

Bill as Introduced

HB 1344 - AS INTRODUCED

2010 SESSION

10-2283
05/04

HOUSE BILL **1344**

AN ACT relative to the taking of private property during a state of emergency.

SPONSORS: Rep. Hinkle, Hills 19; Rep. Kurk, Hills 7; Rep. Chandler, Carr 1

COMMITTEE: Judiciary

ANALYSIS

This bill amends the state's power to take property during a declared state of emergency. The bill limits the type of private property that may be taken, requires quarantine of animals in appropriate cases, encourages advance planning by state agencies to limit the need to take private property, and authorizes damages or other compensation for real property taken in such cases.

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the taking of private property during a state of emergency.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1. Taking of Private Property; Compensation and Use. RSA 4:46 is repealed and reenacted to
2 read as follows:

3 4:46 Taking of Private Property; Compensation and Use.

4 I. Whenever a state of emergency is declared or invoked and the taking of real or personal
5 property is required, the governor with the advice and consent of the executive council may, by
6 warrant specifying the particular real property and the personal property by specification of the
7 types, quantities, and general location, together with the names of the owners, when known,
8 authorize the commissioner of safety, by his or her agents, to:

9 (a) Take possession, for a limited period, of any private real estate and the improvements
10 on it, except for private residences or private educational or religious institutions.

11 (b) Take title in the name of the state to any such improvement when the exigencies of
12 the situation require its destruction.

13 (c) Take possession or title in the name of the state to:

14 (1) Any high explosives.

15 (2) Any commercial vehicles, aircraft, ships, or other means of commercial
16 conveyance, including the rolling stock of railroads or of motor bus transportation.

17 (3) Any fuel for heating or other necessary purposes, obtained from a wholesale or
18 retail facility, other than a residential or agricultural property, provided that the taking shall not
19 exceed 50 percent of the supply in that location.

20 (4) Any gasoline or other means of engine propulsion, obtained from a wholesale or
21 retail facility, other than a residential or agricultural property, provided the taking shall not exceed
22 50 percent of the supply in that location.

23 I-a. Under no circumstances shall this section be construed to authorize the taking,
24 confiscation, or seizure of firearms, ammunition, or ammunition components.

25 I-b. Any horses, cattle, or poultry infected with a contagious disease which is in danger of
26 being transmitted to other animals shall be quarantined or slaughtered in accordance with RSA 436.
27 Any provisions for animals taken for quarantine may be taken at the same time.

28 II. Takings under this section shall be strictly limited to the necessities of the situation. The
29 director of the division of homeland security and emergency management, working with the advisory
30 council on emergency preparedness and security established in RSA 21-P:48, shall make every effort
31 to have in place in advance of emergencies, plans, arrangements, and agreements for commercial

1 vehicles, aircraft, ships, rolling stock, or forms of motor bus transportation to be leased or purchased.
2 Efforts are also to be made to have advance plans, arrangements, and agreements in place for the
3 transfer of fuel for heating or other necessary purposes and of gasoline and other means of engine
4 propulsion through the use of purchase orders. Where unforeseen events make it impossible for such
5 plans, arrangements, and agreements to have been made in advance, the person proposing to take
6 possession of any such property in the name of the state shall present to the owner or person in
7 possession or control of the property a copy of the warrant under which the person purports to act
8 certified by the commissioner of safety. Upon taking possession or control of such property the
9 person shall present a receipt specifically listing the property so taken and specifically referring to
10 the warrant authorizing the taking.

11 III.(a) Whenever possession of any real estate or title to any personal property is taken
12 under this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to
13 damages on account of such taking. In determining the amount of just compensation, the
14 commission established in subparagraph (c) shall use the market value of the property at the time of
15 taking. In cases where the amount of just compensation remains in dispute, the owner may appeal
16 to the board of tax and land appeals established in RSA 71-B:1 or may file in the superior court of the
17 county in which the real estate is located a petition to have the damages assessed by a jury, upon
18 which petition notice shall be given, and the court shall assess such damages by jury.

19 (b) Upon the taking of any horses, cattle, or poultry, the value of such animals shall be
20 determined in accordance with RSA 436:55, RSA 436:56, and RSA 436:60.

21 (c) Upon the taking of any other property, the chief justice of the superior court is
22 authorized to appoint a commission of 3 suitable persons to assess fair and just compensation in
23 cases in which the amount cannot be determined by agreement. The chief justice shall fix the per
24 diem compensation of the members of the commission and fill any vacancies which may occur. The
25 commission shall determine what sum shall justly compensate the claimant for the property so taken
26 and may in the performance of its duties hire, and the state shall pay for the services of, such skilled
27 and disinterested appraisers as the commission shall deem necessary to assist it in the performance
28 of its duty.

29 IV. Any claimant aggrieved by the award made under paragraph III may appeal to the
30 superior court from the decision within 60 days from the granting of the award. All final awards of
31 judgments entered against the state in such proceedings and the fees and expenses of the
32 commission shall be promptly paid by the state treasurer, on warrant of the governor and council,
33 from any money in the general fund of the treasury not otherwise appropriated.

34 V. The property taken under this section shall be used in such manner as the governor, with
35 the advice and consent of the executive council, shall deem in the best interests of the state, its
36 inhabitants or the United States. Any property no longer used by the state may be returned to its
37 owner with just compensation for any diminution in its value since its taking. Any property which is

1 no longer in such condition as to be usable by the owner may be sold at the prevailing market price.
2 All moneys derived from the sale may be credited toward the just compensation determined by any of
3 the above methods.

4 VI. Any person who willfully takes possession of, or attempts to take possession of, property,
5 purporting to act under this section but without authority to so act, whether by false pretense or
6 otherwise, upon conviction, shall be guilty of a class B felony if a natural person, or guilty of a felony
7 if any other person, and 1/2 of any fine imposed shall be paid to the owner of the property and 1/2 to
8 the county.

9 2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Interim Study 3/17/10

Amendment to HB 1344

1 Amend RSA 4:46, I(c)(2) as inserted by section 1 of the bill by replacing it with the following:

2
3 (2) Any commercial motor vehicles, as defined in RSA 259:12-e, aircraft, ships, or
4 other means of commercial conveyance, including the rolling stock of railroads or motor bus
5 transportation.

6
7 Amend RSA 4:46, III and IV as inserted by section 1 of the bill by replacing them with the following:

8
9 III. Whenever possession of any real estate or title to any personal property is taken under
10 this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to
11 damages on account of such taking. The amount of just compensation shall be based on the market
12 value of the real or personal property at the time of taking.

13 (a) Upon the taking of any real property, where the amount of just compensation
14 remains in dispute, the claimant may appeal to the board of tax and land appeals, established in
15 RSA 71-B:1, or may file in the superior court of the county in which the real estate is located a
16 petition to have the damages assessed by a jury, upon which petition notice shall be given, and the
17 court shall assess such damages by jury.

18 (b) Upon the taking of any horses, cattle, or poultry, the value of such animals shall be
19 determined in accordance with RSA 436:55, RSA 436:56, and RSA 436:60.

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21 is authorized to appoint a commission of 3 suitable persons to assess fair and just compensation in
22 cases in which the amount cannot be determined by agreement. The chief justice shall fix the per
23 diem compensation of the members of the commission and fill any vacancies which may occur. The
24 commission shall determine what sum shall justly compensate the claimant for the property so taken
25 and may in the performance of its duties hire and the state shall pay for the services of such skilled
26 and disinterested appraisers as the commission shall deem necessary to assist it in the performance
27 of its duty.

28 IV. Any claimant aggrieved by the decision of the commission under subparagraph III(c)
29 may appeal to the superior court within 60 days of the commission's decision. All final awards of
30 judgments entered against the state in such proceedings and the fees and expenses of the
31 commission shall be promptly paid by the state treasurer, on warrant of the governor and council,
32 from any money in the general fund of the treasury not otherwise appropriated.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: January 21, 2010

LOB ROOM: 208 **Time Public Hearing Called to Order:** 10:03 a.m.

Time Adjourned: ** Recessed at 10:50 am. Reconvened at 3:30 pm. Adjourned at 4:50 pm

(please circle if present)

Committee Members: Reps. D. Cote, Wall, Potter, Hackel, P. Preston, G. Richardson, L. Weber, B. Browne, Nixon, Thompson, Watrous, Rowe, N. Elliott, DiFruscia, W. O'Brien, Hagan, L. Perkins, Silva, W. Smith and Mead.

Bill Sponsors: Rep. Hinkle, Hills 19; Rep. Kurk, Hills 7; Rep. Chandler, Carr 1

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Peyton Hinkle, sponsor

The law allows the state to take private property in state of emergency. Compensation after its return is determined by a three-person panel. Statute dates from 2002 after 9/11. Since that time, preparations have been put in place in anticipation of need.

Rep. Lucy Weber: If the owner has already been compensated for the property, proceeds from the sale by the state should go into a special fund.

Rep. William Smith: What about depressed value? Should market value before incident.

Rep. Robert Rowe: At time of taking, could owner say 'no', but wants to be compensated for damage. Possible? Ans: Yes.

Rep. Philip Preston: Why not just repeal the underlying statute? Ans: Intriguing idea, but am concerned about hampering emergency management.

Rep. Robert Mead: Choice of fair market value before event or compensation for damage due to taking? Ans: Yes.

Richard Head, Attorney General's Office - information

Fair market value will disregard effect of emergency.

Page 1, Line 9a: A residence may be an impediment to relief effort. A religious institution may be contributing to the problem (recent anthrax issue). Line 23/24: Firearms; may have conflict with law enforcement doing its duties. Line 28: Undefined limitation created. Line 30: Standards must be prepared in advance; if inadequate, would liability be increased? Should it be very effort with available resources?

Page 2, Line 6: Person may be unavailable. Then what? Line 9: what happens if no person available to give receipt to? Commission on Line 22 has no procedural rules.

Page 3, Line 4: Very high standards being placed on someone who is acting in good faith.

Rep. Lucy Weber: Points out every 'effort shall be made' difficult to determine. Penalties already in statute. What about the repealing statute? Ans. Haven't thought about it.

Rep. Robert Rowe: What happens if house is gone and the property taken is condemned.? There would be no compensation for interim improvements.

Rep. Robert Mead: Just compensation is a constitutional requirement. Is this bill an opportunity to act in ways not related to the emergency?

Rep. Lucy Weber: Asks about issues of compensation. Ans: In the Alstead case, some takings after the house was gone, thus only the land was taken. Concerned about double dipping.

****Recessed until 3:30 pm; reconvened at 4:25 pm**

Katie Fry, on behalf of Dr Montero of Health and Human Services

Concerns about the bill with respect to 141(c) and Division's role in controlling communicable diseases and quarantines. Written testimony will be submitted. Chris Pope, Director of Emerging Management of Deposit of Safety who also has concerns, may submit written testimony.

David Benson, Nashua, opposed

There are so many problems with the underlying statute that the whole act should be repealed.

***Paul Rabin**, Board of Tax and Land Appeals - concerns

Written testimony submitted. His board is familiar with the process. The due process language needs to be cleared up. The entity who determines the need, determines the value. That should be the Department of Safety, with an appeal either to his board or to the Superior Court.

Rep. Gary Richardson: Should there be a fiscal note? Ans: Shouldn't be one, current law has been in effect from 2002, just shifting entities within state government.

John Palumbo, supporting, not available to testify.

***Howard Wilson** - opposing

Has written testimony. Fears the content of both legislation and underlying law. Concerns about violent action to oppose takings. Concerns about federal terrorist definitions and personal vendettas. Has enclosed backup information.

Stuart Hollander, Merrimack - supports

Governor can take anything he wants. Your home, car could be taken. Bill makes such possessions less vulnerable. Believe underlying statute is a big problem. Suggest unanimous consent of Executive Council, if possible. Loose construction of 'emergency' & 'necessity' terms are vague. Can we trust people in 20 years?

Joe Haas, Concord - is not for or against
Page 1, Line 5: 'required', wants the need to be put in writing.
Page 2, Line 6 & 9: Does not like 'present' wants 'give'.

Sarah Brown, New Hampshire- Free - support with changes
Some emergencies last for more than 60 days, should be 60 days after emergency is over. Add propellants to gun exclusions.

Respectfully submitted,

A handwritten signature in black ink that reads "Philip Preston". The signature is written in a cursive style with a large, stylized "P" and "P" at the beginning and end.

Philip Preston, Clerk

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TESTIMONY

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At 10:50 pm recessed til 3:30 pm.

Reopened at 4:25 pm.

Thompson, Richardson, Potter, Wall, Weber

Adjourned 4:50

FROM: Rep. Philip Preston, Clerk

DATE: Public hearing January 21, 2010

SUBJECT: Meeting minutes on HB 1344, relative to the taking of private property during a state of emergency.

HB 1344 relative to the taking of private property during a state of emergency (10:03 am)

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1:10

Sub-Committee Actions

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: September 28, 2010

Subcommittee Members: Reps. Weber, Potter, Preston, Mead and Smith

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. Preston

Seconded by Rep. Mead

Vote: 4-0

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Lucy Weber
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE WORK SESSION ON HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: September 28, 2010

Subcommittee Members: Reps. Weber, Potter, Preston, Mead, and Smith

Comments and Recommendations:

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. Preston

Seconded by Rep. Mead

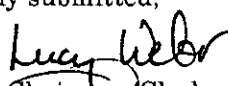
Vote: 4-0

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,
Rep. 
Subcommittee Chairman/Clerk

Testimony

Howard L. Wilson
57 Agony Hill Road
Andover, NH 03216
stoneanarch@tds.net
603-735-5427

Judiciary Committee
January 21, 2010 10AM 208 LOB

Re: HB 1344

2:30

A much stronger definition of Emergency is required, especially with the Federal government involved. This is especially relevant, with Obama as president.

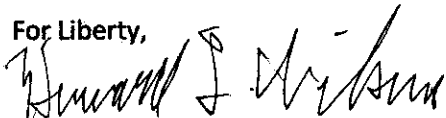
I have nothing against the planning component of this legislation. What bothers me, is the activation portions, as the "emergency" would have to be more extreme, to justify some of the takings, listed. And, any taking that violates the premise written into bill, as an immediate consequence, could lead to violence, to repel the taker.

NH Department of Safety personal as the takers, could inadvertently violate content of bill, given their direction by Department of Homeland "Security", to snap up property of individuals deemed "terrorist" under the overly broad lack of definition at the Federal levels of government, or the individuals themselves, for their politics or personal beliefs. Especially with Janet Napolitano as Secretary of Homeland "Security".

I would urge a finding of Inexpedient to Legislate.

delete underlying sum.

For Liberty,



Howard L. Wilson

Libertarian for US House, 2nd district

Subject: Napolitano Declares Propaganda War On Gun Owners
From: Patriot@FaxDC.com <Patriot@FaxDC.com>
Date: 24 Apr 2009 21:12:14 -0400
To: stoneanarch@tds.net

NAPOLITANO DECLARES PROPAGANDA WAR ON GUN OWNERS

TELL CONGRESS TO CONDEMN THIS GOVERNMENT ATTACK ON GUN OWNERS AND VETERANS

FaxDC.com wants to send this urgent and personalized Blast Fax message to all 535 members of the House and Senate for YOU.

Alert: Did you know that your government considers you to be a "rightwing extremist?"

IT'S TRUE!

Homeland Security Secretary Janet Napolitano on Sunday portrayed veterans as victims - not perpetrators - of right-wing extremism as she sought to combat the political controversy arising out of an April 14 Homeland Security memo warning that returning soldiers could be ripe for domestic terrorism participation. Napolitano has insulted all veterans who serve honorably and is creating fear of military veterans by insinuating that they would betray America by calling them terrorists.

According to news reports, the Department of Homeland Security is warning law enforcement officials about a rise in "rightwing extremist activity," labeling citizens opposed to new firearms restrictions, returning veterans and conservatives as "rightwing extremists" and associating them with white supremacists and violent antigovernment groups.

You read that right -- it appears that the Obama Administration, and especially the DHS under Janet Napolitano, is trying to demonize political dissent. And it's no big surprise who's directly in their crosshairs: supporters of the Second Amendment, including veterans and gun owners.

Who is funding this kind of nonsense? Well, YOU are. Why would your government spend your money attacking YOU, instead of spending your money PROTECTING you?

If you oppose any of the following, you could qualify for being profiled as a potential dangerous "militia member":

- Gun Control
- The Income Tax
- The United Nations
- The Ammunition and Accountability Act
- The New World Order
- The violation of Posse Comitatus
- A possible Constitutional Convention
- Universal Service Program
- Radio Frequency Identification (RFID)
- Abortion
- The Federal Reserve
- Illegal Immigration
- The North American Union

This calls for grassroots action, on a HUGE scale! This administration needs to be reminded that its words and actions have consequences, and irresponsible statements, reports and actions fuel fires that are counterproductive to democracy in America.
(Citizens Committee for the Right to Keep and Bear Arms)

STATE OF NEW HAMPSHIRE

NOMINATION PAPER (FOR STATE GENERAL ELECTION) RSA 655:40-45

The subscriber, a registered voter in the State of New Hampshire, hereby makes the following nominations to be voted for at the state general election to be held on November 2 , 2010, and requests that the names of said candidates be placed upon the official ballot to be used in said election as candidates of the following Political Organization: Libertarian Party

Ken Blevens	Howard L. Wilson
2 Valley Road	57 Agony Hill Road
Bow, NH 03304	Andover, NH 03216
U.S. Senate	US House, district #2

RSA 655:45 No person shall falsely make or file or knowingly deface or destroy any nomination paper, or any part thereof, or sign any nomination paper contrary to the provisions of law knowing the same, or any part thereof, to be falsely made or suppress any nomination paper, or any part thereof, which is duly filed. Whoever knowingly violates any of the provisions of this section shall guilty of a **misdemeanor** if a natural person or be guilty of a felony if any other person.

Voter's signature _____ Print Name _____
 Voter's Domicile _____ (StreetAddress)
 (Town or City) _____ (Ward) _____
 Voter's Mail Address _____ Date _____

The undersigned, a **MAJORITY** of the **SUPERVISORS OF THE CHECKLIST** (or Registrars of voters), hereby certify that the voter signing this nomination paper is a registered voter in town/ward, of _____

RSA 655:41 The city clerk may certify that the signer is registered voter, if in a city.
 The signer of this paper is **Not** a registered voter in the town or ward
 Date Signed _____

Filing deadlines:
August 11, 2010- last day to submit signed nomination papers to Supervisors of Checklist or city clerk
Sept. 1, 2010 5:00PM - Supervisors must have nomination papers certified for candidates & organizations
Sept. 8, 2010 5:00PM -Last day to file certified nomination papers with Secretary of State's office

33 Pondview Drive
Merrimack, NH 03054

January 25, 2010

Honorable David E. Cote
Chair, House Judiciary Committee
Legislative Office Building, Room 208
Concord, NH 03301

Re: Support for Passage of HB 1344, relative to the taking of private property during a state of emergency, or alternatively, for full repeal of Section 4:46

Dear Chairman Cote,

Title I, Chapter 4, Section 4:46, "Taking of Private Property" as it currently stands, provides for the taking of an astonishing array of people's private property, including their cars, homes, food, clothing, beds, medicines, heating fuel, and more. Every person with whom I have discussed this section has expressed tremendous surprise that these overwhelming powers are in New Hampshire law. I would expect an increasingly widespread concern as awareness of the law spreads.

One wonders how the State of New Hampshire managed to survive through the trials and tribulations of the 19th and 20th centuries without these powers. Noting the date of passage, the law appears to be a panic reaction to the attacks of 9/11.

HB 1344, among other things, removes people's homes, cars, and other possessions from the threat of being taken under Section 4:46. Provisions and materials available from commercial wholesalers and retailers should be more than adequate in an emergency, without subjecting private residences to the stark seizures envisioned by Section 4:46. Ideally, this entire section should be repealed and any replacement be carefully and cautiously considered over a calmingly long time.

Good people tend to view the use of emergency powers as something that would be reserved for only the most pressing circumstances, and then used in a most restrained and humane manner. However, history tells us that power is easily abused, and that people of poor character or judgment sometimes rise to the power. While New Hampshire has an admirable record and reputation, with fine governors and executive councilors, we cannot know who may attain power in 3 years or 30 years from now. Instead, we must be realistic and aim to limit power.

In addition to the danger of inappropriate takings, the declaration of emergency itself could be loosely construed, as its provisions include "man-made" disasters. Is it not possible that there could come a time when some might wish to declare some sort of "economic," "environmental," or "climate" disaster? How about the

outlandish possibility of refugees from some grand disaster in Nashua or Boston or even Toronto being housed "temporarily" for a year or more in homes taken under emergency powers. Of course, these should and do seem to be unreasonable interpretations today. But over time, original meanings can be overridden, as has happened, for example, in the extraordinarily broad interpretations of both the interstate commerce and general welfare clauses of the U.S. Constitution. Both clauses read far more innocently and limited than their tortured judicial interpretations now claim to allow. Politics defeated a plain, common sense reading of these otherwise harmless parts of the U.S. Constitution, resulting in expansive national laws that were unthinkable in an earlier era.

Under similarly broad and loose interpretation, Sections 4:45-46 could become used in odious ways not even imagined when they were passed into law.

I strongly encourage the House Judiciary Committee to give HB 1344 the attention it deserves, and pass it on for further discussion and work that will result in passage of the bill. Alternatively, I suggest that an amendment that would repeal Section 4:46 outright would be wise to consider.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "S. Hollander", written in a cursive style.

Stuart Hollander

Cc: House Judiciary Committee

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 4

POWERS OF THE GOVERNOR AND COUNCIL IN CERTAIN CASES

Miscellaneous Provisions

Section 4:46

4:46 Taking of Private Property; Compensation and Use. –

I. Whenever a state of emergency is declared or invoked and the taking of real or personal property is required, the governor with the advice and consent of the executive council may, by warrant specifying the particular real property and the personal property by specification of the types, quantities, and general location, together with the names of the owners, when known, authorize the commissioner of safety, by his or her agents, to:

- (a) Take possession of any private real estate and the improvements on it for a limited period.
- (b) Take title in the name of the state to any such improvement when the exigencies of the situation require its destruction.
- (c) Take possession or title in the name of the state to:
 - (1) Any high explosives.
 - (2) Any horses, vehicles, motor vehicles, aircraft, ships, boats, or any other means of conveyance, including the rolling stock of railroads or of motor bus transportation.
 - (3) Any cattle, poultry, provisions for man or beast, clothing, bedding, medicines and medical supplies in excess of the reasonable and immediate needs of the owner and the owner's household.
 - (4) Any fuel for heating or other necessary purposes.
 - (5) Any gasoline or other means of engine propulsion, or any communications equipment or systems.

I-a. Under no circumstances shall this section be construed to authorize the taking, confiscation, or seizure of firearms, ammunition, or ammunition components.

II. Takings under this section shall be strictly limited to the necessities of the situation. The person proposing to take possession of any such property in the name of the state shall present to the owner or person in possession or control of the property a copy of the warrant under which the person purports to act certified by the commissioner of safety. Upon taking possession or control of such property the person shall present a receipt specifically listing the property so taken and specifically referring to the warrant authorizing the taking.

III. Whenever possession of any real estate or title to any personal property is taken under this section, its owner or possessor, hereinafter referred to as the claimant, shall be

entitled to damages on account of such taking. Upon the taking of any such property, the chief justice of the superior court is authorized to appoint a commission of 3 suitable persons to assess fair and just compensation in cases in which the amount cannot be determined by agreement. The chief justice shall fix the per diem compensation of the members of the commission and fill any vacancies which may occur. The commission shall determine what sum shall justly compensate the claimant for the property so taken and may in the performance of its duties hire, and the state shall pay for the services of, such skilled and disinterested appraisers as the commission shall deem necessary to assist it in the performance of its duty.

IV. Any claimant aggrieved by the award made by the commission may appeal to the superior court from the decision within 60 days from the granting of the award. All final awards of judgments entered against the state in such proceedings and the fees and expenses of the commission shall be promptly paid by the state treasurer, on warrant of the governor and council, from any money in the general fund of the treasury not otherwise appropriated.

V. The property taken under this section shall be used in such manner as the governor, with the advice and consent of the executive council, shall deem in the best interests of the state, its inhabitants or the United States, which manner may include the sale at the prevailing market price or the gratuitous distribution of the articles enumerated in subparagraphs I(c)(3), (4) and (5). All moneys derived from the sale of any such property shall be paid over to the state treasurer and deposited in the general fund of the state.

VI. Any person who willfully takes possession of, or attempts to take possession of, property, purporting to act under this section but without authority to so act, whether by false pretense or otherwise, upon conviction, shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person, and 1/2 of any fine imposed shall be paid to the owner of the property and 1/2 to the county.

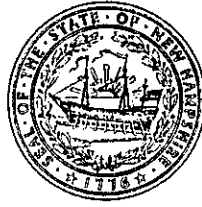
Source. 2002, 257:4, eff. July 1, 2002. 2003, 319:99, 100, eff. Sept. 4, 2003. 2006, 124:1, 2, eff. July 14, 2006.

State of New Hampshire

Board of Tax and Land Appeals

Paul B. Franklin, Chairman
Michele E. LeBrun, Member
Douglas S. Ricard, Member
Albert F. Shamash, Esq., Member

Anne M. Stelmach, Clerk



Governor Hugh J. Gallen
State Office Park
Johnson Hall
107 Pleasant Street
Concord, New Hampshire
03301-3834

To: Rep. David Cote, Chairman
House Judiciary Committee

From: Paul B. Franklin, Chairman
Board of Tax and Land Appeals

Date: January 21, 2010

Re: HB 1344

In the effort to address questions that arose at this morning's hearing on HB 1344 relative to determination of market value and any appeal of such determination, I have reviewed eminent domain statutes (RSA ch. 230 and RSA ch. 498-A) and offer the following revisions to the bill. These suggestions incorporate a number of the principles embodied in the regular eminent domain statutes but also recognize the unique situation that necessitates takings as a result of an emergency. I would be glad to provide further explanations and answer questions if needed.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the taking of private property during a state of emergency.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Taking of Private Property; Compensation and Use. RSA 4:46 is repealed and reenacted to read as follows:

4:46 Taking of Private Property; Compensation and Use.

I. Whenever a state of emergency is declared or invoked and the taking of real or personal property is required, the governor with the advice and consent of the executive council may, by warrant specifying the particular real property and the personal property by specification of the types, quantities, and general location, together with the names of the owners, when known, authorize the commissioner of safety, by his or her agents, to:

(a) Take possession, for a limited period, of any private real estate and the improvements on it, except for private residences or private educational or religious institutions.

(b) Take title in the name of the state to any such improvement when the exigencies of the situation require its destruction.

(c) Take possession or title in the name of the state to:

(1) Any high explosives.

(2) Any commercial vehicles, aircraft, ships, or other means of commercial conveyance, including the rolling stock of railroads or of motor bus transportation.

(3) Any fuel for heating or other necessary purposes, obtained from a wholesale or retail facility, other than a residential or agricultural property, provided that the taking shall not exceed 50 percent of the supply in that location.

(4) Any gasoline or other means of engine propulsion, obtained from a wholesale or retail facility, other than a residential or agricultural property, provided the taking shall not exceed 50 percent of the supply in that location.

I-a. Under no circumstances shall this section be construed to authorize the taking, confiscation, or seizure of firearms, ammunition, or ammunition components.

I-b. Any horses, cattle, or poultry infected with a contagious disease which is in danger of being transmitted to other animals shall be quarantined or slaughtered in accordance with RSA 436. Any provisions for animals taken for quarantine may be taken at the same time.

II. Takings under this section shall be strictly limited to the necessities of the situation.

The director of the division of homeland security and emergency management, working with the advisory council on emergency preparedness and security established in RSA 21-P:48, shall make every effort to have in place in advance of emergencies, plans, arrangements, and agreements for commercial vehicles, aircraft, ships, rolling stock, or forms of motor bus transportation to be leased or purchased. Efforts are also to be made to have advance plans, arrangements, and agreements in place for the transfer of fuel for heating or other necessary purposes and of gasoline and other means of engine propulsion through the use of purchase orders. Where unforeseen events make it impossible for such plans, arrangements, and agreements to have been made in advance, the person proposing to take possession of any such property in the name of the state shall present to the owner

or person in possession or control of the property a copy of the warrant under which the person purports to act certified by the commissioner of safety. Upon taking possession or control of such property the person shall present a receipt specifically listing the property so taken and specifically referring to the warrant authorizing the taking.

III.(a) Whenever possession of any real estate or title to any personal property is taken under this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to damages on account of such taking. **The commissioner of safety shall determine the market value of any real estate or personal property rights taken under this section. Market value shall be determined as of the date of taking but any damage to the property as a result of the state of emergency shall not be considered in determining its market value. The commissioner shall, within a reasonable time after the taking, notify the claimant in writing of its determination of damages accompanied with payment for such damages. The commissioner in determining damages may hire, and the state shall pay for, the services of such skilled and disinterested appraisers as the commissioner shall deem necessary.**

(b) Any claimant aggrieved by the commissioner's determination of market value, may appeal to either the board of tax and land appeals or the superior court of the county in which the real estate is located within sixty (60) days of the commissioner's written notification of damages. If appealed to superior court, the court shall assess the damages by jury, or by trial without jury if jury trial is waived. All final awards of judgments entered against the state in such proceedings shall be promptly paid by the state treasurer, on warrant of the governor and council, from any money in the general fund of the treasury not otherwise appropriated.

~~In cases where the amount of just compensation remains in dispute, the owner may appeal to the board of tax and land appeals established in RSA 71-B:1 or may file in the superior court of the county in which the real estate is located a petition to have the damages assessed by a jury, upon which petition notice shall be given, and the court shall assess such damages by jury.~~

(bc) Upon the taking of any horses, cattle, or poultry, the value of such animals shall be determined in accordance with RSA 436:55, RSA 436:56, and RSA 436:60.

~~(c) Upon the taking of any other property, the chief justice of the superior court is authorized to appoint a commission of 3 suitable persons to assess fair and just compensation in cases in which the amount cannot be determined by agreement. The chief justice shall fix the per diem compensation of the members of the commission and fill any vacancies which may occur. The commission shall determine what sum shall justly compensate the claimant for the property so taken and may in the performance of its duties hire, and the state shall pay for the services of, such skilled and disinterested appraisers as the commission shall deem necessary to assist it in the performance of its duty.~~

~~IV. Any claimant aggrieved by the award made under paragraph III may appeal to the superior court from the decision within 60 days from the granting of the award. All final awards of judgments entered against the state in such proceedings and the fees and expenses of the commission shall be promptly paid by the state treasurer, on warrant of the governor and council, from any money in the general fund of the treasury not otherwise appropriated.~~

∇IV. The property taken under this section shall be used in such manner as the governor, with the advice and consent of the executive council, shall deem in the best interests of the state, its inhabitants or the United States. Any property no longer used by the state may be returned to its owner with just compensation for any diminution in its value since its taking. Any property which is no longer in such condition as to be usable by the owner may be sold at the prevailing market price. All moneys derived from the sale may be credited toward the just compensation determined by any of the above methods.

∇IV. Any person who willfully takes possession of, or attempts to take possession of, property, purporting to act under this section but without authority to so act, whether by false pretense or otherwise, upon conviction, shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person, and 1/2 of any fine imposed shall be paid to the owner of the property and 1/2 to the county.

2 Effective Date. This act shall take effect 60 days after its passage.

A Progress Report On New Hampshire's Preparedness And Security

submitted to

Governor Jeanne Shaheen

by

The New Hampshire Commission
On Preparedness And Security

Donald P. Bliss, Chair



January 2, 2003



State of New Hampshire Department of Safety
Richard M. Flynn, Commissioner
Division of Fire Safety & Emergency Management



Office of Emergency Management

Donald P. Bliss, Director

Office: 107 Pleasant Street, Concord, N.H.

Mailing address: 10 Hazen Drive, Concord, N.H. 03305
603-271-2231, 1-800-852-3792, FAX 603-225-7341

January 2, 2003

Her Excellency Jeanne Shaheen
Governor
State House
Concord, NH 03301

Dear Governor Shaheen:

On behalf of the Commission on Preparedness and Security, it is my pleasure to present you with an update on New Hampshire's readiness to respond to terrorist attacks and on the progress we've made in implementing the recommendations in the Commission's November 27, 2001 report. I am pleased to report that we have significantly improved our ability to anticipate, deter, and respond to a terrorist attack.

In the past year, state government – in partnership with local communities, the federal government and nonprofit organizations – has begun work on all of the Commission's recommendations, and a substantial number have already been implemented. New Hampshire continues to be proactive in its efforts to prepare for both natural and man-made disasters, and all efforts related to terrorism response have been consistent with the "all-hazards" approach to emergency management. The members of the Commission and their respective agencies are coordinating their efforts to ensure that New Hampshire's citizens will be well protected in the event of a terrorist attack.

As you know, this will be the last report by the Commission. Its work will be continued by the Advisory Council on Emergency Preparedness and Security, which was created during the 2002 legislative session by the passage of House Bill 1461.

I would like to express my sincere appreciation to the members of the Commission for their dedication and commitment to completing this important assessment. Your leadership and the assistance provided by your staff have been of invaluable assistance to the Commission.

We thank you for the opportunity to serve the citizens of New Hampshire.

Sincerely,

Donald P. Bliss
Commission Chairman

Commission Members

State Fire Marshal Donald P. Bliss
Commission Chair
Director of Fire Safety & Emergency Management, Department of Safety

Dana Bisbee
Acting Commissioner, Department of Environmental Services

Major General John Blair
Department of Adjutant General

Richard M. Flynn
Commissioner, Department of Safety

Donald S. Hill
Commissioner, Department of Administrative Services

Leland M. Kimball
Coordinator of Emergency Management, Department of Safety

Thomas Getz
Chairman, Public Utilities Commission

MaryAnn Manoogian
Director, Governor's Office of Energy and Community Services

Philip McLaughlin
Attorney General, Department of Justice

Geno Marconi
Operations Manager, Division of Ports & Harbors, Pease Development Authority

Carol Murray
Commissioner, Department of Transportation

Kathleen G. Sgambati
Acting Commissioner, Department of Health & Human Services

Alternate Members

J. William Degnan
Deputy State Fire Marshal, Department of Safety

Kathleen A. Dunn
Director, DHHS Office of Community and Public Health

Jesse Greenblatt, MD
State Epidemiologist, DHHS Office of Community and Public Health

Lieutenant Colonel Thomas Haydon
Department of Adjutant General

Rick Marini
Administrator, Public Utilities Commission

Dan Mullen
Senior Assistant Attorney General, Department of Justice

Jack Ruderman
Assistant Director, Governor's Office of Energy & Community Services

John Stephen
Assistant Commissioner, Department of Safety

Harry Stewart
Director, DES Division of Water

SF Tomajczyk
Public Information Officer, Department of Health and Human Services

Nick Toompas
Emergency Preparedness, DHHS Office of Community & Public Health

William Wright
Emergency Preparedness, Department of Health & Human Services

Michelle Marcoux
Commission Secretarial Support
Office of the State Fire Marshal, Department of Safety

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SECTION I

Introduction

In the wake of the September 11, 2001 terrorist attacks on the United States, Governor Jeanne Shaheen and state agencies took swift action to heighten security in the State of New Hampshire: increasing patrols of Portsmouth Harbor, the Piscataqua and Brown rivers, major bridges and highways, and oil, gasoline and propane bulk storage facilities; increasing inspections of trucks carrying hazardous materials; expanding the disease surveillance alert system at hospitals across the state; conducting security assessments of numerous critical facilities; developing procedures for handling anthrax scares; and establishing a full-time State Police anti-terrorism intelligence unit.

The terrorist attacks of September 11, 2001 made it clear that the threats facing New Hampshire and the nation had changed. To make sure New Hampshire was prepared to meet these new threats, Gov. Shaheen created the New Hampshire Commission on Preparedness and Security. She directed the Commission to conduct an immediate review of New Hampshire's readiness to respond to terrorist actions and to recommend actions the state could take to better prepare for and respond to such attacks.

This assessment included:

- Readiness of emergency response personnel, public health systems and health care facilities to respond to a terrorist attack with mass casualties
- Readiness to respond to chemical or biological attacks
- Security of transportation systems, including airports, highways and bridges
- Security of port facilities and maritime commerce
- Security of utilities, energy transmission systems, nuclear power plants and fuel storage
- Safety of water supplies
- And any other issues identified by the Commission

The Commission issued its report on November 27, 2001, making more than 70 short- and longer-term recommendations to enhance the State of New Hampshire's ability to respond to any disaster, including acts of terrorism.

In the past year, state government – in partnership with local communities, the federal government and nonprofit organizations – has begun work on all of the Commission's recommendations, and a substantial number have already been implemented.

The Commission on Preparedness and Security has continued to meet for the past year, serving as an advisory board to Gov. Shaheen; overseeing the implementation of its recommendations; working to make necessary changes in state law; monitoring potential threats; and incorporating changes in federal policies into New Hampshire's planning.

This report provides an update on the Commission's work and activities since its first report. In accordance with RSA 21-P:48, which went into effect on July 1, 2002, an Advisory Council on Emergency Preparedness and Security will officially replace the Governor's Commission on Preparedness and Security.

COMMISSION ACTIVITIES

SECTION II

Activities of the Commission

Gov. Shaheen established the Commission on Preparedness and Security on September 27, 2001 and directed it to assess New Hampshire's ability to respond to emergencies, including terrorist attacks. The Commission completed its initial assignment on November 27, 2001 with the release of its report "*Assessment of New Hampshire's Preparedness & Security*." The report can be viewed and downloaded at www.nhoem.state.nh.us.

On November 27, 2001, Gov. Shaheen directed the Commission to continue meeting to ensure that its recommendations are implemented in a timely and cost-effective manner. The Commission has carefully coordinated its work with groups such as the New Hampshire Anti-Terrorism Task Force and the US Attorney's Anti-Terrorism Task Force.

Since December, 2001, Commission members have met regularly to 1) oversee implementation of their more than 70 recommendations; 2) review federal funding and grant activities; 3) confer about state legislative activities related to improving the state's ability to respond to emergencies; 4) discuss upcoming emergency drills and exercises; 5) oversee the revision of the New Hampshire Emergency Operations Plan; 6) review information and advisories provided by the Office of Homeland Security and other federal agencies; and 6) assess special events requiring enhanced security measures, such as Independence Day, incoming liquid propane gas shipments, Motorcycle Week, the September 11th anniversary, and the two NASCAR races.

The Commission reviewed federal grant proposals related to anti-terrorism and emergency preparedness to ensure that state agencies, local governments, the federal government and private organizations were coordinating their efforts to implement the recommendations and priorities of the Commission.

The Commission monitored the status of pending state legislation concerning anti-terrorism and Commission members provided testimony and technical assistance to various legislative committees. Commission members have testified on a regular basis before the

two legislative study committees that were created this year: the Joint Legislative Study Committee on Communications Interoperability (SB 441), and the Joint Legislative Oversight Committee on Emergency Preparedness (HB 1478).

The Commission created a timetable for the implementation of its recommendations. While a number of recommendations had already been completed, it became apparent that some efforts, such as improving communications interoperability, would require additional time because of the amount of planning, inter-agency coordination, and financial resources needed.

With the help of a technical assistance grant from the U.S. Department of Justice to the Division of Fire Safety and Emergency Management, the Commission initiated a revision of the state's Emergency Operations Plan (EOP) to reflect the new threats facing the state and the nation after September 11th.

Throughout the year, Gov. Shaheen was briefed regularly on the activities of the Commission and provided feedback and guidance as the work of state agencies proceeded. She signed into law all of the anti-terrorism legislation endorsed by the Commission. Gov. Shaheen also worked with the Commission to obtain federal funding for New Hampshire's security and emergency planning initiatives and to make sure the federal government understood how its proposals would enhance or hamper the anti-terrorism efforts of New Hampshire and other states.

PROGRESS REPORT

*PROGRESS
REPORT*

SECTION III

Update on Recommendations

In the fall of 2001, the New Hampshire Commission on Preparedness and Security carefully reviewed the emergency response assessment information provided to it by state agencies -- in consultation with federal officials, public health professionals, local police, fire and emergency management officials -- and made more than 70 short- and longer-term recommendations to enhance the State of New Hampshire's ability to respond to a disaster, including acts of terrorism.

During the past year, state government, working in partnership with local communities and nonprofit organizations, has made great progress in improving the security of the citizens of the State of New Hampshire and improving its response to potential natural or manmade disasters. Work has begun on all of the Commission's recommendations and a substantial number have already been achieved.

Following is an update on the progress made in implementing each of the Commission's recommendations. The original recommendations are marked by a bullet [•] and the update information is shown in italics.

MASS CASUALTY INCIDENT

- Increase the Department of Health and Human Services' system capacity and capabilities, including laboratory services, and medical surge capacity to deal with mass casualties.

The Department of Health and Human Services (DHHS) has expanded its laboratory capabilities and begun construction of a new wing to meet the changing public health needs of the State of New Hampshire. In addition, the Department received \$8.4 million dollars through the federal Public Health Threats and Emergencies Act of 2002 to update and improve its overall public-health emergency response capacity.

- Expand the Office of the Medical Examiner's capability to respond to and handle an incident involving more than 100 bodies. The Office will likely need additional field kits,

improved communications, personal protection equipment, body bags, refrigeration units, and fire-rated protective clothing.

The Office of the Medical Examiner has substantially completed its efforts to prepare for a mass casualty incident, purchasing needed equipment and identifying resources that can be used in an emergency.

- Consider caching and pre-positioning nonperishable ambulance specific supplies (e.g., backboards, splints, oxygen canisters) around the state to rapidly restock ambulances so they can quickly return to service. This will be especially valuable when responding to multiple casualty incidents. DEMS

Emergency Medical Services is incorporating this recommendation into its mass casualty planning process.

- Consider storing basic disaster supplies (e.g., cots, blankets, first aid kits) at Department of Transportation patrol sheds around New Hampshire to facilitate response efforts in an emergency. DEMS

The Department of Transportation, the Division of Fire Safety and Emergency Management and Emergency Medical Services are working to identify the most appropriate locations for cached supplies and to identify the funding necessary to build the stockpiles.

- Seek federal government assistance to establish a Disaster Medical Assistance Team (DMAT) to cover northern New England, which includes New Hampshire. Dr. Gonzalez

Dartmouth Hitchcock Medical Center is finalizing a Memorandum of Understanding with the New Hampshire Department of Health and Human Services to provide primary assistance in developing a Northern New England Disaster Medical Assistance Team. DHHS and Dartmouth have drafted detailed plans on response, recruitment of volunteers and the purchase of equipment, which will be implemented in the coming months. In the interim, New Hampshire is served by the three existing DMATs in New England – two in Massachusetts and one in Rhode Island.

- The mental health provider community needs to be involved in emergency planning efforts and in response-training exercises so that the mental health needs of the victims, first responders and the community at large are effectively addressed.

The Department of Health and Human Services' Division of Behavioral Health is planning three training conferences in 2003 for behavioral health practitioners and first responders on the psychological effects of traumatic events. Additionally, the Department is working with the fire and police academies to enhance the training of first responders about the psychological effects of traumatic events. The Department is also establishing a clearinghouse of trauma-related information, for example on Post-Traumatic Stress Disorder, for use by both mental health professionals and the public.

PSTC
FSTC
DHHS
Behavioral Health

- Establish a statewide hospital mutual aid agreement.

The Department of Health and Human Services and the New Hampshire Hospital Association have drafted a mutual aid agreement, which is currently being reviewed by all hospitals in New Hampshire, as well as by hospitals in neighboring states.

DHHS
State Emergency

- Carefully review existing mass casualty plans for New Hampshire to ensure they are consistent and integrative with plans presently in place throughout New England.

The Medical Examiner's Office, Emergency Medical Services, and the Division of Fire Safety and Emergency Management completed a review of their mass casualty plans this year. Drills and exercises will be used to identify any aspects of the mass casualty plans that will require additional revisions or changes.

State
Emergency

CHEMICAL OR BIOLOGICAL ATTACK

- Continue to refine assessment and treatment protocols for first responder exposure to various biological agents. And provide key first responders, as well as food and water inspectors, with adequate personal protective equipment and training against biological and chemical agents.

First responders receive on-going training on how to protect themselves during a biological or chemical incident. The Division of Fire Safety and Emergency Management has purchased protective clothing for all police officers in the state, as well as for each ambulance crew. Emergency Management has also acquired decontamination trailers, chemical agent monitors and chemical agent test kits for regional hazardous materials teams to use. The Department of Health and Human Services is vaccinating its laboratory staff against anthrax. DHHS and the Division of Fire Safety &

PSTC
BCLM

DHHS
Soph Cherny

Emergency Management have completed the state's initial smallpox vaccination plan. This plan includes "pre-event" inoculation of health care workers and first responders and as necessary, the "post-event" vaccination of New Hampshire's entire population of 1.3 million.

- Assist local communities with the establishment of hazmat teams that would provide coverage in the so-called "White-Zone," the regions in New Hampshire without active hazmat teams.

Two new hazmat teams are being organized to provide emergency response coverage of the underserved "White-Zone." NORTHPAK encompasses a significant portion of the North Country, and the hazmat team is being developed in cooperation with the communities of Gorham, Jefferson, Lancaster, Stratford, Whitefield, Littleton, Stark and Randolph. This team could be operational in 8-10 months. The Connecticut River Valley hazmat team, which is being developed in conjunction with Lebanon, Hanover, Newport, Sunapee, New London, Newbury, Springfield, Grantham and Cornish, could be operational in 12-18 months. The Division of Fire Safety and Emergency Management has hired a part-time hazmat training coordinator to enhance hazmat training, planning, awareness and compliance. A full-time hazmat response coordinator in the Division of Fire Safety and Emergency Management has been funded by the DHHS bio-terrorism grant.

*Pam U-M
Jed Carter*

- Establish a public health infrastructure - including support to municipal health departments - capable of responding to a broad-spectrum of disease and natural disaster incidents.

The Department of Health and Human Services is providing approximately \$2 million in federal grants to local communities to improve their public health infrastructure. The Department has established the Bureau of Emergency Preparedness and Response to assist communities in this effort.

*DHHS
Steve Zingales*

- Support federal legislation to establish a National Guard Civil Support Team (CST) in New Hampshire so the state does not have to rely on CST's based in Maine and Massachusetts for response coverage. (CST's are specially trained and equipped to handle situations involving biological or chemical agents.) This will prove to be critical in multiple incidents occurring simultaneously in the New England region.

Congress is considering legislation (S-2908) to establish full-time Civil Support Teams in each state.

NAHWS

- Strengthen plans on how to receive, transport, distribute and administer the contents of a National Pharmaceutical Stockpile "push" package.

The Department of Health and Human Services established an interim plan for the Strategic National Stockpile (formerly, National Pharmaceutical Stockpile), which is awaiting final approval from the U.S. Centers for Disease Control and Prevention. Since April, the Department of Health and Human Services has met with selectmen, local fire departments, law enforcement, hospitals, airports and that National Guard to receive their input and refine the plan. Memoranda of Understanding are in place that will allow the rapid deployment of the "push" package and subsequent supplies.

DHHS

- Explore the feasibility of establishing protocols to cross-train lab personnel at the Department of Environmental Services and the DHHS Public Health Laboratories to augment each other's efforts in responding to a biological or chemical attack.

The directors of the Public Health Laboratories, the State Police Forensic Laboratory, and the Department of Environmental Services Laboratory are meeting to discuss missions, capabilities and how they can support each other in an emergency. The U.S. Department of Justice recently awarded the state a strategic planning grant to improve integration among the three laboratories.

Jim Papp

- Determine which hospitals in the state need equipment to properly decontaminate patients, first responders and medical staff in the event of a biological or chemical attack. Likewise, determine which Reception Centers need these resources as well to handle the expected influx of evacuees in a biological or chemical attack.

The Department of Health and Human Services is providing federal funds to the New Hampshire Hospital Association to conduct a detailed assessment of the needs of the state's hospitals in the event of a biological or chemical attack. Additionally, the Division of Fire Safety and Emergency Management has purchased four (4) mobile decontamination trailers for the regional hazmat teams and has ordered an additional five (5) trailers. These units can be used at Reception Centers if necessary to handle the influx of evacuees in the event of a biological or chemical incident.

DHHS
John Joseph

B. Draney

- Explore the feasibility of using Chemical Agent Monitors (CAM) by first responders to detect the possible presence of a chemical agent at the scene of a disaster. K. Donat

The Division of Fire Safety and Emergency Management has purchased Chemical Agent Monitors for the state's six hazmat teams. It is currently training local hazmat teams in the use of the CAM's and distributing the units.

- Expand the DHHS Public Health Laboratories capability to respond to a prolonged or multiple incident bio-chemical attack by acquiring needed resources. DHHS
Stromberg

The Public Health Laboratories is expanding its laboratory space and toxicology staff and is purchasing and installing needed equipment. The Public Health Laboratories are also adopting new testing methods that will more accurately verify whether biological agents have been used. The state Public Health Laboratories is also expanding its ability to identify and respond to chemical agents.

- Expedite the expansion of the Health Alert Network to include other towns. DHHS
Stromberg

Through the Health Alert Network, the Department of Health and Human Services will be able to alert, notify, communicate and update local health departments, health officers, the medical community and first responders about various health issues and emergencies. Through new federal money, the Department of Health and Human Services is helping four new coalitions of towns develop their own health alert network capability. Additionally, the state has purchased the new hardware and software necessary to make the Health Alert Network fully operational statewide by 2003.

- Provide the New Hampshire State Police's Major Crime Unit with personal protective equipment and bio-chem training so it is capable of conducting a criminal investigation in a contaminated environment. Similarly, provide law enforcement agencies - including the State Police, sheriffs and local police departments with additional response training regarding biological or chemical attack.

All law enforcement officers in the state are now receiving personal protective equipment for biological and chemical incidents, as well as appropriate training in its use.

TRANSPORTATION SYSTEMS

- Enhance the number of emergency power sources to provide power at signalized intersections.

The Department of Transportation has a substantial number of generators, many of which could be diverted to the scene of an emergency to provide power at signalized intersections.

DOT
Burch/Kenneth

- Ensure an adequate supply of portable, changeable message signs and arrow boards to help direct traffic during an emergency.

The Department of Transportation is continually expanding this capability.

DOT
Burch/Kenneth

- Enhance security at private airports statewide.

Security issues have focused initially on the 20 airports in New Hampshire that are open to general public aviation. Since last fall, these airports have taken steps to limit access to their facilities. The Department of Transportation estimates that \$9 million dollars will be required to erect perimeter fencing at general aviation airports. The Department of Transportation has issued security guidelines and has sponsored numerous meetings with the operators of general aviation facilities.

DOT
Burch/Kenneth

- Develop statewide evacuation plans using existing highway systems.

New Hampshire has evacuation plans in place for the Emergency Preparedness Zones surrounding the Seabrook Station and Vermont Yankee nuclear power plants. In addition, the Department of Transportation is planning a review of the Portsmouth River bridges, including detour plans. The Department of Transportation plans to request additional federal funding to develop a statewide evacuation plan.

DOT
Burch/Kenneth

- Provide DOT personnel with personal protective equipment so they are able to safely respond to incidents involving biological or chemical agents.

Personal protective equipment will be available as necessary to DOT personnel.

DOT
Burch/Kenneth

- Provide training for DOT personnel who might be required to enter a scene contaminated with biological or chemical agents.

Security-related training will be added to existing training programs as appropriate.

DOT
Burch/Kenneth

- Establish a plan to use the state's motor vehicle fuel distribution system to refuel local emergency response vehicles in the event of a disaster.

There are 96 fuel distribution facilities across New Hampshire. The Department of Transportation intends to upgrade these sites and increase their availability to other agencies. Federal funding will also be sought to accelerate this upgrade program.

*DOT
Burchhardt*

- Continue to evaluate the security needs for critical bridges throughout the state.

In cooperation with the New Hampshire Department of Safety and the U.S. Coast Guard, the Department of Transportation has implemented new security measures at the Portsmouth bridges. The Department is also participating in a Federal Highway Administration research program to develop security enhancement standards for new and rehabilitated bridges.

*DOT
Burchhardt*

- Use DOT patrol sheds for the caching of basic supplies for a disaster.

There is limited available space inside existing patrol sheds to accomplish this goal. It is anticipated that additional structures will need to be built. However, the size and location of these storage buildings has yet to be determined.

*DOT
Burchhardt*

- Establish a plan for using DOT patrol sheds as staging points for emergency responders.

The patrol sheds are currently available for use as staging points in an emergency.

PORT FACILITIES AND MARITIME COMMERCE

- Enhance, where appropriate, the physical security at the Division of Ports and Harbors.

The Pease Development Authority has retained the services of a consultant to evaluate the security needs of the Division of Ports and Harbors and is in the process of hiring a security director. The Division of Ports and Harbors has established security procedures to limit access to its facilities.

*Gen's
Amorini*

- Acquire a fireboat to respond to ship fires, dock fires and major fires at the petroleum storage tank facilities in Portsmouth Harbor or the Piscataqua River.

The U.S. Department of Transportation denied the state's application for a grant to purchase a fireboat. In conjunction with the Pease Development Authority, the Department of Safety will re-apply.

Plan with

- Continue the Marine Patrol's presence along the Piscataqua River, Portsmouth Harbor and the state's seacoast.

EMS

The Department of Safety has increased its water patrols of the seacoast. Additionally, it received a \$200,000 federal port security grant to apply towards the purchase of a second patrol boat.

UTILITIES AND FUEL SUPPLIES

- Continue to enhance the utilities' ability to provide notification of an incident in an expeditious manner.

The Public Utilities Commission Security Committee has reviewed each utility's ability to provide notification to emergency first responders in the event of an incident.

- The Governor's Office of Energy and Community Services, the Division of Fire Safety and Emergency Management, and the Public Utilities Commission should meet to review the State's Energy Emergency Response Plan (SEERP) with regard to enhancing communication, clarifying roles and responsibilities, and coordinating response efforts. The Department of Safety should also participate in this review.

The three agencies met and reviewed the State's Energy Emergency Response Plan. The SEERP has been revised, updated, and fully integrated with OEM's State Emergency Operations Plan.

The Governor's Office of Energy and Community Services is also coordinating with regional organizations, such as the New England Governors' Conference and ISO-New England and at the federal level with the U.S. Department of Energy. The final SEERP has been completed and enhanced procedures are in place to monitor and respond to energy shortages and/or emergencies.

- The Department of Safety, Division of Fire Safety and Emergency Management, Public Utilities Commission, and the Governor's Office of Energy and Community Services should conduct a joint review of the security plans for the utilities, distillate fuel terminals and propane suppliers.

The Coast Guard, the State Fire Marshal and the State Police have met with the utilities and the fuel providers along the Piscataqua River to review their security procedures and strengthen coordination with law enforcement. The Public Utilities Commission has established a Security Committee, which is coordinating the initial review of security plans for the utilities. The review is scheduled to be completed by the end of the year.

*2018 03 28
PUC*

- Enhance present training efforts to respond to a major water supply catastrophe and to a dam failure.

The Department of Environmental Services, in cooperation with the U.S. Environmental Protection Agency, the New England Water Works Association and the New England Water Environment Association, has presented training courses on water supply and wastewater treatment plant security and preparedness. The Department has also performed assessments of the vulnerability of state-owned dams and taken measures to improve security at high-hazard dams. Additionally, the agency has provided technical support to the efforts of numerous public water suppliers and dam owners to improve security at their facilities. Significant additional enhancements will be made to improve security measures of public water supplies using \$500,000 in new federal grants. The Department is will assist small- to medium-sized public water systems in developing vulnerability assessments and implementing security measures. The state's two largest water systems – Manchester Water Works and Pennichuck Water Works – will each receive \$100,000 to evaluate and implement their security measures.

*Timber
D&S*

FOOD AND BEVERAGE SUPPLY

- Develop emergency preparedness plans for various scenarios and situations that could adversely affect food safety, dairy, and bottled water and water supplies in New Hampshire.

The Departments of Health and Human Services, Agriculture and Environmental Services and the Division of Fire Safety and Emergency Management are developing emergency preparedness plans that address risks to food, dairy and water supplies.

*K. Donat
A. Donat*

- Strengthen the capacity of the Department of Health and Human Services to evaluate health risks posed by the intentional chemical contamination of food and water supplies.

*D&H
S. Donat*

The Department of Health and Human Services is finalizing an updated protocol on responding to a product-tampering incident.

- Identify public and private sources of freezer trucks in the state that can be used in an emergency event to prevent food from spoiling.

The Division of Fire Safety and Emergency Management, as part of its ongoing assessment of available resources for the State's Emergency Operations Plan, has fulfilled this requirement.

- Encourage residents to establish and maintain at home a 3-7 day supply of food and water in the event of a temporary disruption in the delivery of goods at stores. This is in line with recommendations made by the American Red Cross and FEMA.

A multi-agency working group has created "Preparing For An Emergency," a four-page document that tells the public how to prepare for a disaster, including keeping a three-to-seven day emergency supply of food and water on hand. The full-color document is available on the Department of Health and Human Service's website as a downloadable PDF file. In addition, the Department and the Division of Fire Safety and Emergency Management have done numerous presentations on emergency preparedness and worked with the Concord Monitor on a major emergency preparedness insert.

HAZARDOUS MATERIALS

- Expand the state's hazardous materials response team capabilities, most notably to provide mobile, on-scene decontamination of not only first responders, but victims of a hazardous material incident.

Four decontamination trailers have been purchased through the Division of Fire Safety and Emergency Management and an additional five trailers have been ordered.

- Encourage training between hazmat teams and police SWAT for crisis situations (e.g., hostage incident) involving hazardous materials.

Police agencies are receiving Incident Command System (ICS) training; the State Police SWAT team commander has participated in the bio-terrorism briefings provided to hazmat teams; and

Page 27

additional coordination and training between SWAT teams and hazmat teams is planned during 2003.

- Hazmat teams need to acquire additional personal protective equipment and other necessary gear, as well as increase their coverage and overall response capabilities.

Using grant money from the U.S. Department of Justice, the Division of Fire Safety and Emergency Management has provided hazmat teams with chemical sensors, radiation sensors, and chemical test kits. Additionally, OEM awarded grants to the hazmat teams for planning, training and exercises, and awarded \$53,000 to seven local emergency planning committees for hazardous materials planning. The NH Fire Academy is offering hazmat-related courses, including training on the Incident Command System.

- Establish a Hazardous Materials Incident Response Coordinator within the Department of Safety to oversee the emergency response efforts of the state's regional hazmat teams, as well as to assist on-scene incident commanders with command, logistics and resources.

The Division of Fire Safety and Emergency Management has hired a part-time hazmat training coordinator to enhance hazmat training, planning, awareness and compliance. Through the DHHS bio-terrorism grant, a full-time hazmat response coordinator has been established in the Division of Fire Safety and Emergency Management.

- Expand present training efforts on the Incident Command System so all first responders, sheriffs, EMT's and health officials know what to expect at a disaster scene, and what their roles and responsibilities are.

The NH Fire Academy and Division of Fire Safety and Emergency Management continue to provide training on the Incident Command System throughout the state. It is also available as an independent study course through FEMA's Emergency Management Institute.

- Provide an adequate supply of Personal Protection Equipment for firefighters, emergency medical personnel, health officials, food and water inspectors, local police, county sheriffs, New Hampshire State Police and public works employees to protect

(Handwritten scribble)

*PSTC
PSTC*

them from potentially deadly biological and chemical agents when responding to a disaster.

Through a \$3.2 million U.S. Department of Justice grant, the Division of Fire Safety and Emergency Management has purchased protective equipment for all law enforcement officers and ambulances in the state.

FSTC

- Hospitals need to develop plans to carry out the mass decontamination of victims arriving at the emergency room.

DOT
S, through

The New Hampshire Hospital Association is conducting a detailed assessment of needs in this area.

- Acquire portable air sampling units and meteorological stations to provide adequate coverage in an emergency.

DOT
Buckworth

The Department of Transportation is preparing a statewide plan for the location of Road Weather Information Stations, which can be used in an emergency to provide temperature, wind and precipitation data, as well as video capability.

INTERNATIONAL BORDER SECURITY

- Significantly improve the lighting at the Pittsburg, NH port-of-entry. This should include the perimeter of the building and the roadway past the facility.

The Department of Safety has made this recommendation to the U.S. Border Patrol, which is responsible for the Pittsburg border crossing.

- Establish radio interoperability capability between the U.S. Border Patrol and the New Hampshire State Police.

Based on the recommendation of the New Hampshire State Police, U.S. Border Patrol has acquired portable radios that allow the agency to communicate with New Hampshire law enforcement's digital radio system.

- Encourage the federal government to continue 24-hour patrol coverage of the Pittsburg, NH port-of-entry.

The Pittsburg border crossing remains open 24 hours a day.

EVACUATION AND SHELTERING

- Using the evacuation plan presently observed in the Emergency Planning Zones around Seabrook Station and Vermont Yankee, OEM could develop a similar model that can be applied to towns and cities in the rest of the state. All communities should have a functional emergency evacuation plan.

Field representatives from the Division of Fire Safety and Emergency Management are actively working with communities to update their emergency response and evacuation plans.

- Develop plans - and identify resources - for the sanitation needs of evacuees and emergency responders and staff at reception centers and emergency shelters. DHHS
S. Tompsett

The American Red Cross and Department of Health and Human Services' Emergency Planning Group are addressing this issue.

- Identify additional reception centers around the state to handle a sudden surge of evacuees in an emergency.

The Department of Health and Human Services' Emergency Planning Group is addressing this issue. To improve the current reception centers, the Department has updated floor plans and set-up procedures, as well as improved the registration database. The Department is continually recruiting additional volunteers to staff the centers. DHHS
S. Tompsett

- Educate New Hampshire residents about "sheltering in place."

The Division of Fire Safety and Emergency Management's field representatives and public information officer are actively involved in efforts to educate New Hampshire citizens about appropriate steps in the case of an emergency, including "sheltering in place."

- Identify and maintain a manifest of health professionals who can volunteer their services in an emergency at the shelters.

Working with the American Red Cross, the Department of Health and Human Services has established a pool of 175 volunteer employees to assist in a major disaster. Many of the volunteers are mental health professionals who can provide counseling services. Advanced training for these

individuals is scheduled to begin in January 2003. A program to recruit additional volunteers to provide needed services at the shelters is underway.

- Identify alternate sources of power and lighting (e.g., battery, generator, lantern) for shelters and district offices that may be used as reception centers in an emergency. Likewise, continue to expand the New Hampshire Mobile Emergency Generator Program.

The Mobile Emergency Generator Program has been replaced by a grant program (managed by the Division of Fire Safety and Emergency Management) that enables towns to purchase generators for emergency use. Applications have been received and grants are in the process of being awarded.

Pam U M

- Determine a paper issuance method if the electronic benefits transfer (EBT) system for emergency food stamps is not operational. And determine a method (including a backup plan) to link the EBT to the New Hampshire Treasury Department in an emergency situation to enable benefit (cash) issuance to clients.

A food stamp disaster plan is in place.

COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE

- Improve the interoperability and availability of communications systems to have better capabilities to: a) initially alert emergency responders, local, state and federal agencies and the public; b) communicate more effectively between local, state, and federal agencies during the response and mitigation phase of an incident; and c) facilitate an orderly and effective evacuation if necessary.

The Division of Fire Safety and Emergency Management has deployed four mobile repeaters that allow for cross-frequency communications between agencies. Two mobile repeaters, which can be brought to the scene of a disaster, are on order.

B. Henry

- Create a reliable, redundant and secure interagency communications network that links major state agencies, health agencies, hospital emergency departments, dispatch centers, fire departments, police departments, sheriff departments, emergency medical services and the State EOC.

A multi-agency work group and a legislative study committee are exploring the issues related to the interoperability and availability of communications systems. In the interim, the Division of Fire Safety and Emergency Management has deployed four mobile repeaters that allow for cross-frequency communications between agencies. Two mobile repeaters, which can be brought to the scene of a disaster, are on order.

- Explore ways in which to strengthen and improve present statewide emergency coordination efforts and communications flow among state agencies.

The Division of Fire Safety and Emergency Management, in cooperation with the National Guard, is installing 10 regional high-frequency radio transmitters at National Guard facilities across the state to serve as a back-up communications system in the event of a catastrophic event. Each provides regional communications to the Emergency Operations Center.

- Establish the capability for public health and transportation officials to communicate via two-way radio with the New Hampshire State Police and the State Emergency Operations Center.

A multi-agency work group and a legislative study committee have convened to explore the issues related to the interoperability and availability of communications systems. In the interim, the Division of Fire Safety and Emergency Management has put its Communications and Information Systems Vehicle (CISV) into service. The vehicle provides on-site, cross-band interoperability so emergency responders can communicate with one another using different systems. Operators from various state agencies and organizations are being trained to use the CISV. The amateur radio network is also available in emergencies.

- Encourage the Federal Communications Commission to make more radio frequencies available in New Hampshire.

The Department of Safety is currently pursuing this recommendation.

- Examine how to make communication towers less vulnerable to attack and to reduce ongoing maintenance requirements. Likewise, develop plans to ensure that mountaintop towers and repeaters can be replenished during prolonged power outages.

Plans are in place to replenish the emergency generator fuel supplies in the event of a prolonged power outage. The Department of Safety continues to upgrade the off-site monitoring capabilities for the security of the towers and related equipment. C. B. Smith

- Acquire additional mobile command posts - as well as additional mobile communications posts - for key agencies, including the Department of Health and Human Services, Department of Transportation, and the Division of Fire Safety and Emergency Management. Examine the possibility of strategically pre-positioning incident command vehicles in the Department of Transportation maintenance districts. Pam U-M

At the present time, it would not be cost efficient or effective for multiple state agencies to have incident command posts.

- State agencies and departments that provide critical services to the residents of the state should consider the possibility of establishing off-site operational facilities command posts to ensure continuity of operations in the event their main offices are damaged or destroyed in a disaster.

Several state agencies have established - or are in the process of doing so - Incident Command Centers to ensure continuity of operations in a disaster situation.

- Strengthen efforts to tap into New Hampshire's volunteer resources, including individuals who have unique or high-demand skills that can be used in an emergency.

The Department of Health and Human Services is working with the New Hampshire Retirement System to recruit former state employees to participate in the Department's emergency pool of volunteer counselors. Additionally, the Division of Fire Safety and Emergency Management is developing plans for Emergency Response Teams as part of the federal Citizen's Corps initiative, which is recruiting volunteers to provide assistance during natural or manmade disasters. J. W. U-M

- Develop public messages and advisories in various languages suitable to reach residents who do not speak English.

This is an on-going, long-term endeavor. Key state agencies, including the Department of Health and Human Services and the Division of Fire Safety and Emergency Management, translate materials EM3

into other languages. A recent example is the application kit materials for potassium iodide, which were produced in both English and Spanish.

- Schools, counties and municipalities need to ensure they have emergency plans that are current, accurate and reflect the availability of present resources.

The Division of Fire Safety and Emergency Management's Comprehensive Emergency Management Planning for Schools program (CEMPS) helps local school and emergency management personnel develop workable emergency plans for their schools. CEMPS is on target to complete basic emergency planning in every SAU in the State that has requested the program by the end of this calendar year.

The program has been operating since 1998.

- State agencies with critical databases need to develop protocols to access vital computer management systems and databases in an emergency. Likewise, such agencies need to also establish a real-time backup system to an off-site location to ensure data safety and continued availability.

As part of their Year 2000 planning, state agencies put in place contingency plans in case of computer failure. Those plans continue to be reviewed and updated. The Department of Administrative Services' Wide Area Network Engineering Group has defined a secure system to access the State's financial and human resources systems databases via a virtual private network. The Department has also set-up a secondary backbone location as an alternate site to the central facility. In the event the central location is lost, the alternate site would automatically take over the network operations. Additionally, the Wide Area Network Engineering Group has built the New Hampshire State Unified Network to tighten security within the network.

- Dispatch centers around the state need to ensure they have appropriate back-up systems to continue functioning in the event of a disaster.

As part of its local outreach, the Division of Fire Safety and Emergency Management continues to encourage local communities to update their dispatch centers.

- The Department of Administrative Services should evaluate the security needs of state agency facilities and standardize, where appropriate, security measures.

Pmm U-M

The Department of Administrative Services continues to review security at state facilities.

Plan U-M

- The Department of Administrative Services should continue to evaluate state government's vulnerability to various types of cyber-attack and take actions to reduce that threat. Agencies with critical computer systems should be provided with real-time back-up systems to ensure their continued operation during a disaster.

Rick-IT

As part of their Year 2000 planning, state agencies put in place contingency plans in case of computer failure. Those plans continue to be reviewed and steps to prevent cyber-attacks are being integrated into the state's overall information technology effort.

- Examine and amend, where necessary, statutes to strengthen the state's role in preventing acts of terrorism. Examples include RSA 158:31 (explosives and weapons of mass destruction); RSA 158:9-b (explosives license requirements); RSA 263:40-a (driver's license data); RSA 91-A ("Right-to-Know" law), and the establishment of severe penalties for terrorism hoaxes.

EMS

Several statutes were strengthened in the past year, including the three RSA's mentioned here. Additionally, Gov. Shaheen signed into law HB 1478 strengthening Public Health response and powers during a state of emergency; House Bill 1423, toughening the penalties on anyone who commits a hoax related to a biological or chemical weapon; HB 1461 transferring the Office of Emergency Management to the Department of Safety and strengthened the agency's ability to respond to emergencies; and Senate Bill 437, clarifying a Governor's authority to declare a water supply emergency and impose water protections, such as use restrictions, during a emergency.

- The Commissioner of Insurance should evaluate the impact on New Hampshire businesses of proposed changes to insurance policies that would provide for a so-called "terrorism exclusion."

Federal legislation was recently passed that enables businesses and property owners to obtain terrorism insurance. State action is not needed at this time.

- The state should continue to update its database concerning "critical facilities," which should include risk assessments, vulnerability studies, response plans and other information crucial to emergency responders.

Both the New Hampshire State Police and the New Hampshire Anti-Terrorism Task Force have conducted risk assessments of critical facilities across the state. They are continuously updating the risk assessments.

RMS

- The New Hampshire State Police should continue to administer a terrorism-related intelligence system and disseminate information to local police departments.

RMS

The New Hampshire State Police has established a full-time Anti-Terrorism Unit and, working with the FBI and the New England Joint Terrorism Task Force, plays a key role on collecting and disseminating information to the appropriate agencies.

- The federal government should be encouraged to issue security clearances to appropriate state officials in order to enhance the state's ability to evaluate the credibility of potential terrorist threats.

The federal government is processing top-secret security clearances for five state government officials. The new federal Department of Homeland Security is taking steps to provide additional security clearances.

ADDITIONAL ACHIEVEMENTS

*ADDITIONAL
ACHIEVEMENTS*

SECTION IV

Other Achievements

In addition to the recommendations made in the Commission's initial report, state agencies have taken a number of additional steps over the past year to improve security and to ensure that they will be able to continue to operate in the event of any emergency.

Department of Administrative Services

- Conducted a security scan of the New Hampshire State Unified Network. Detected vulnerabilities were reported to the agency administrators and corrected.
- Completed state government's Statewide Strategic Information Technology Plan, which addressed information technology disaster recovery planning.

Department of Agriculture, Markets & Foods

- Developed a disaster plan for the handling of companion animals, including livestock, during a natural or manmade disaster.
- With a \$50,000 federal grant from the U.S. Department of Agriculture, sponsored a seminar for veterinarians on the diagnosis, quarantine, eradication and surveillance of a foreign animal disease outbreak, and the disposal of dead infected animals. The Department used a portion of this grant to acquire a trailer, stocked with emergency supplies, which can be taken directly to the site of any disease outbreak.
- The State Veterinarian received specialized training in animal diseases that could potentially be used by terrorists to infect humans.
- Participated in a New England regional tabletop exercise on responding to a foreign animal disease outbreak.
- The Division of Animal Industry is expecting a \$61,000 federal grant from the USDA to enhance surveillance, diagnosis and response to a foreign animal disease. Similarly, the Division of Plant Industry has received a \$50,000 federal grant for pest and plant surveillance efforts.

Department of Health & Human Services

- In collaboration with several agencies, the Office of Community and Public Health developed and implemented a plan to distribute potassium iodide tablets to people who live or work in the two Emergency Planning Zones in the state.
- Developed and distributed a “Bio-terrorism Emergency Response Handbook” to health officials and first responders statewide.
- The Office of Community and Public Health advised facilities around the state on how to enhance the physical security of radiological materials.
- Put in place a Pharmaceutical Surveillance System to detect spikes in drug sales -- prescription and over-the-counter -- that may indicate the presence of a disease outbreak.

Department of Justice, Medical Examiner’s Office

- Trained two field staff members to help coordinate the response to a mass fatality incident.
- Updated the Mass Casualty Plan to include protocols addressing radiological incidents.
- The Chief Forensic Investigator received training in responding to both hazardous materials and weapons of mass destruction.

Department of Safety, Division of Fire Safety & Emergency Management

- Through a U.S. Department of Justice grant, the Division of Fire Safety and Emergency Management purchased eight cooling vests, four cases of splash suits and four bomb suits for the New Hampshire State Police and Nashua Police Department bomb squads.
- Through a U.S. Department of Justice technical assistance grant, the Division of Fire Safety and Emergency Management is updating and expanding the State’s Emergency Operations Plan to include guidelines and procedures for responding to a terrorist incident. All state agencies and key community-based organizations are involved in this process.

- Sponsored the training of 537 first responders in seven different terrorism courses offered nationwide through grants made available by the US Department of Justice and the Federal Emergency Management Agency. The Office also sponsored 10 emergency management-related courses here in New Hampshire for 203 students.
- The Division of Fire Safety and Emergency Management conducted eight major community-based exercises, including a cross-border hazardous materials simulated incident in Nashua and the biennial graded full-scale exercise for the Seabrook Station nuclear power plant.
- Conducted an exercise with the Department of Health and Human Services that addressed decontamination issues and tested reception center services in support of the State's Radiological Emergency Response Plan.
- Supported the planning and implementation of a training exercise at the Portsmouth Naval Shipyard that dealt with an accident involving spent nuclear fuel.
- Developed plans and procedures for a New Hampshire transportation staging area to support the distribution of vehicles and other resources to New Hampshire municipalities in the event of an emergency at the Vermont Yankee nuclear power plant.
- Trained more than 400 first responders, hospital staff and community officials on the State's Radiological Emergency Response Plan.
- Working with communities to ensure that local emergency plans address evacuation and sheltering-in-place strategies.
- Briefed more than 300 police officers concerning the state's anti-terrorism efforts and smallpox vaccination planning process.

Department of Transportation

- Conducted security reviews at select remote facilities, such as toll plazas, district offices and rest areas. Several recommendations have been implemented to improve personnel security at these locations.
- Established a Security Task Force, which works closely with the Division of Fire Safety and Emergency Management, to address security-related issues and activities.

This task force will be updating the Department's disaster response procedures in coordination with the State's Emergency Operations Plan.

National Guard

- Developing a portable video teleconferencing capability to provide secure communications capability for the Governor.
- Planning a wireless communications (microwave) network that will provide a voice/data capability between National Guard installations around the state.
- Awarded an initial contract to purchase a base station and hand-held radios that will provide communications capabilities between Army and Air Guard personnel and civilian emergency response agencies.

Public Utilities Commission

- The Commission is working closely with the New Hampshire Anti-Terrorism Task Force to identify and review security plans for critical facilities across the state.

Veterans Home

- Updated emergency plan to include procedures on reporting suspicious activities, handling biological agents, and letter handling.
- Updating evacuation plan and reassessing its computer back-up capability.

CONCLUSIONS

SECTION V CONCLUSION

Since the tragic events of September 11, 2001 the State of New Hampshire has significantly improved its ability to deter, detect, respond to, and recover from a terrorist attack. The most significant changes include:

- o Local first responders are better prepared as the result of increased training and additional equipment. During 2003, more training and equipment will be provided as a result of anticipated federal grants.
- o The state's public health infrastructure has been strengthened, including an expanded disease surveillance system, improved laboratory capabilities, increased treatment and epidemiological capabilities at local hospitals and health departments, and the establishment of the National Pharmaceutical Stockpile deployment plan and an interim smallpox vaccination plan.
- o Law enforcement remains on a "high-alert" status, and police agencies have updated and improved their anti-terrorism intelligence gathering and sharing capabilities.
- o Regional hazardous materials response teams have improved their bio-terrorism response capabilities through additional specialized training and equipment.
- o The Department of Safety Marine Patrol, State Police, Division of Motor Vehicle Inspectors, U.S. Coast Guard, U.S. Navy, and Portsmouth and Newington police have strengthened the security of Portsmouth Harbor/Piscataqua River through coordinated patrols.
- o Critical facility security plans and procedures have been revised and strengthened.
- o Critical emergency response plans have been revised and strengthened.

The most significant challenges for the future include securing the funding necessary to fully implement the commission's recommendations; addressing communications systems interoperability; establishing additional regional hazardous materials response teams; completing the disease surveillance Health Alert Network and additional improvements to the public health infrastructure at the state and local level; increasing the state's mass casualty treatment capacity; expanding the use of the Incident Command System for all emergency

incidents; improving local evacuation and sheltering plans; and establishing a strong relationship with the newly created federal Department of Homeland Security.

While individual agencies have made some organizational changes to adapt to their new or expanded anti-terrorism responsibilities, New Hampshire continues to depend upon a comprehensive "all-hazards" approach to disaster management that is based on a strong local emergency response system. State and local government agencies continue to share resources and ideas, and are committed to protecting the citizens of New Hampshire from terrorism and natural disasters.

As we enter 2003, the Commission recommends that the priorities and implementation plan established in its November 2001 report continue to serve as the blueprint for the State's anti-terrorism response effort.

In accordance with RSA 21-P:48, which went into effect on July 1, 2002, an Advisory Council on Emergency Preparedness and Security will officially replace the Governor's Commission on Preparedness and Security. The Council will work with the director of the Division of Fire Safety and Emergency Management to implement additional improvements to the state's security and emergency preparedness systems and serve as an adviser to the governor on issues involving the state's ability to respond to natural and technological disasters.

Members of the Council are:

- (a) The state coordinator of emergency management
- (b) The attorney general.
- (c) The chairman of the public utilities commission.
- (d) The adjutant general.
- (e) The commissioner of the department of health and human services.
- (f) The director of the division of fire safety and emergency management.
- (g) The commissioner of the department of safety.

- (h) The director of the governor's office of energy and community services.
- (i) The commissioner of the department of transportation.
- (j) The commissioner of the department of resources and economic development.
- (k) The commissioner of the department of agriculture, markets, and food.
- (l) The commissioner of the department of environmental services.
- (m) The commissioner of the department of administrative services.
- (n) The director of the Pease development authority, division of ports and harbors.
- (o) The director of police standards and training.
- (p) A police chief, appointed by the governor.
- (q) The director of the division of fire standards and training.
- (r) A fire chief, appointed by the governor.
- (s) One member of the fire standards and training commission, appointed by the chairman.
- (t) A county sheriff, appointed by the governor.
- (u) A representative of the Professional Firefighters of New Hampshire, appointed by the governor.

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: February 9, 2010

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Hackel

Vote: 11-8 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

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Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

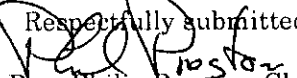
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

JUDICIARY

Bill #: HB 1344 Title: relative to the taking of private property during a state of emergency.
 PH Date: _____ Exec Session Date: 02, 09, 10
 Motion: Interim Study Amendment #: _____

MEMBER	YEAS	NAYS
Cote, David E, Chairman	Y	
Wall, Janet G, V Chairman	Y	
Potter, Frances D	Y	
Hackel, Paul L	Y	
Preston, Philip, Clerk	Y	
Richardson, Gary B	Y	
Weber, Lucy M	Y	
Browne, Brendon S <u>Read, Robin P.</u>	Y	
Nixon, David L <i>obs</i>	Y	
Thompson, Robert B	Y	
Watrous, Rick H	Y	
Rowe, Robert H		N
Elliott, Nancy J		N
DiFruscia, Anthony R	Y	
Mead, Robert D		N
O'Brien, William L		N
Hagan, Joseph M		N
Perkins, Lawrence B		N
Silva, Peter L		N
Smith, William B		N

TOTAL VOTE:
 Printed: 12/18/2009

11Y

8N

Committee Report

REGULAR CALENDAR

February 16, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB1344,

AN ACT relative to the taking of private property during a state of emergency. Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.

Rep. Lucy M Weber

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB1344
Title: relative to the taking of private property during a
state of emergency.
Date: February 16, 2010
Consent Calendar: NO
Recommendation: REFER TO COMMITTEE FOR INTERIM STUDY

STATEMENT OF INTENT

The bill amends what property the state may take during a state of emergency, and the method of determining the compensation for property so taken. The underlying statute, RSA 4:46, was enacted in reaction to 9/11. A representative of the Attorney General's office testified as to their concerns about the bill, but the areas of most concern to them were actually part of the current statute. The majority believes that it is time to re-evaluate the entire statute, and to consider the implications of repealing it altogether, rather than making changes piecemeal.

Vote 11-8

Rep. Lucy M Weber
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1344, relative to the taking of private property during a state of emergency. **REFER TO COMMITTEE FOR INTERIM STUDY.**

Rep. Lucy M Weber for the **Majority** of JUDICIARY. The bill amends what property the state may take during a state of emergency, and the method of determining the compensation for property so taken. The underlying statute, RSA 4:46, was enacted in reaction to 9/11. A representative of the Attorney General's office testified as to their concerns about the bill, but the areas of most concern to them were actually part of the current statute. The majority believes that it is time to re-evaluate the entire statute, and to consider the implications of repealing it altogether, rather than making changes piecemeal. **Vote 11-8.**

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

February 16, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB1344,

AN ACT relative to the taking of private property during a state of emergency. Having considered the same, and being unable to agree with the Majority, report with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Robert D Mead

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB1344
Title: relative to the taking of private property during a state of emergency.
Date: February 16, 2010
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

HB 1344 amends the state's powers to seize commercial and private property during a declared state of emergency. The minority of the committee believes that this bill will better protect the rights of the citizens of New Hampshire which are not adequately covered under RSA 4:46. To assure our citizens maintain the right to self-protection, as was denied the citizens of New Orleans in the aftermath of Hurricane Katrina, this bill specifically prohibits the taking, confiscation, or seizure of firearms, ammunition, or ammunition components from law abiding New Hampshire citizens during a declared state of emergency. In addition, it requires emergency preparedness and security agencies to make advance contingency plans, and to set up in advance, agreements and arrangements with public and private organizations, and individuals for projected additional space, equipment and supplies which may be required as part of these plans. The seizure of heating oil and fuel supplies at commercial locations is limited to no more than 50%, and residential heating oil and gasoline are specifically excluded. HB 1344 also sets into place processes and procedures to determine fair market values and compensation standards for citizens whose property is confiscated by the state during the state of emergency and is damaged or destroyed. The minority of the Judiciary Committee asks for a no vote to overturn the Judiciary Committee recommendation of inexpedient to legislate so that a motion of ought to pass can then be made.

Original: House Clerk
Cc: Committee Bill File

Rep. Robert D Mead
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB1344, relative to the taking of private property during a state of emergency. **INEXPEDIENT TO LEGISLATE.**

Rep. Robert D Mead for the **Minority of JUDICIARY.**

HB 1344 amends the state's powers to seize commercial and private property during a declared state of emergency. The minority of the committee believes that this bill will better protect the rights of the citizens of New Hampshire which are not adequately covered under RSA 4:46. To assure our citizens maintain the right to self-protection, as was denied the citizens of New Orleans in the aftermath of Hurricane Katrina, this bill specifically prohibits the taking, confiscation, or seizure of firearms, ammunition, or ammunition components from law abiding New Hampshire citizens during a declared state of emergency. In addition, it requires emergency preparedness and security agencies to make advance contingency plans, and to set up in advance, agreements and arrangements with public and private organizations, and individuals for projected additional space, equipment and supplies which may be required as part of these plans. The seizure of heating oil and fuel supplies at commercial locations is limited to no more than 50%, and residential heating oil and gasoline are specifically excluded. HB 1344 also sets into place processes and procedures to determine fair market values and compensation standards for citizens whose property is confiscated by the state during the state of emergency and is damaged or destroyed. The minority of the Judiciary Committee asks for a no vote to overturn the Judiciary Committee recommendation of inexpedient to legislate so that a motion of ought to pass can then be made.

Original: House Clerk
Cc: Committee Bill File

INTERIM STUDY COMMITTEE REPORT

COMMITTEE: Judiciary
BILL NUMBER: HB 1344
TITLE: _____
DATE: _____

RECOMMENDED FOR FUTURE LEGISLATION

LSR No. _____

(If legislation is already
filed, please list LSR no.)

NOT RECOMMENDED FOR FUTURE LEGISLATION

STATEMENT OF INTENT: (May be handwritten)

See attached.

COMMITTEE VOTE: 11-0 (Attach Committee Voting Sheet)

Rep. *Larry Weber*
For the Committee

27 Oct 2010

Interim Study Report--HB 1344 relative to the taking of private property during a state of emergency

Recommended for future ~~action~~ *legislation*.

Committee members believe that the current laws pertaining to emergency situations should be reexamined in their entirety, considering improved specificity with respect to the protection of private property rights and the preservation of personal liberty.

Committee vote 11-0.

HOUSE COMMITTEE ON JUDICIARY

INTERIM STUDY

EXECUTIVE SESSION on HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: October 27, 2010

LOB ROOM: 208

RECOMMENDED FOR FUTURE LEGISLATION

LSR No. _____
(If legislation is already filed, list LSR No.)

NOT RECOMMENDED FOR FUTURE LEGISLATION

Moved by Rep. Weber

Seconded by Rep. Rowe

Vote: 11-0 (Please attach record of roll call vote.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

HOUSE COMMITTEE ON JUDICIARY

INTERIM STUDY

EXECUTIVE SESSION on HB 1344

BILL TITLE: relative to the taking of private property during a state of emergency.

DATE: October 27, 2010

LOB ROOM: 208

RECOMMENDED FOR FUTURE LEGISLATION

LSR No. _____
(If legislation is already filed, list LSR No.)

NOT RECOMMENDED FOR FUTURE LEGISLATION

Moved by Rep.

Weber

Seconded by Rep.

Roare

Vote: (Please attach record of roll call vote.)

114 ON

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Philip Preston, Clerk

Phil Preston

JUDICIARY

Bill #: AB1344 Title: taking of private property

PH Date: / /

Exec Session Date: / /

Motion: Recommend

Amendment #:

MEMBER	YEAS	NAYS
Cote, David E, Chairman	✓	
Wall, Janet G, V Chairman	✓	
Potter, Frances D a		
Hackel, Paul L	✓	
Preston, Philip, Clerk	✓	
Richardson, Gary B	✓	
Weber, Lucy M	✓	
Browne, Brendon S a		
Nixon, David L	✓	
Thompson, Robert B	✓	
Watrous, Rick H a		
Rowe, Robert H	✓	
Elliott, Nancy J a		
DiFruscia, Anthony R a		
Mead, Robert D	✓	
O'Brien, William L a		
Hagan, Joseph M a		
Perkins, Lawrence B a		
Silva, Peter L a		
Smith, William B	✓	
TOTAL VOTE:	11	0