

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 1389

H.P. 1037

House of Representatives, April 30, 1993

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**An Act to Restructure the Department of Defense and Veterans' Services.**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MORRISON of Bangor.  
Cosponsored by Representatives: CATHCART of Orono, JOSEPH of Waterville, SULLIVAN of Bangor, WENTWORTH of Arundel, Senator: O'DEA of Penobscot.

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

2           Sec. 1. 5 MRSA §948, sub-§1, ¶¶I and J, as amended by PL 1991,  
4 c. 837, Pt. B, §4, are amended to read:

6           I. Director, Maine Drug Enforcement Agency; and

8           J. Assistant Director, Maine Drug Enforcement Agency; and

10          Sec. 2. 5 MRSA §948, sub-§1, ¶K is enacted to read:

12          K. Director, Maine Emergency Management Agency.

14          Sec. 3. 5 MRSA §952, sub-§1, ¶A, as amended by PL 1991, c.  
16 626, §2, is further amended to read:

18          A. Director of the Military Bureau; and.

20          Sec. 4. 5 MRSA §952, sub-§1, ¶B, as amended by PL 1991, c.  
22 626, §2, is repealed.

24          Sec. 5. 25 MRSA §2901, as amended by PL 1991, c. 837, Pt. B,  
26 §6 and c. 841, §4, is repealed and the following enacted in its  
28 place:

26          §2901. Department; commissioner

28          There is created and established the Department of Public  
30 Safety to coordinate and efficiently manage the law enforcement  
32 and public safety responsibilities of the State, to consist of  
34 the Commissioner of Public Safety, in this chapter called  
36 "commissioner," who is appointed by the Governor, subject to  
38 review by the joint standing committee of the Legislature having  
40 jurisdiction over state and local government matters and to  
confirmation by the Legislature, to serve at the pleasure of the  
Governor, and the following: the Bureau of State Police, the  
Bureau of Liquor Enforcement, the Office of the State Fire  
Marshal, the Maine Criminal Justice Academy, the Maine Highway  
Safety Commission, the Bureau of Highway Safety, the Maine Drug  
Enforcement Agency and the Maine Emergency Management Agency.

42          Sec. 6. 25 MRSA §2901-A, as enacted by PL 1975, c. 579, §11,  
44 is amended to read:

46          §2901-A. Duties of commissioner

48          The commissioner shall be is the chief executive officer of  
50 the Department of Public Safety. He The commissioner shall  
coordinate and supervise the activities and programs of the  
bureaus and agency--which agencies that are part of the

2 department; undertake comprehensive planning and analysis with  
3 respect to the functions and responsibilities of the department;  
4 and develop and implement, whenever necessary, procedures and  
5 practices to promote economy and coordination within the  
6 department; and actively seek cooperation between the department,  
7 emergency personnel and all other law enforcement officers and  
8 agencies in the State. From time to time, he the commissioner  
9 shall recommend to the Governor and Legislature such changes in  
10 the laws relating to the organization, functions, services or  
11 procedures of the agency agencies and bureaus of the department  
12 as ~~he--shall--deem~~ the commissioner considers desirable. The  
13 commissioner shall prepare a budget for the department.

14 **Sec. 7. 25 MRSA §2902, sub-§6-A**, as enacted by PL 1991, c.  
15 841, §7, is amended to read:

16 **6-A. Maine Drug Enforcement Agency.** The Maine Drug  
17 Enforcement Agency, which is under the direction of the Director  
18 of the Maine Drug Enforcement Agency; and

19 **Sec. 8. 25 MRSA §2902, sub-§7**, as enacted by PL 1989, c. 648,  
20 §5, is amended to read:

21 **7. Bureau of Highway Safety.** The Bureau of Highway Safety,  
22 which ~~shall--be~~ is under the direction of the Director of the  
23 Bureau of Highway Safety. The bureau is responsible for the  
24 State's highway safety program. The bureau is authorized to  
25 develop and implement a process for obtaining information about  
26 highway safety programs administered by other state and local  
27 agencies and to provide and facilitate the provision of financial  
28 and technical assistance to other state agencies and political  
29 subdivisions for the purpose of developing and carrying out  
30 highway safety programs; and

31 **Sec. 9. 25 MRSA §2902, sub-§8** is enacted to read:

32 **8. Maine Emergency Management Agency.** The Maine Emergency  
33 Management Agency, which is under the direction of the Director  
34 of Civil Emergency Preparedness. The Maine Emergency Management  
35 Agency, as established in Title 37-B, chapter 13, is the chief  
36 agency of the State for matters dealing with emergency  
37 preparedness. The Director of Civil Emergency Preparedness  
38 reports to and is under the direction of the Commissioner of  
39 Public Safety.

40 **Sec. 10. 26 MRSA §832, sub-§4, ¶¶E and F**, as reallocated by PL  
41 1983, c. 583, §15, are amended to read:

42 E. A law enforcement agency or any member or employee of a  
43 law enforcement agency; and

2 F. The judiciary and any member or employee of the  
3 judiciary; and

4 Sec. 11. 26 MRSA §832, sub-§4, ¶G is enacted to read:

6 G. All state National Guard units.

8 Sec. 12. 37-B MRSA §1, as enacted by PL 1983, c. 460, §3, is  
10 amended to read:

12 **§1. Purpose**

14 The Department of Defense and Veterans' Services, as  
15 previously established and referred to in this Title as the  
16 "department," shall coordinate and improve the discharge of the  
17 State Government's responsibility for military affairs, and  
18 veterans' services and ~~civil-emergency-preparedness-matters.~~

20 Sec. 13. 37-B MRSA §2, sub-§1, as enacted by PL 1983, c. 460,  
21 §3, is amended to read:

22 1. **Military Bureau.** The Military Bureau; and

24 Sec. 14. 37-B MRSA §2, sub-§2, as amended by PL 1987, c. 370,  
25 §11, is repealed.

28 Sec. 15. 37-B MRSA §3, sub-§1, ¶A, as enacted by PL 1983, c.  
29 460, §3, is amended to read:

30 A. Be appointed by ~~and--serve--at--the--pleasure--of~~ the  
31 Governor subject to review by the joint standing committee  
32 of the Legislature having jurisdiction over military affairs  
33 and to confirmation by the Senate. The Adjutant General  
34 serves at the pleasure of the Governor;

36 Sec. 16. 37-B MRSA §3, sub-§2, as amended by PL 1991, c. 376,  
37 §62, is repealed.

40 Sec. 17. 37-B MRSA §4, as amended by PL 1991, c. 626, §6, is  
41 further amended to read:

42 **§4. Director of Military Bureau**

44 ~~Each bureau of the department must have a director. The~~  
45 Director of the Military Bureau ~~and the Director of the Maine~~  
46 ~~Emergency--Management--Agency~~ must each be appointed by the  
47 Adjutant General and shall serve at the pleasure of the Adjutant  
48 General. This position is not state funded but is staffed  
49 through existing positions in the National Guard. These

2 ~~directors~~ This director may not hold any other state office for  
4 compensation. If the Adjutant General is unable to act, the  
6 Director of the Military Bureau has the civilian administrative  
8 powers and duties of the Adjutant General in the Adjutant  
General's capacity as Commissioner of Defense and Veterans'  
Services. The Director of the Military Bureau may also perform  
other civilian duties of the Adjutant General as assigned by the  
Adjutant General or the Governor.

10 **Sec. 18. 37-B MRSA §104**, as enacted by PL 1983, c. 460, §3,  
is repealed.

12 **Sec. 19. 37-B MRSA §105, first ¶**, as amended by PL 1987, c.  
14 370, §12, is repealed.

16 **Sec. 20. 37-B MRSA §106**, as enacted by PL 1983, c. 460, §3,  
is amended to read:

18 **§106. Assistant adjutants general**

20  
22 The Adjutant General may, subject to the approval of the  
24 Governor, appoint an assistant adjutant general for the Maine  
Army National Guard and, an assistant adjutant general for the  
26 Maine Air National Guard and an assistant adjutant general for  
the Military Bureau, each with the qualifications set forth in  
28 section 107, who may hold the grade of brigadier general and  
shall serve at the pleasure of the Adjutant General. The  
assistant adjutant general for the Maine Army National Guard  
30 shall be is responsible for the general supervision of training  
and administration of the Maine Army National Guard and, the  
assistant adjutant general for the Maine Air National Guard shall  
32 be is responsible for the general supervision of training and  
administration of the Maine Air National Guard and the assistant  
34 adjutant general for the Military Bureau is responsible for the  
supervision and administration of the Military Bureau. The  
36 position of assistant adjutant general for the Military Bureau  
must be rotated every 3 years between an active member of the  
38 Maine Army National Guard and the Maine Air National Guard.

40 **Sec. 21. 37-B MRSA §108**, as amended by PL 1991, c. 376, §64,  
is repealed.

42 **Sec. 22. 37-B MRSA §112**, as enacted by PL 1985, c. 16, is  
44 amended to read:

46 **§112. State Area Command**

48 The Adjutant General shall organize a staff to be called a  
State Area Command, STARC. It shall command, control and  
50 supervise Army National Guard units employed in support of civil

2 authorities in the protection of life, property and preservation  
of peace, order and public safety under competent orders of state  
4 authorities. In the event of mobilization of some or all Army  
National Guard units by the President of the United States, it  
6 shall assist the State in organizing and training a militia, if  
required, perform command and control functions in support of  
8 civil authorities, as directed, and prepare to reconstitute the  
Army National Guard and Air National Guard when units are  
10 relieved from federal service. It shall must be commanded by a  
federally recognized officer who may be the Adjutant General or  
12 Deputy--Adjutant--General an assistant adjutant general. The  
Commander shall must be assisted by a Deputy State Area Command  
14 Commander, who shall must be qualified in accordance with section  
107 and not hold a grade above Brigadier General,--and--who--shall  
~~not-be-the-Deputy-Adjutant-General.~~

16 Sec. 23. 37-B MRSA §142, as enacted by PL 1983, c. 460, §3,  
18 is amended to read:

20 **§142. Military personnel; appointment of officers; enlistment of**  
22 **enlisted personnel**

24 Except as otherwise provided in this chapter, the  
qualifications for appointment of officers and enlistment of  
26 enlisted personnel and the procedures for promoting,  
transferring, discharging, equipping, uniforming and training  
28 personnel of the state military force shall must be consistent  
with federal laws and regulations prescribed for the National  
30 Guard. State military officials and personnel shall comply with  
all state laws and rules unless a specific exemption has been  
granted.

32 Sec. 24. 37-B MRSA §342, sub-§6, ¶¶C and D are enacted to read:

34 C. All state military personnel must comply with all state  
36 laws and rules regarding discrimination against members of  
the state military serving under authorities other than  
38 United States Code, Title 10, unless specifically exempted  
by law. These laws include but are not limited to Title 5,  
40 chapter 337 and Title 26, chapter 7, subchapter V-B.

42 D. Notwithstanding other remedies, members of the state  
44 military may appeal personnel decisions of the commissioner  
to the Maine Human Rights Commission for review and  
46 disposition.

48 Sec. 25. 37-B MRSA §403, sub-§1, as repealed and replaced by  
PL 1987, c. 263, §2, is amended to read:

2           **1. Active member.** All members of the state military forces  
4           who are not in federal active service under the United States  
          Code, Title 10, and have been activated under the authority of  
          section 181, are subject to the Maine Code of Military Justice.

6           A. This code applies to members of the state military  
8           forces serving out-of-state and while going to and returning  
          from service out-of-state to the same extent as a person  
          serving within the State.

10           B. Offenses committed outside the State may be tried and  
12           punished either inside or outside the State subject to  
          section 418.

14           **Sec. 26. 37-B MRSA §704**, as amended by PL 1991, c. 376, §65,  
16           is further amended to read:

18           **§704. Director; duties**

20           The Maine Emergency Management Agency, as previously  
22           established and in this chapter called the "agency," ~~shall-be~~ is  
          under the supervision of the Director of the Maine Emergency  
24           Management Agency, who in this chapter ~~shall--be~~ is called the  
          "director."

26           The director may employ technical, clerical, stenographic,  
28           administrative and operative assistants and other personnel,  
          subject to the Civil Service Law, and make expenditures, with  
30           approval of the ~~Adjutant-General~~ Commissioner of Public Safety,  
          which that are necessary to carry out the purposes of this  
          chapter.

32           The director, subject to the direction and control of the  
34           ~~Adjutant-General~~ Commissioner of Public Safety, ~~shall-be~~ is the  
          executive head of the agency and ~~shall--be~~ is responsible for  
36           carrying out the program for civil emergency preparedness. The  
          director shall coordinate the activities of all organizations for  
38           civil emergency preparedness within the State; shall maintain  
          liaison with and cooperate with civil emergency preparedness and  
40           public safety agencies and organizations of other states, the  
          Federal Government and foreign countries, and the political  
42           subdivisions thereof; prior to the annual meeting required in  
          section 782, subsection 4, shall provide to each of the local  
44           civil emergency preparedness organizations of the State an annual  
          assessment of each organization's degree of civil emergency  
46           preparedness and any other information pertinent to ensuring the  
          public's welfare and safety within the local organization's  
48           jurisdiction; and ~~shall-have~~ has additional authority, duties and  
          responsibilities as may be prescribed by the ~~Adjutant--General~~  
50           Commissioner of Public Safety.



2           The director shall ~~may~~ not require any political subdivision  
4 to participate in any program of nuclear civil protection  
planning.

6           **Sec. 27. 37-B MRSA §741, sub-§2,** as enacted by PL 1983, c.  
460, §3, is amended to read:

8  
10           **2. Cooperation.** In performing his duties required by this  
chapter, the Governor shall, directly or through the Adjutant  
12 General Commissioner of Public Safety, cooperate with all  
departments and agencies of the Federal Government, with the  
14 offices and agencies of other states and foreign countries and  
the political subdivisions thereof, and with private agencies in  
all matters pertaining to the civil emergency preparedness of the  
16 State and of the Nation.

18           **Sec. 28. 37-B MRSA §1071** is enacted to read:

20           **§1071. Procedure**

22           **1. Requests.** The director shall accept requests from local  
organizations for civil emergency preparedness to remove ice jams  
24 and other accumulation of debris.

26           **2. Review of requests.** The director shall designate those  
agencies that shall review requests for removing ice jams. Each  
28 agency designated shall identify the person in the agency  
responsible for this review, and shall prepare procedures for  
30 conducting the review in a timely manner.

32           **3. Notice.** Prior to removing any ice jam, the director of  
the local organization for civil emergency preparedness shall  
34 notify the directors of the local organizations in any area that  
may reasonably be affected by the removal of an ice jam. Under  
36 no circumstances may any ice jams be removed without fulfilling  
this requirement.

38           **4. Methods.** Municipalities may employ any method,  
40 including mechanical removal, dusting, ice-breaking vessels or  
explosives to remove ice jams.

42           **5. Agency personnel.** If practical, a representative from  
44 the Maine Emergency Management Agency must be present during ice  
jam and debris removal operations. Information that may be  
46 useful in future ice jam and debris removal operations must be  
recorded. A follow-up report on the specific measures employed  
48 and the effectiveness of the removal operation in abating public  
danger and damage by flood for each removal operation must be  
50 formulated and maintained by the agency.

