

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

Sec. 5. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 35-A, section 3211-A, the State Controller shall transfer \$1,705 from the Public Utilities Commission's conservation program fund under the Maine Revised Statutes, Title 35-A, section 3211-A, subsection 5 to the Legislature at the beginning of the 2003-04 fiscal year. These funds must be used for costs incurred to pay the per diem and expenses of legislative members participating in the review required by this Act.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Miscellaneous Studies - Energy Resources Council

Initiative: Provides funds for per diem and expenses of legislative members participating in activities of the Energy Resources Council for the energy review and report requirement. Funds from the Public Utilities Commission's conservation program fund must be transferred to the Legislature at the beginning of the fiscal year to be available for the legislative expenses.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$880	\$0
All Other	825	0
Other Special Revenue Funds Total	\$1,705	\$0

LEGISLATURE

DEPARTMENT TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$1,705	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$1,705	\$0

EXECUTIVE DEPARTMENT

State Planning Office

Initiative: Provides funds for contractual services to assist the Energy Resources Council established pursuant to the Maine Revised Statutes, Title 5, section 3327 with its comprehensive review of the State's energy policy and for other related purposes.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$197,080	\$200,000
Other Special Revenue Funds Total	\$197,080	\$200,000

EXECUTIVE DEPARTMENT

DEPARTMENT TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$197,080	\$200,000

DEPARTMENT TOTAL - ALL FUNDS	\$197,080	\$200,000
SECTION TOTALS	2003-04	2004-05
OTHER SPECIAL REVENUE FUNDS	\$198,785	\$200,000
SECTION TOTAL - ALL FUNDS	\$198,785	\$200,000

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 23, 2003.

CHAPTER 488

H.P. 1126 - L.D. 1533

An Act To Create the Maine National Guard Education Assistance Program

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the National Guard Education Assistance Pilot Program has been extremely successful in attracting recruits to the Maine National Guard, and those recruits are using the existing funding at a rate higher than anticipated rate; and

Whereas, the National Guard Education Assistance Pilot Program has inadequate funds remaining in the accounts to pay tuition benefits for the upcoming summer sessions that begin in May 2003; and

Whereas, the Maine National Guard Education Assistance Pilot Program provides funding flexibility to the Adjutant General that allows the Adjutant General to utilize existing funds to meet the tuition needs for the upcoming summer session; and

Whereas, the Maine National Guard must have a viable education assistance program to maintain an adequate military force within the State; and

Whereas, once these soldiers and airmen earn their college degrees they will further enhance the competitive labor force within the State of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 37-B MRSA §152, sub-§2, as enacted by PL 1995, c. 684, §2 and affected by §5, is amended to read:

2. Rental proceeds. ~~Rental~~ Except as provided in section 353, rental proceeds from the rental of armories under this section must be paid into the State Treasury and credited to the Armory Rental Fund to be used for operation and maintenance expenses at the various state-owned facilities of the Military Bureau. Rental proceeds credited to the Armory Rental Fund are in addition to the appropriations made for operation and maintenance expenses included for that purpose in the Military Fund.

Sec. 2. 37-B MRSA §154, as enacted by PL 1995, c. 684, §2, is amended to read:

§154. Capital Repair Account

~~The~~ Except as provided in section 353, the Capital Repair Account is established in the Military Bureau as a nonlapsing fund to assist in defraying the capital repair of state-owned properties of the Military Bureau. The bureau may not spend \$300,000 or more for any single capital repair project unless that expenditure is approved in advance by the Legislature. Not later than January 1st of each odd-numbered year, the bureau shall submit a list to the Legislature that identifies the location, nature and cost of each planned capital repair project costing less than \$300,000.

Sec. 3. 37-B MRSA §155, as amended by PL 2001, c. 353, §1, is further amended to read:

§155. Reimbursement fund

The Maine National Guard may provide services in accordance with section 181-A, subsections 4 and 5 and section 183 for federal, state, county, regional and municipal governments and agencies and nongovernmental entities and may charge for those services. ~~The~~ Except as provided in section 353, the fees collected must first be allocated for funding the cost of providing those services, and any remaining fees may be expended only within the Military Bureau.

Sec. 4. 37-B MRSA c. 3, sub-c. 7-A is enacted to read:

SUBCHAPTER 7-A

MAINE NATIONAL GUARD EDUCATION ASSISTANCE PROGRAM

§351. Maine National Guard Education Assistance Program

There is established the Maine National Guard Education Assistance Program, referred to in this subchapter as "the program."

§352. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Course. "Course" means a class taught over a semester, trimester, quarter or term.

2. Degree program. "Degree program" means a course of study designed to culminate in a specific degree, diploma or certificate.

3. Member. "Member" means a member of a federally recognized unit of the Maine National Guard.

4. State postsecondary education institution. "State postsecondary education institution" means the University of Maine System, the Maine Maritime Academy, the Maine Technical College System or any other college or university system established as a public instrumentality of this State.

5. Tuition. "Tuition" means the total semester, trimester, quarter or term or credit hour cost of instruction to the student as periodically published in the catalog of a state postsecondary education institution, including mandatory fees and lab fees but excluding all other expenses such as book charges, room and board.

6. Tuition benefit. "Tuition benefit" means tuition provided by the Maine National Guard using either state or federal funds.

7. Unsatisfactory participant. "Unsatisfactory participant" means a member who has accumulated 9 or more unexcused absences from unit training assemblies or who, without proper authorization, fails to attend or complete the entire period of annual training.

§353. Tuition grant for member

A member who meets the prerequisites of section 354 is entitled to a tuition benefit that may not exceed tuition costs incurred at any state postsecondary education institution. A member who attends classes in Maine at a regionally accredited private Maine college or university is entitled to a tuition benefit that may not exceed the tuition costs incurred at that private college or university or a tuition benefit not to exceed tuition assessed for a similar degree program at any state postsecondary education institution.

whichever is less. Notwithstanding any other provision of law, the Maine National Guard shall use federal funds; state general funds not to exceed \$5,000 in any fiscal year; or state funds from the Armory Rental Fund as established in section 152, the Capital Repair Account as established in section 154 or the reimbursement fund as established in section 155 or from revenue generated by the Maine Military Authority to pay tuition benefits.

§354. Minimum prerequisites

To qualify for the tuition benefit, the member must:

1. Basic training. Have successfully completed basic training or received a commission;

2. Participant. Be a satisfactory participant in the Maine National Guard; and

3. Contractual commitment. Enter into a written contractual commitment with the Maine National Guard to serve in the Maine National Guard for at least one year beyond the end of the term for which a tuition benefit is granted.

§355. Cessation of tuition benefit

The tuition benefit granted under this subchapter for a member ceases upon:

1. Credit hours. Accumulation of 150 credit hours or the equivalent of the tuition benefit as provided in this subchapter;

2. Unsatisfactory participation. Unsatisfactory participation in the Maine National Guard as certified to the state postsecondary education institution or regionally accredited private college or university by the Adjutant General; or

3. Good academic standing. Failure by the member to maintain good academic standing at the state postsecondary education institution or regionally accredited private college or university.

§356. Restitution

Repayment of the tuition benefit is required pursuant to this section.

1. Failure to complete. A member shall pay the full amount of a tuition benefit for each course during the preceding semester, trimester, quarter or term that:

A. The member fails to complete; or

B. The member completes but for which the member earns a grade lower than 2.0 on a 4.0 scale.

2. Repay tuition. If the member becomes an unsatisfactory participant or does not remain in good academic standing with the state postsecondary education institution or regionally accredited private college or university, then the member shall repay the full amount of a tuition benefit for all courses taken during the preceding semester, trimester, quarter or term to the Maine National Guard.

3. Restitution. If the member does not fulfill the member's contractual commitment to the Maine National Guard under section 354, subsection 3, then the Adjutant General shall notify the member in writing that the member is liable for restitution and the member shall repay the full amount of the tuition benefit for the last school year.

A member may appeal the requirement to make restitution pursuant to this section if the member files a written notice of intent to appeal with the Adjutant General within 30 days of notice that the member is liable for restitution. During the pendency of the appeal, the requirement of restitution is postponed. If the Adjutant General determines that the member met the requirements for restitution as described in subsection 1, 2 or 3 and that there were not sufficient extenuating circumstances to excuse the failure of the member to complete satisfactorily the course or participation in the Maine National Guard, the Adjutant General shall inform the member of this determination and the member shall make restitution for those courses for which the Adjutant General determines the member is liable. The decision of the Adjutant General is final and may not be appealed.

§357. Instate tuition rates

Regardless of the state of residence, a member who has met the requirements of this subchapter and is attending a state postsecondary education institution qualifies for instate tuition rates.

§358. Application

This subchapter applies to school semesters, trimesters, quarters or terms beginning on or after May 1, 2003.

Sec. 5. Retroactivity. This Act applies retroactively to May 1, 2003.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 23, 2003.
