property.

12 2. Highway commissioners. "Highway commission-
13 ers" means an individual, board or other body having
14 authority under law to discontinue the use of the
15 highway which it is desired to restrict or close to
16 public use and travel.

17 3. Public utility. "Public utility" includes
18 any pipe line, gas, electric, heat, water, oil,
19 sewer, telephone, telegraph, radio, railway, rail-
20 road, airplane, transportation, communication or
21 other system operated for public use regardless of
22 ownership.

23 §1005. Intentional injury or interference with prop-
24 erty

25 Whoever intentionally destroys, impairs, injures,
26 interferes or tampers with real or personal property
27 with reasonable grounds to believe that their act
28 will hinder, delay or interfere with the preparation
29 of the United States or of any of the states for
30 defense or for war, or with the prosecution of war by
31 the United States, or with preparations and plans for
32 civil emergency preparedness, or with the execution
33 thereof under chapter 13 is guilty of a Class B
34 crime. If that person acts with the intent to
35 hinder, delay or interfere with the preparation of
36 the United States or of any of the states for defense
37 or for war, or with the prosecution of war by the
38 United States, or with preparations and plans for
39 civil emergency preparedness, or with the execution
40 thereof under chapter 13, the minimum sentence shall
41 be imprisonment for not less than one year.

1 §1006. Intentional defective workmanship

2 Whoever intentionally makes or causes to be made
3 or omits to note on inspection any defect in any
4 article or thing with reasonable grounds to believe
5 that the article or thing is intended to be used in
6 connection with the preparation of the United States
7 or any of the states for defense or for war, or for
8 the prosecution of war by the United States, or with
9 preparations and plans for civil emergency
10 preparedness, or with the execution of those prepara-
11 tions and plans under chapter 13, or that the article
12 or thing is one of a number of similar articles or
13 things, some of which are intended so to be used, is
14 guilty of a Class B crime. If that person acts or
15 fails to act with the intent to hinder, delay or
16 interfere with the preparation of the United States
17 or of any of the states for defense or for war, or
18 with the prosecution of war by the United States, or
19 with preparations and plans for civil emergency
20 preparedness, or with the execution of those prepara-
21 tions or plans under chapter 13, the minimum sentence
22 shall be imprisonment for not less than one year.

23 §1007. Conspirators

24 If 2 or more persons conspire to commit any crime
25 defined by this chapter, each of those persons is
26 guilty of conspiracy which shall be a crime of the
27 same class as the crime which those persons
28 conspired to commit, whether or not any act was done
29 in furtherance of the conspiracy. It shall not con-
30 stitute defense or ground of suspension of judgement,
31 sentence or punishment on behalf of a person prose-
32 cuted under this section that any of his fellow
33 conspirators has been acquitted, has not been
34 arrested or convicted, is not amenable to justice or
35 has been pardoned or otherwise discharged before or
36 after conviction.

37 §1008. Witnesses' privileges

38 No person may excused from attending and testi-
39 fying, or producing any books, papers or other docu-
40 ments before any court, magistrate, referee or grand
41 jury upon any investigation, proceeding or trial,
42 relating to a violation of this chapter or attempt to

1 commit the violation, upon the grounds that the
2 testimony or evidence required of him by the State
3 may tend to convict him of a crime or to subject him
4 to a penalty or forfeiture. No person may be prose-
5 cuted or subjected to any penalty or forfeiture for
6 or on account of any transaction, matter or thing
7 concerning which he may so testify or produce evi-
8 dence and no testimony so given or produced, may be
9 received against him, during any criminal investiga-
10 tion, proceeding or trial, except upon a prosecution
11 for perjury or contempt of court based upon the
12 giving or producing of that testimony.

13 §1009. Unlawful entry on property

14 Any individual, partnership, association, corpo-
15 ration, municipal corporation or state or any of its
16 political subdivisions engaged in, or preparing to
17 engage in, the manufacture, transportation or storage
18 of any product to be used in the preparation of the
19 United States or of any of the states for defense or
20 for war, or in the prosecution of war by the United
21 States, or with preparations and plans for civil
22 emergency preparedness, or with the execution of
23 these preparations and plans under chapter 13, or the
24 manufacture, transportation, distribution or storage
25 of gas, oil, coal, electricity or water, or any indi-
26 vidual, partnership, association, corporation, munic-
27 ipal corporation or state or any of its political
28 subdivisions operating a public utility, whose prop-
29 erty, except where it fronts on water or where there
30 are entrances for railway cars, vehicles, persons or
31 things, is surrounded by a fence or wall, or a fence
32 or wall and buildings, may post around that property
33 at each gate, entrance, dock or railway entrance and
34 every 100 feet of water front a sign reading "No
35 Entry Without Permission." Any person who intention-
36 ally enters upon premises posted in that manner with-
37 out the permission of the owner is guilty of a Class
38 E crime.

39 §1010. Questioning and detaining suspected persons

40 Any peace officer or any person employed as
41 watchman, guard or in a supervisory capacity on prem-
42 ises posted, as provided in section 1009, may stop
43 any person found on any premises to which entry with-

1 out permission is forbidden by section 1009 and may
2 detain him for the purpose of questioning and may
3 question him with respect to his name, address and
4 business in that place. If the peace officer or
5 employee has reason to believe from the answers of
6 the person so interrogated that the person has no
7 right to be in that place, the peace officer shall
8 forthwith either release that person or arrest the
9 person without a warrant on the charge of violating
10 section 1009. The employee shall forthwith release
11 the person or turn him over to a peace officer, who
12 may arrest him without a warrant on the charge of
13 violating section 1009.

14 §1011. Closing and restricting use of highway; pen-
15 alty

16 Any individual, partnership, association, corpo-
17 ration, municipal corporation or state or any of its
18 political subdivisions engaged in or preparing to
19 engage in the manufacture, transportation or storage
20 of any product to be used in the preparation of the
21 United States or any of the states for defense or for
22 war, or in the prosecution of war by the United
23 States, or with preparations and plans for civil
24 emergency preparedness, or with the execution of
25 those preparations and plans under chapter 13, or in
26 the manufacturer, transportation, distribution or
27 storage of gas, oil, coal, electricity or water, or
28 any individual, partnership, association, corpora-
29 tion, municipal corporation or state or any of its
30 political subdivisions operating a public utility,
31 who has property so used which he or it believes will
32 be endangered if public use and travel is not re-
33 stricted or prohibited on one or more highways or
34 parts thereof upon which the property abuts, may
35 petition the highway commissioners of any city, town
36 or county to close one or more of those highways or
37 parts thereof to public use and travel or to restrict
38 by order the use and travel upon one or more of the
39 highways or parts thereof.

40 Upon receipt of the petition, the highway commis-
41 sioners shall set a day for a hearing and publish
42 notice of the hearing in a newspaper having general
43 circulation in the city, town or county in which the
44 property is located. The notice shall be published

1 at least 7 days prior to the date set for the hear-
2 ing. If, after the hearing, the highway commission-
3 ers determine that the public safety and the safety
4 of the property of the petitioner require, they
5 shall, by suitable order, close to public use and
6 travel, or reasonably restrict the use of and travel
7 upon one or more of those highways or parts thereof.
8 The highway commissioners may issue written permits
9 for travel over the closed or restricted highways to
10 responsible and reputable persons for such term,
11 under such conditions and in such form as they may
12 prescribe. Appropriate notices in letters at least 3
13 inches high shall be posted conspicuously at each end
14 of any highway closed or restricted by the order.
15 The highway commissioners may at any time revoke or
16 modify the order.

17 Whoever violates any order made under this
18 section is guilty of a Class E crime.

19 CHAPTER 21

20 DAMS AND RESERVOIRS

21 §1051. Legislative policy

22 It is the intent of the Legislature to provide
23 for emergency plans and actions for the safe opera-
24 tion of dams and reservoirs in the State in order to
25 protect life and property.

26 No person, except the Federal Government, may
27 exercise any authority over the emergency regulation
28 or supervision of any dams or reservoirs in the
29 State, where that exercise would conflict with the
30 powers and authority vested in the Bureau of Civil
31 Emergency Preparedness.

32 §1052. Definitions

33 As used in this chapter, unless the context indi-
34 cates otherwise, the following terms have the follow-
35 ing meanings.

36 1. Bureau. "Bureau" means the Bureau of Civil
37 Emergency Preparedness.

1 2. Dam. "Dam" means any artificial barrier,
2 including appurtenant works, which impounds or
3 diverts water, and which is 2 feet or more in height
4 from the natural bed of the stream or watercourse
5 measured at the downstream toe of the barrier or from
6 the lowest elevation of the outside limit of the bar-
7 rier, if it is not a stream channel or watercourse,
8 to the maximum capable water storage elevation, or
9 has an impounding capacity at maximum water storage
10 elevation of 15-acre feet or more.

11 3. Emergency or emergency situation. "Emer-
12 gency" or "emergency situation" means situations
13 deemed by the bureau, after consultation with other
14 state and federal agencies, if time permits, to
15 present a potential but real and imminent danger to
16 life, limb or property because of flooding or poten-
17 tial and imminent flooding and includes those situa-
18 tions which the Governor declares to be emergency
19 pursuant to section 742.

20 4. Person. "Person" means any individual, firm,
21 association, partnership, corporation, trust, municipi-
22 ality, quasi-municipal corporation, state agency,
23 federal agency or other legal entity.

24 5. Reservoir. "Reservoir" means the body of
25 water immediately upstream of a dam, which is reason-
26 ably still or slow-moving due to the stream barrier
27 presented by the dam.

28 §1053. Administration

29 This chapter shall be administered by the bureau.
30 In carrying out the provisions of this chapter, the
31 bureau shall consult with other state agencies,
32 including the Soil and Water Conservation Commission,
33 the State Planning Office, the Department of Environ-
34 mental Protection, Department of Conservation,
35 Department of Transportation and Department of Public
36 Safety, on matters pertaining to the technical
37 aspects of the administration of this chapter and in
38 emergency situations may require the aid and assis-
39 tance of those agencies.

40 §1054. Powers of the bureau

1 1. Rules. The bureau may, in accordance with
2 the Maine Administrative Procedure Act, Title 5,
3 chapter 375, subchapter II, adopt, modify or repeal
4 rules for carrying out this chapter.

5 2. Orders. The bureau may, in emergency situa-
6 tions, issue reasonable orders necessary for carrying
7 out this chapter or rules adopted under subsection 1.

8 3. Investigations. For the purpose of enabling
9 it to make decisions as compatible as possible, with
10 economy and protection of life and property and for
11 the purpose of determining compliance with this chap-
12 ter, the bureau may make necessary investigations and
13 inspections. In making investigations and inspec-
14 tions required or authorized by this chapter, the
15 bureau or its representatives may, as necessary in
16 emergency situations, enter upon public or private
17 property or in nonemergency situations secure admin-
18 istrative warrants from any District Court Judge or
19 Superior Court Justice for the purpose of gaining
20 entry onto private property.

21 4. Injunction; civil or criminal proceedings.
22 In the event of violation of any of the provisions of
23 this chapter or of any rule, order or decision of the
24 bureau, the bureau may institute injunctive proceed-
25 ings or other civil action as provided in section
26 1059.

27 5. Remedial means. When an emergency situation
28 arises, the bureau shall warn the public of the emer-
29 gency and shall employ all reasonable remedial means
30 necessary to protect life and property. Remedial
31 means which the bureau may employ include, but are
32 not limited to, the following:

33 A. Taking full charge and control of any dam or
34 reservoir;

35 B. Lowering the water level by releasing water
36 from the reservoir;

37 C. Completely emptying the reservoir;

38 D. Breaching or removing of the dam itself; and

1 E. Taking other necessary steps to safeguard
2 life and property.

3 6. Contingency plans. The bureau shall develop
4 contingency plans for the safe passage of floodwaters
5 and for preparations prior to flood conditions.

6 §1055. Exemptions

7 Dams and projects licensed by or subject to the
8 jurisdiction of the Federal Power Commission and
9 dams and projects of public utilities that have been
10 certified to be in a safe condition by the Public
11 Utilities Commission, after inspection at least once
12 in every 5 years, are exempt from this chapter.

13 §1056. Rights of owner

14 Nothing in this chapter may be construed to
15 deprive any owner of recourse to the court in which
16 he may be entitled to relief under the laws of this
17 State.

18 §1057. Damages

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

26 A. The issuance or enforcement of orders for the
27 maintenance or operation of the dam or reservoir;

28 B. Control and regulation of the dam or reser-
29 voir; and

30 C. Measures taken to protect against failure
31 during an emergency.

32 §1058. Relief of obligation

33 Nothing in this chapter may be construed as
34 relieving any person from duties, responsibilities
35 and liabilities imposed by any other law, regulation,
36 municipal ordinance or rule of law.

1 §1059. Violations

2 In addition to any other forfeitures or penalties
3 provided by law, a person who violates any provisions
4 of this chapter or any rule or order promulgated or
5 issued hereunder shall be subject to a civil penalty
6 of not less than \$100 nor more than \$5,000 for each
7 day that the violation continues. The penalty shall
8 be payable to the State to be recovered in a civil
9 action.

10 CHAPTER 23

11 REMOVAL OF ICE JAMS

12 §1101. Definitions

13 As used in this chapter, unless the context indi-
14 icates otherwise, the following terms have the follow-
15 ing meanings.

16 1. Director. "Director" means the Director of
17 Civil Emergency Preparedness.

18 2. Ice jams. "Ice jams" means the accumulation
19 of ice or other debris in the bed of any river or
20 stream above the head of tide.

21 3. Local organization for civil emergency
22 preparedness. "Local organization for civil emer-
23 gency preparedness" means an organization created in
24 accordance with chapter 13 by state, county or local
25 authority to perform local civil emergency
26 preparedness functions.

27 §1102. Duties of the director

28 The director shall establish procedures for pro-
29 tecting the public safety and public and private
30 property from ice jams or other flooding. These
31 procedures shall contain as a minimum the following:

32 1. Contingency plans. State and local contin-
33 gency plans for dealing with emergencies caused by
34 ice jams and other flooding;

1 2. Reviewing agencies. Designation of those
2 state agencies that shall review requests to remove
3 ice jams and procedures to expedite this review; and

4 3. Rules. Rules, promulgated in accordance with
5 the Maine Administrative Procedure Act, Title 5,
6 chapter 375, subchapter II, to carry out the purposes
7 of this chapter.

8 §1103. Duties of local organization for civil emer-
9 gency preparedness

10 1. Monitoring. The local organization for civil
11 emergency preparedness shall monitor water levels,
12 accumulation of ice and debris and other conditions
13 related to flooding in rivers and streams in the area
14 of its jurisdiction.

15 2. Permission to remove ice jams. If he deems
16 it necessary, the director of a local organization
17 for civil emergency preparedness shall request
18 permission from the director to remove ice jams and
19 other similar hazards. This request shall be submit-
20 ted in writing, or, if necessary, orally with written
21 confirmation sent within 24 hours.

22 3. Emergency. If the accumulation of ice or
23 other debris creates an imminent hazard to public
24 safety, the municipal officers, in consultation with
25 the director of the local organization for civil
26 emergency preparedness, may order the immediate
27 removal of these obstructions.

28 §1104. Procedure

29 1. Requests. The director shall accept requests
30 from local organizations for civil emergency
31 preparedness to remove ice jams and other accumula-
32 tion of debris.

33 2. Review of requests. The director shall des-
34 ignate those agencies that shall review requests for
35 removing ice jams. Each agency designated shall
36 identify the person in the agency responsible for
37 this review, and shall prepare procedures for con-
38 ducting the review in a timely manner.

1 3. Notice. Prior to removing any ice jam, the
2 director of the local organization for civil emer-
3 gency preparedness shall notify the directors of the
4 local organizations in any area that may reasonably
5 be affected by the removal of an ice jam. Under no
6 circumstances may any ice jams be removed without
7 fulfilling this requirement.

8 4. Methods. Municipalities may employ any
9 method, including mechanical removal, dusting,
10 icebreaking vessels or explosives to remove ice jams.

11 §1105. Project Review

12 If practical, a representative from the Bureau of
13 Civil Emergency Preparedness shall be present during
14 ice jam and debris removal operations. Information
15 that may be useful in future ice jam and debris
16 removal operations shall be recorded. A follow-up
17 report on the specific measures employed and the
18 effectiveness of the removal operation in abating
19 public danger and damage by flood for each removal
20 operation shall be formulated and maintained by the
21 bureau.

22 Sec. 4. Transition. The following provisions
23 shall apply to the transition from the Revised Stat-
24 utes, Title 37-A to Title 37-B.

25 1. Personnel. When this Act goes into effect,
26 it shall have no effect on the terms of employees or
27 officers employed or appointed under the provisions
28 of Title 37-A.

29 2. Contracts, leases, agreements, authoriza-
30 tions, notes or bonds. All contracts, leases, agree-
31 ments, authorizations, notes or bonds issued under
32 the Revised Statute, Title 37-A, prior to the effec-
33 tive date of this Act shall continue to be valid
34 under the terms of issuance until they expire or are
35 rescinded, amended or revoked.

36 3. Maine Veterans' Home Bonding Authority. The
37 unallocated provisions of Title 37-A, chapter 28,
38 enacted by Public Law 1977, chapter 562, section 2,
39 as amended by Public Law 1977, c. 584, section 1,
40 entitled "Authorization of bond issue for construc-

1 tion of Maine Veterans' Home" shall continue in
2 effect.

3

STATEMENT OF FACT

4 This bill is a recodification of the state mili-
5 tary laws, former Title 37-A. It is the result of a
6 study by the Joint Standing Committee on Aging,
7 Retirement and Veterans. The bill makes no substan-
8 tive changes in existing law.

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