

Committee Report

CONSENT CALENDAR

March 22, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 433,

AN ACT limiting renewal of states of emergency.

Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Terry Roy

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Executive Departments and Administration
Bill Number:	HB 433
Title:	limiting renewal of states of emergency.
Date:	March 22, 2021
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill permits the Governor to renew a state of emergency only once and requires a state of emergency to be renewed by a vote of the legislature unless half of the members of either chamber are unable to meet. The committee passed a similar bill, HB 417, and addressed the issue of renewing states of emergency. Another bill was retained in committee, thus making HB 433 unnecessary.

Vote 18-0.

Rep. Terry Roy
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 433, limiting renewal of states of emergency. **INEXPEDIENT TO LEGISLATE.**

Rep. Terry Roy for Executive Departments and Administration. This bill permits the Governor to renew a state of emergency only once and requires a state of emergency to be renewed by a vote of the legislature unless half of the members of either chamber are unable to meet. The committee passed a similar bill, HB 417, and addressed the issue of renewing states of emergency. Another bill was retained in committee, thus making HB 433 unnecessary. **Vote 18-0.**

Original: House Clerk

Cc: Committee Bill File

Archived: Tuesday, April 20, 2021 9:30:57 AM
From: [Carol McGuire](#)
Sent: Monday, March 29, 2021 10:51:04 AM
To: [Miriam Simmons](#); [Terry Roy](#)
Cc: [Pam Smarling](#)
Subject: Re: HB433
Response requested: No
Importance: Normal

On Mon, Mar 29, 2021 at 10:31 AM Terry Roy <Terry.Roy@leg.state.nh.us> wrote:
"HB433 is a bill limiting the Governor's powers during a state of emergency. The Committee passed a similar bill, HB 417, and retained another thus making HB433 unnecessary."

Hon. Terry W. Roy, Representative
New Hampshire General Court

Rockingham County Dist. 32

Vice Chair
Committee on Executive Departments and Administration

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 433

BILL TITLE: limiting renewal of states of emergency.

DATE: March 22, 2021

LOB ROOM: Remote / Hybrid

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Roy

Seconded by Rep. Schuett

Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS & ADMINISTRATION

EXECUTIVE SESSION on Bill # HB 433

BILL TITLE: LIMITING RENEWAL OF STATES OF EMERGENCY

DATE: 3-22-21

LOB ROOM: 306-308

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Roy Seconded by Rep. SCHUETT Vote: 18-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: John Sytek
Rep. John Sytek, Clerk



2021 SESSION

Executive Departments and Administration

Bill #: HB 433 Motion: ITL AM #: _____ Exec Session Date: 3-22-21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
McGuire, Carol M. Chairman	X		
Roy, Terry Vice Chairman	X		
Sytek, John Clerk	X		
Pearson, Stephen C.	X		
Yakubovich, Michael	X		
Lekas, Tony	X		
Alliegro, Mark C.	X		
Bailey, Glenn	X		
Lanzara, Tom E.	X		
Santonastaso, Matthew	X		
Goley, Jeffrey P.	X		
Schuett, Dianne E.	X		
Jeudy, Jean L.			X
Schmidt, Peter B.	X		
Schultz, Kristina M.	X		
Fellows, Sallie D.	X		
Fontneau, Timothy J.	X		
Grote, Jaci L.	X		
O'Brien, Michael B.	X		
TOTAL VOTE:			

18-0

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 433

BILL TITLE: limiting renewal of states of emergency.

DATE: March 1, 2021

LOB ROOM: LOB Hybrid **Time Public Hearing Called to Order:** 10:40 a.m.

Time Adjourned: 10:50 a.m.

(please circle if present)

Committee Members: *ALL EXCEPT SANTONASTASO* Reps. McGuire, Roy, Sytek, S. Pearson, Yakubovich, T. Lekas, Alliegro, Bailey, Lanzara, Santonastaso, Goley, Schuett, Jeudy, P. Schmidt, Schultz, Fellows, Fontneau, Grote and O'Brien

Bill Sponsors:

Rep. Prout

Rep. L. Ober

TESTIMONY

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

HB 433 limiting renewal of states of emergency. (10:40/10:50)

Rep. Prout, sponsor, introduced the bill and spoke in support. He said that when an emergency continues for an extended time, the legislature should have a role. He then explained the provisions of the bill. He answered a committee question concerning the workability of the bill.

Hearing adjourned at 10:50 a.m.

Respectfully submitted by,
Rep. John Sytek
Committee Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS & ADMINISTRATION

PUBLIC HEARING on Bill # HB 433

BILL TITLE: XX RELATIVE TO EVACUATIONS UNDER A STATE OF EMERGENCY

DATE: 3-1-21

ROOM: 304-306

Time Public Hearing Called to Order: 10:40

Time Adjourned: 10:50

(please circle if present)

Committee Members: ALL EXCEPT SANTONASTASO Reps. McGuire, Roy, Sytek, S. Pearson, Yakubovich, T. Lekas, Alliegro, Bailey, Lanzara, Santonastaso, Goley, Schuett, Jeudy, P. Schmidt, Schultz, Fellows, Fontneau, Grote and O'Brien

TESTIMONY

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

Mar 1, 2021 (listed by Public Hearing notice, not chronologically)

HB 433 limiting renewal of states of emergency. (10:40/10:50)

>Rep. Prout, sponsor, introduced the bill and spoke in support. He said that when an emergency continues for an extended time, the legislature should have a role. He then explained the provisions of the bill. He answered a committee question concerning the workability of the bill.

House Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB433 on 2021-03-01

Support: 197 Oppose: 24 Neutral: 0 Total to Testify: 1

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Prout, Andrew	Hudson, NH Andrew.Prout@leg.state.nh.us	An Elected Official	Myself, prime sponsor	Support	Yes (5m)	2/28/2021 9:23 PM
Porter, Jandee	South Acworth, NH jandeeper@live.com	A Member of the Public	Myself	Support	No	2/28/2021 9:30 PM
Trexler, Ryan	Stoddard, NH trexlers@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:31 PM
Cembalisty, Clara	Rochester, NH Taxmanrick@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:37 PM
Dudak, Colemann	Marlow, NH dudak93@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:37 PM
Stevens, Holly	Concord, NH hstevens@new-futures.org	A Lobbyist	New Futures	Oppose	No	2/28/2021 9:42 PM
O'Connor, Eileen	Manchester, NH emrlloyd@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:42 PM
Marino, John	Peterborough, NH techlon11@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:44 PM
McCartney, Michelle	Concord, NH Michelleredmond2000@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 9:53 PM
Pedersen, Michael	Nashua, NH PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Oppose	No	2/28/2021 10:08 PM
O'Connor, Ethan	Manchester, NH ethanoc92@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:08 PM
McCartney, Evan	Concord, NH bebop0505@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:13 PM
Anastasia, Patti	LONDONDERRY, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 10:20 PM

McCabe, Mat	Merrimack, NH Matmccabe@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:22 PM
Somero, Caleb	New Ipswich, NH Calebsomero@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:23 PM
Matson, Jessica	Merrimack, NH jpmmatson@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:26 PM
Bender, Lorie	Hopkinton, NH lorie.bender@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 10:28 PM
Craig, Kevin	Lancaster, NH Kevin.Craig@leg.state.nh.us	An Elected Official	Coos-4	Support	No	2/28/2021 10:34 PM
Torosian, Peter	Atkinson, NH FlyBirdAir@aol.com	An Elected Official	Rockingham County #14	Support	No	2/28/2021 10:45 PM
Rossal, Julie	Keene, NH deut10_12@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:55 PM
Rossal, Dave	Keene, NH deut10_12@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:56 PM
chapman, kevin	marlborough, NH denoet103@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 11:01 PM
Merner, Kelly	Wilton, NH kellyamerner@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:02 PM
Minehart, Will	Wilton, NH sylvandream@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:17 PM
Molloy, Kathe	Claremont, NH KatheMolloy@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:20 PM
Gerhard, Jason	Northfield, NH slidernh045@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:25 PM
McKinney, Carolyn	Amherst, NH carolyn.mckinney@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:43 PM
Brisson, Angel	Manchester, NH Angelbrisson72@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:46 PM
Brisson, David	Manchester, NH Overmann@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 11:47 PM
Reese, Tyler	Gonic, NH tybogie@hotmail.com	A Member of the Public	Myself	Support	No	3/1/2021 12:00 AM
See, Alvin	Loudon, NH absee@4Liberty.net	A Member of the Public	Myself	Support	No	3/1/2021 12:12 AM

Ramsey-Sanchez, Jessica	Swanzy, NH jescka912@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 12:13 AM
McGraw, Dan	Exeter, NH dmcgraw52@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 2:26 AM
Folsom, Terry	Laconia, NH Terdiafol@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 4:11 AM
Folsom, Steve	Laconia, NH Sfolsom@metrocast.net	A Member of the Public	Myself	Support	No	3/1/2021 4:29 AM
Schmitt, John	Keene, NH jschmitt88@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 3:04 AM
Meyer, Heidi	Rochester, NH Floweroflife369@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 6:18 AM
dowst, Maureen	Weare, NH maureendowst@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 6:39 AM
Wolfe, Deb	Temple, NH nhwolfe@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 6:55 AM
Gericke, Carla	Manchester, NH carlagericke@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 7:32 AM
Calitz, Louis	Manchester, NH louis@free603.org	A Member of the Public	Myself	Support	No	3/1/2021 7:33 AM
Cedolin, Bradley	Epping, NH Bbcedolin@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 7:48 AM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:52 AM
Kelley, Elizabeth	Conway, NH patandlizkelley@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 7:56 AM
Kelley, Patrick	Conway, NH patandlizkelley@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 7:57 AM
Hayden, Sam	Hopkinton, NH hayden.sam@gmail.com	A Member of the Public	Myself	Oppose	No	3/1/2021 7:58 AM
Wilson, Audra	Alstead, NH h3islife@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:01 AM
House, Don	Belmont, NH donhouse@metrocast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 8:04 AM
McLeod, Thomas	Mont Vernon, NH tmcleod@naturalhealth.media	A Member of the Public	Myself	Support	No	3/1/2021 8:06 AM

Bartlett, Susan	61 Bartlett Loop Warner, NH suebartlett@tds.net	A Member of the Public	Myself	Oppose	No	3/1/2021 8:13 AM
Angelis, Cheryl	Salem, NH cangelis_alt@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:14 AM
Bowers, Danielle	Acworth, NH dannybowers81@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:20 AM
Litka, Kerry	Nashua, NH kerrylitka@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:21 AM
Cooper, Andrew	Nashua, NH andrew.john.cooper@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:24 AM
Richardson, Wendy	Conway, NH butterfly91011@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:25 AM
Clough, Holly	Jackson, NH Hollycarissa@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:26 AM
Bowden, Audrey	Derry, NH arbowden@hotmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:29 AM
Macpherson, Christine	Chesterfield, NH Christine.macpherson@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:31 AM
Wilson, Sarah	Conway, NH sarah.star.wilson@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:35 AM
LaLone, Edward	Epping, NH LaLone.Edward@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 8:35 AM
Hohensee, Doris	Nashua, NH doris.hohensee@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 8:42 AM
Gieschen, John	Chesterfield, NH Jgieschen@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:44 AM
Mirzoeff, Joseph	Keene, NH mrzvyp@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:44 AM
Strong, Michelle	Campton, NH Michellestrong85842@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:45 AM
FOSS, DARLENE	CHICHESTER, NH Darlenemarie@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 8:45 AM
Schrader, Bob	North Conway, NH bob.schrader.esq@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:49 AM
Beene, Holly	Manchester, NH holly.beene@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 8:53 AM

Rounds, Rick	Winchester, NH roundsrck@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 8:55 AM
Devost, Lynda	New Durham, NH Lynda.Devost@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:00 AM
Thibodeau, Ellen	Windham, NH jayellthib@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 9:01 AM
devost, david	new durham, NH daviddevost18@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:01 AM
Russell, Laurie	LOUDON, NH russelltlmgea@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:01 AM
Rounds, Cheryl	Derry, NH blissfullyhealthy@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:10 AM
Elliott, Maria	Portsmouth, NH beemee@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 9:12 AM
Wester, Jessica	Alton Bay, NH wester.j@protonmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:13 AM
Wester, Jeff	Alton Bay, NH wester.j@protonmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:13 AM
Acciani, Robert	Meredith, NH Lakeviewfarmsnh@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:14 AM
Healey, Barbara	Merrimack, NH Barbara3821@aol.com	A Member of the Public	Myself	Oppose	No	3/1/2021 9:16 AM
Avard, Paul	Wolfeboro, NH pavard1@hotmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:21 AM
Demers, Donald	Derry, NH donald.demers@ymail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:27 AM
Arseneau, Daniel	Bristol, NH Arseneau2@myfairpoint.net	A Member of the Public	Myself	Support	No	3/1/2021 9:28 AM
Methot, Leon	MILFORD, NH methotl@hotmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:31 AM
Hildreth, George	Derry, NH jay.hildreth@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 9:34 AM
Shiffer, Jason	Wilmot, NH jshiffer@zerotao.org	A Member of the Public	Myself	Support	No	3/1/2021 9:35 AM
O'Donnell, Kristy	Dublin, NH theodonnellzoo@aol.com	A Member of the Public	Myself	Support	No	3/1/2021 9:41 AM

Moore, Kandice	Plymouth, NH kandice_k_moore@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 9:42 AM
Capellan, Lisa	Bedford, NH lisa71781@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 9:43 AM
Capellan, Jay	Bedford, NH jay.lisacapellan@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 9:42 AM
Foley Arseneau, Dorothy	Bristol, NH 4kalmkids@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:49 AM
Sanguedolce, Aliyah	Center Barnstead, NH a.sanguedolce21@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:53 AM
Harvey-Bolia, Rep. Juliet	Tilton, NH jharveybolia@gmail.com	An Elected Official	Myself	Support	No	3/1/2021 9:54 AM
Owens, Kimberly	Nashua, NH tiptoeskst@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 9:56 AM
Howard Jr., Raymond	Alton, NH brhowardjr@yahoo.com	An Elected Official	Myself	Support	No	3/1/2021 9:58 AM
Sanchez, Jacob	Swanzey, NH jvs701@outlook.com	A Member of the Public	Myself	Support	No	3/1/2021 10:09 AM
Tuthill, John	Acworth, NH jtuthill@sover.net	A Member of the Public	Myself	Oppose	No	3/1/2021 10:09 AM
Seaman, Jessicah	Derry, NH ajseaman@myfairpoint.net	A Member of the Public	Myself	Support	No	3/1/2021 10:16 AM
Bethuy, Donald	Nashua, NH donbethuyiii@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:20 AM
Young, Tim	Pembroke, NH tim.young11@outlook.com	A Member of the Public	Myself	Support	No	3/1/2021 10:27 AM
Erlebacher, Frances	Rye, NH creatives@aol.com	A Member of the Public	Myself	Support	No	3/1/2021 10:31 AM
Martin, Rachel	Weare, NH rachelmar@protonmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:32 AM
Kaufman, Amy	Newfields, NH Fitark@comcast.net	A Member of the Public	Myself	Oppose	No	3/1/2021 10:47 AM
Hammerman, Sam	Goffstown, NH SamJH@Hushmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:48 AM
Lipman, Denis	Rye, NH denisklipman@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:48 AM

schade, catherine	Bedford, NH kate.schade5@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:58 AM
Rounds, Jacqui	Winchester, NH roundsrck@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:58 AM
Lev-Hod, Hila	Goffstown, NH hilalh@hushmail.com	A Member of the Public	Myself	Support	No	3/1/2021 11:09 AM
Coffman, Howard	Nashua, NH hxcoffman@protonmail.com	A Member of the Public	Myself	Support	No	3/1/2021 11:14 AM
Taku, Noelle	Merrimack, NH nmtaku@me.com	A Member of the Public	Myself	Support	No	3/1/2021 11:18 AM
Ananda, Kara	Nashua, NH karamariaananda@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 11:25 AM
Six, Roland	Manchestet, NH touchstone@live.com	A Member of the Public	Myself	Support	No	3/1/2021 11:33 AM
Grant, Sue	Rochester, NH gnrlgrnt001@yahoo.com	A Member of the Public	Myself	Support	No	3/1/2021 11:52 AM
Tyler, Nina	Manchester, NH Tylernina02@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 12:30 PM
Jacob, Richard	AUBURN, NH Foodman4u2@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 12:31 PM
Jacob, Michelle	Auburn, NH Foodman4u2@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 12:32 PM
Fortin, Cecile	Auburn, NH Cecilef@comcast.net	A Member of the Public	Myself	Support	No	3/1/2021 12:33 PM
Qualey, Jim	Rindge, NH jimqualeyfornh@gmail.com	An Elected Official	Myself	Support	No	3/1/2021 1:33 PM
Avallon, James	North Hampton, NH jimavallon@aol.com	A Member of the Public	Myself	Support	No	3/1/2021 1:37 PM
Kotlyarsky, Michael	Hooksett, NH mish.bk@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 11:56 PM
Michaud, Genevieve	Center Barnstead, NH gmichaud@goodstufffarm.com	A Member of the Public	Myself	Support	No	3/1/2021 4:46 PM
Hutchins, Nancy	Stratham, NH nhutch1977@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 4:55 PM
Robbins, Ashley	Milton, NH Ashleylincoln@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 5:21 PM

Spaulding, Shalon	Henniker, NH Shalondanai@gmail.com	A Member of the Public	Myself	Support	No	3/1/2021 6:46 PM
Shimek, Jack	Weare, NH Jaqeboy@protonmail.com	A Member of the Public	Myself	Support	No	3/1/2021 10:57 PM
Bates, David	Warner, NH dbates3@yahoo.com	A Member of the Public	Myself	Oppose	No	2/21/2021 10:24 AM
Nardino, Marie	Andover, NH mdnardino@gmail.com	A Member of the Public	Myself	Oppose	No	2/21/2021 5:08 PM
Nelson, Elizabeth	Derry, NH BethDavid@comcast.net	A Member of the Public	Myself	Oppose	No	2/21/2021 11:16 AM
Johnson, Sara	Warner, NH nhchicagocubfan@gmail.com	A Member of the Public	Myself	Oppose	No	2/21/2021 3:58 PM
Fenner-Lukaitis, Elizabeth	Warner, NH glukaitis@mcttelecom.com	A Member of the Public	Myself	Oppose	No	2/21/2021 6:22 PM
Wells, Ken	Andover, NH kenwells3@gmail.com	A Member of the Public	Myself	Oppose	No	2/21/2021 9:56 PM
Wells, Lee	Andover, NH leewells.locustfarm@gmail.com	A Member of the Public	Myself	Oppose	No	2/21/2021 10:10 PM
Courser, Rebecca	Warner, NH rcourser@hotmail.com	A Member of the Public	Myself	Oppose	No	2/22/2021 8:53 AM
Cooper, Carlton	Rochester, NH cwcooper20@yahoo.com	A Member of the Public	Myself	Support	No	2/22/2021 4:12 PM
Seppala, Kathleen	Rindge, NH katsep25@protonmail.com	A Member of the Public	Myself	Support	No	2/22/2021 7:49 PM
Manuse, Andrew	Derry, NH amanuse@gmail.com	A Member of the Public	Myself	Support	No	2/22/2021 8:26 PM
Vendt, Martha	Hopkinton, NH martha.vendt@gmail.com	A Member of the Public	Myself	Support	No	2/23/2021 10:57 AM
Worsman, Colette	Meredith, NH coletteworsmannh@metrocast.net	A Member of the Public	Myself	Support	No	2/23/2021 3:17 PM
Worsman, Glenn	Meredith, NH goldeag@yahoo.com	A Member of the Public	Myself	Support	No	2/23/2021 3:35 PM
Myers, Patrice	Concord, NH 2009awsn@gmail.com	A Member of the Public	Myself	Support	No	2/23/2021 7:14 PM
Saunders, Joanne	Manchester, NH jmslinmarpa@gmail.com	A Member of the Public	Myself	Support	No	2/25/2021 12:21 AM

Cates, Tyler	Nashua, NH XTylerCatesX@gmail.com	A Member of the Public	Myself	Support	No	2/25/2021 6:35 PM
Cates, Sahriah	Nashua, NH sahriah@sahriah.com	A Member of the Public	Myself	Support	No	2/25/2021 6:47 PM
Timmins, Courtney	Belmont, NH cst610@gmail.com	A Member of the Public	Myself	Support	No	2/25/2021 8:47 PM
Timmins, Jeremiah	Belmont, NH kaiheitai@gmail.com	A Member of the Public	Myself	Support	No	2/25/2021 8:47 PM
Gardner, James	Keene, NH yourgardner@protonmail.com	A Member of the Public	Myself	Support	No	2/26/2021 2:04 PM
Brucker, Trina	Londonderry, NH Trinabrucker@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 7:31 AM
Guyen, Taci	Windham, NH Taci.guyen@yahoo.com	A Member of the Public	Myself	Support	No	2/26/2021 10:08 PM
Cates, Tammy	Nashua, NH tjcates@eagleswind.com	A Member of the Public	Myself	Support	No	2/26/2021 5:46 PM
Anderson, Shayla	Merrimack, NH shaylan85@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 4:32 AM
Neil, Amanda	Canterbury, NH amanda@smgltd.net	A Member of the Public	Myself	Support	No	2/27/2021 10:25 AM
Neil, Brian	Canterbury, NH bneil@gsd-nh.com	A Member of the Public	Myself	Support	No	2/27/2021 10:27 AM
Anthes, Gregory	New Durham, NH gaanthes@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 9:42 AM
Anthes, Janis	New Durham, NH j.antes@hotmail.com	A Member of the Public	Myself	Support	No	2/27/2021 9:55 AM
White, Melissa	Peterborough, NH marino_melissa@yahoo.com	A Member of the Public	Myself	Support	No	2/27/2021 1:21 PM
Freedman, Aubrey	Bridgewater, NH aubreyyfreedman@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 1:23 PM
Kennington, Kate	North Hampton, NH katekennington@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 2:53 PM
Grenier, Wendy	Nashua, NH cook4love@gmail.com	A Member of the Public	Myself	Support	No	2/27/2021 11:52 AM
Owens, Brady	Nashua, NH brady@fastglass.net	A Member of the Public	Myself	Support	No	2/27/2021 12:28 PM

Vogt, Robin	Portsmouth, NH robin.w.vogt@gmail.com	A Member of the Public	Myself	Oppose	No	2/27/2021 3:18 PM
Kishinevsky, Rebecca	Wilton, NH rp.kishinevsky@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 1:11 PM
VanPatten, Emily	Deering, NH emily.b.vanpatten@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 8:10 AM
Montgomery, Andrea	Nashua, NH andimontgomeryreflexology@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 7:01 AM
Courchaine, Sarah	Sanbornton, NH littlesarahmay@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 9:43 AM
Groetzinger, Tonda	Farmington, NH groetzinger6@aol.com	A Member of the Public	Myself	Support	No	2/28/2021 10:16 AM
McGuire, Daniel	Epsom, NH danmcguire@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 10:38 AM
Martin, Jeanne	Merrimack, NH Jeanne-martin@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 11:17 AM
Concordia, Nicole	Temple, NH nconcordia@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 11:49 AM
Canavan, Elizabeth	Nashua, NH betty0230@aol.com	A Member of the Public	Myself	Support	No	2/28/2021 11:52 AM
Tennis, Laura	Allenstown, NH Laura.tennis1@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 12:00 PM
VanPatten, Joel	Deering, NH artvanpatten@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 12:04 PM
Enos, Liz	Hudson, NH pwrmine@aol.com	A Member of the Public	Myself	Support	No	2/28/2021 12:35 PM
Rousseau, Robin	Portsmouth, NH Robinarousseau@aol.cin	A Member of the Public	Myself	Support	No	2/28/2021 6:55 PM
Imran, Mazahir	Moultonborough, NH mazahirimran@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 8:32 PM
Minton, Faith	warner, NH minton.faith@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 1:13 PM
Check, Sarah	Dover, NH Sarbare444@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 2:24 PM
Nuchow, Leslie	Portsmouth, NH leslienuchow@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 3:08 PM

Hartzell, Emily	Portsmouth, NH emilyhartzell@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 3:08 PM
Fordey, Nicole	Litchfield, NH nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	2/28/2021 3:18 PM
Morin, Jennifer	Meriden, NH Jennifer.morin@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 3:29 PM
Carter, Jaime	Londonderry, NH gundyja@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 3:38 PM
Trexler, Larisa	Stoddard, NH trexlers@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 4:36 PM
McLeod, Ferngold	Mont Vernon, NH fern@mcleodsoft.net	A Member of the Public	Myself	Support	No	2/28/2021 5:01 PM
Hackmann, Kent	Andover, NH hackmann@uidaho.edu	A Member of the Public	Myself	Support	No	2/28/2021 5:14 PM
Frost, Sherry	Dover, NH sherry.frost@leg.state.nh.us	An Elected Official	Myself	Oppose	No	2/28/2021 5:33 PM
Turner, Paul	Portsmouth, NH pturner98@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 5:33 PM
Ewing, Jared	Nashua, NH jrod4513@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 5:35 PM
Prevey-Levin, Kathleen	Amherst, NH levinmk@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 5:36 PM
Homer, Courtney	Greenland, NH chomer@sloan.mit.edu	A Member of the Public	Myself	Support	No	2/28/2021 5:47 PM
Malm, Patsy	RAYMOND, NH tpmalm@myfairpoint.net	A Member of the Public	Myself	Support	No	2/28/2021 6:14 PM
Mossey, Karen	Merrimack, NH kmmossey@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 6:18 PM
Judge, Donna	Hampstead, NH donnatjudge@gmail.com	An Elected Official	Myself	Support	No	2/28/2021 6:26 PM
Dudak, Breanna	Marlow, NH bdudak8820@icloud.com	A Member of the Public	Myself	Support	No	2/28/2021 6:27 PM
luther, tom	claremont, NH 3pb9ha6fsssc@opayq.com	A Member of the Public	Myself	Support	No	2/28/2021 6:40 PM
Mennella, Alexandra	Hooksett, NH amennella1@protonmail.com	A Member of the Public	Myself	Support	No	2/28/2021 6:45 PM

Lewicke, John	Mason, NH john.lewicke@leg.state.nh.us	An Elected Official	Myself	Support	No	2/28/2021 6:46 PM
Mathews, Janice	Weare, NH JaniceMathews18@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 6:47 PM
Flocco, Barbara	Stratham, NH weddingorganist@icloud.com	A Member of the Public	Myself	Support	No	2/28/2021 6:51 PM
Chauvin, Paul	Manchester, NH pchauvin@keepandbeararms.com	A Member of the Public	Myself	Support	No	2/28/2021 6:52 PM
Peck, Kim	Peterborough, NH nestchild@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 6:54 PM
Swain, Christine	South Acworth, NH wintergrace5@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:02 PM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	2/28/2021 7:06 PM
Perkins, Caryn	Derry, NH carynperkins6@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:08 PM
Mazur, Lisa	Goffstown, NH piperscovenh@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:13 PM
Mason, Angela	Concord, NH acmbogue@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 7:15 PM
Marvin, Kurt	Franklin, NH INFO@BURLINGTONFOUNDRYINC.COM	A Member of the Public	Myself	Support	No	2/28/2021 7:28 PM
Stearn, Charity	Nashua, NH superauntie@eagleswind.com	A Member of the Public	Myself	Support	No	2/28/2021 7:32 PM
Surman, Elizabeth	Hampton Falls, NH hellolibby@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 7:42 PM
Larose, Donna	Litchfield, NH Dnarose@aol.com	A Member of the Public	Myself	Support	No	2/28/2021 7:47 PM
Darrow, Linda	Ctr. Barnstead, NH lindard.1956@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:52 PM
Tanafon, Eric	New Ipswich, NH etanafon@protonmail.com	A Member of the Public	Myself	Support	No	2/28/2021 7:58 PM
Thomas, Nicholas	Manchester, NH nicholas.w.thomas@uconn.edu	A Member of the Public	Myself	Support	No	2/28/2021 8:02 PM
McFarlane, Donald	Orange, NH PinkCardsShouldNotRequireOneToHaveAndProvideAnEm@i	A Member of the Public	Myself	Oppose	No	2/28/2021 8:26 PM

Hoenig, Michael	Milford, NH Prov_326@comcast.net	A Member of the Public	Myself	Support	No	2/28/2021 8:46 PM
Terry, Paul	Alton, NH paul.terry@leg.state.nh.us	An Elected Official	Myself	Support	No	2/28/2021 8:49 PM
Falardeau, Mary	Nashua, NH maryb521@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 8:55 PM
Berg, Angela	Manchester, NH apalm12@aol.com	A Member of the Public	Myself	Support	No	2/28/2021 8:57 PM
Cedolin, Alexandra	Epping, NH Ahwhyte@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:04 PM
Derraugh, Lucas	New Boston, NH lucas@derraugh.com	A Member of the Public	Myself	Support	No	2/28/2021 9:07 PM
Kinney, Elizabeth	Portsmouth, NH marylandbeth07@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:08 PM
Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Support	No	2/28/2021 9:11 PM
Reese, Catherine	ROCHESTER, NH Catherinehennessy@hotmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:17 PM
Methot, Jennifer	Milford, NH jennifer.s.methot@gmail.com	A Member of the Public	Myself	Support	No	2/28/2021 9:19 PM

Testimony



HOUSE COMMITTEE RESEARCH OFFICE
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Pam Smarling, Senior Committee Researcher
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To: Rep. Gregory G. Hill, Chairman, House Legislative Administration Committee
Rep. Carol M. McGuire, Chairman, House Executive Departments and
Administration Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 10, 2021

RE: State of Emergency Declaration; History of NH Law; Use of Concurrent
Resolutions; Adoption of Concurrent Resolutions

You asked for a legislative history of laws addressing the Governor's power to declare a state of emergency.

SUMMARY

The New Hampshire Civil Defense Act (RSA 107) was adopted in 1949, establishing the first formal framework at the state level for responding to an emergency created by an enemy attack or a natural disaster. A section was added to the law in 1953, granting the Governor and the Legislature the authority to proclaim an emergency and to assert "that the safety and welfare of the inhabitants of this state require an invocation" of emergency powers. The provision adopted in 1953 also identified additional emergency powers granted to the Governor during a declared emergency.

The laws addressing the declaration and powers associated with a state of emergency have been codified in different sections of the NH statutes over the years. The provisions addressing the authority to declare a state of emergency have been in RSA 4:45-4:47 since 2002.

This memorandum identifies the major changes to the emergency powers law from 1949 to 2002 and provides information on states of emergency declared in New Hampshire over the last 18 years. It also provides information on a 2015 bill to repeal the Governor's authority to declare a state of emergency and give the sole authority for such a declaration to the General Court.

Executive Order 2020-4, declaring a state of emergency due to Novel Coronavirus (COVID-19)

On March 13, 2020, Governor Chris Sununu signed Executive Order 2020-04 and declared a state of emergency invoking RSA 4:45, III(e) and RSA 4:47, III. These laws grant the Governor the authority to "perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population;" and the "power to make, amend, suspend and rescind necessary orders, rules and regulations" to carry out emergency management functions in the event of a disaster beyond local control. This executive order includes directives that apply to multiple entities including state agencies, state and local governments, schools, residential care facilities and all residents and visitors to the state. RSA 4:45, II(a) provides that a state of emergency is automatically terminated 21 days after its declaration unless it is renewed, Executive Order 2020-4 has been renewed 15 times and is currently set to terminate on February 12, 2021.

NH States of Emergency

Floods, hurricanes and severe winter storms are the most common natural disasters in New Hampshire. In addition, emergency responders also prepare for potential manmade disasters that could occur in the industrialized areas of the state during the transportation of hazardous materials or at the Seabrook Station nuclear power plant.

Recent States of Emergency Declared by NH Governors; terminations enacted by Executive Order noted

- 8/11/2003 – Benson; limited State of Emergency, flooding due to torrential rains associated with the severe storms
- 12/12/2008 – Lynch; State of Emergency, severe weather and ice storm
- 2/26/2010 – Lynch; State of Emergency, winter storm with extreme weather with heavy rains and strong winds causing power outages and floods
- 7/3/2013 – Hassan; State of Emergency, severe weather, thunderstorms, persistent rains, flooding and extensive damage, evacuations; **terminated 7/12/2013**
- 8/14/2014 – Hassan, State of Emergency statewide due to overdoses related to the use or misuse of the product “Smacked”
- 1/26/2015 – Hassan; State of Emergency, severe winter storm, snow, high winds, coastal flooding; **terminated 1/28/2015**
- 3/1/2020 – Chris Sununu; State of Emergency due to the Novel Coronavirus (COVID-19)

NH Major Disasters Declared by Federal Government, 2000-2020

In the last 20 years, the federal government has issued 12 emergency declarations for New Hampshire as well as 26 declarations of major disasters. Other than the COVID-19 pandemic this year, most of the federally-declared emergencies and disasters in this time period involved severe winter storms with heavy snow and other severe storms, including hurricanes and tornados, that led to flood damage.

History of NH Law on State of Emergency Declaration

Prior to the adoption of state and federal civil defense acts during the early years of the Cold War, government historically took emergency actions affecting private property under general police powers, such as orders prohibiting public gatherings during the Spanish flu outbreak from 1918 to 1920.

The federal Civil Defense Act was adopted in 1950 and was described as creating a basic framework for preparations to minimize the effect of an attack on the country. The first NH Civil Defense Act was adopted in 1949. The stated purpose of the law was to ensure that the state was adequately prepared to cope with disasters resulting from “enemy attack, sabotage, or other hostile action, or from fire, flood, hurricane, earthquake, other natural causes,...”. The law established a Civil Defense Agency led by a director appointed by the Governor and Council. The director was charged with coordinating civil defense activities and was authorized to cooperate with civil defense agencies in other states and federal government.

The NH Civil Defense Agency was replaced by the Governor’s Office of Emergency Management in 1987. Subsequently, in 2002, the office was renamed and moved to the Department of Safety. There was broad support for moving the Office of Emergency Management to the Department of Safety, although there was some testimony in opposition to this shift. The Senate Finance Committee amendment revised RSA 4:45 relative to the declaration and termination of a state of emergency, including the 21-day termination provision and the authority to renew a state of emergency.

Timeline of Reorganization of Emergency Response Office and State of Emergency Declaration Provision

1949 – RSA 107 NH Civil Defense Act adopted

Office in charge of coordination: Civil Defense Agency; Director of agency appointed by the Governor and Council and works at the direction of the Governor
[RSA 107:3]

Authority to declare emergency: not addressed

1953 –Emergency Powers section added to law

Authority to declare emergency:

- Governor may proclaim
- House or Senate may proclaim by resolution
[RSA 107:8]

1987 –RSA 107-C Emergency Management Act adopted, RSA 107 repealed

Office in charge of coordination: Governor’s Office of Emergency Management
[RSA 107-C:3]

Authority to declare emergency:

- Governor may proclaim
- House and Senate may proclaim by joint resolution
- no provision for the termination of a state of emergency
[RSA 107-C:5]

2002 RSA 4:45-4:47 and RSA 12-P 34-48 Office of Emergency Management, Department of Safety adopted; RSA 107-C repealed

Office in charge of coordination: Office of Emergency Management, Division of Fire Safety, Department of Safety; State Fire Marshal directs division [RSA 21-P:34-48]

Authority to declare emergency:

- Governor may declare by executive order [RSA 4:45, I]
- General Court may declare by concurrent resolution of the House and Senate [RSA 4:45, I]
- a state of emergency terminates automatically after 21 days, unless it is renewed [RSA 4:45, II(a)]
- Legislature has authority to terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber [RSA 4:45, II(c)]

2002 –Shift to the Department of Safety

HB 1461 (2002) moved the Office of Emergency Management out of the Governor’s Office and into the Division of Fire Safety. It was sponsored by Reps. Clegg, Whalley, and Konys and Sens. Francoeur, O’Neil, Eaton and D’Allesandro.

Supporters included the State Fire Marshal (who was also the Acting Director of the Office of Emergency Management at the time), the NH Fire Chiefs Association, individual firefighters, the Attorney General and the Chairman of the Public .

Testimony in support noted that up until that time, emergency management efforts had generally centered on responses to natural disasters and critical incident preparedness for potential accidents at the Seabrook Station or Vermont Yankee nuclear power plants. The terrorist attacks on September 11, 2001 changed the view of emergency threats and required greater and more complex forms of interagency collaboration. It was noted that the lines of communication and authority are not always clear during an emergency. The Department of Safety was seen as the central agency for law enforcement communication and responses involving both state and municipal emergency responders, and therefore the most effective and efficient location for the Office of Emergency Management. This shift was also seen as allowing for the sharing of intelligence among federal, state and local law enforcement personnel.

Governor's Position on 2002 Legislation

Proponents noted that the legislation retained the Governor's powers relative to the declaration of a state of emergency as well as the Governor's general emergency management authority. Special Counsel to Governor Shaheen testified in the Senate that she had not initiated this legislation but was not opposed to a change in organizational structure that would enhance coordination and efficiency. The Governor's primary concern was to ensure that the current emergency process and powers were retained to the extent possible. To that end, her counsel worked on an amendment ensuring that the Governor and Council retained authority over the Coordinator of Emergency Management. Under RSA 21-P:36, I, in the final version of the bill, the Commissioner of Safety nominated the coordinator for appointment by the Governor with the consent of the Council. The coordinator served at the pleasure of the Governor and may be removed, with or without cause, by the Governor and Council.

Opponents included Rep. Ken Wyler and the former Director of the OEM.

Testimony in opposition from the former Director of the Office of Emergency Management indicated that RSA 107-C was a model for other states. He expressed concern over the shift of authority away from elected leadership and to appointed officials and stressed that the office functions as a manager and coordinator rather than a direct response unit. Opponents felt that shifting the office out of the Governor's Office would dilute the Governor's powers and cloud the chain of command. They also feared that this transfer would create added expenses and questioned the indication in the fiscal note that there would be savings to the state.

Votes on HB 1461 (2002)

The committee votes on HB 1461 were all unanimous. There was some debate on the bill on the floor of the House.

House Votes:

ED&A Committee, Ought to Pass with Amendment, vote 15-0,

Regular Calendar
Passed with amendment, roll call vote 238-112

Senate Votes:

ED&A Committee, Ought to Pass with Amendment, 5-0
Passed with amendment, voice vote
Finance Committee, Ought to Pass with Amendment, vote 5-0
Passed with amendment, voice vote

Signed by Governor, 5/17/2002 Effective 7/1/2002
Chapter 257, Laws of 2002

2015 Legislation to Repeal the Governor's Authority to Declare a State of Emergency

HB 452, repealing the governor's authority to declare a state of emergency

Sponsors: Rep. Itse, Rep. Hoell, Rep. Ingbretson, Rep. Hannon, Rep. Dan McGuire, Rep. Seaworth and Rep. Seidel

Summary:

- Repealed RSA 4:45 (State of Emergency Declaration; Powers) and enacted a new section, RSA 4:51 granting the General Court the sole authority to declare a state of emergency
- Retained provisions authorizing the General Court to declare a state of emergency by the adoption of a concurrent resolution of the House and Senate; declaration terminated automatically after 21 days unless renewed
- Substituted the General Court for the Governor in several sections addressing State of Emergency powers

House Action

Referred to: House Legislative Administration Committee

House Hearing: February 5, 2015

Testimony in Support

- It is more appropriate to grant authority to declare a state of emergency to a larger number of people, the Legislature, rather than grant one person this power; the Governor may exceed his or her authority
- In response to concerns that the Legislature cannot act as quickly and assemble to take a vote in some emergency situations, such as a major storm, proponents

suggested amending the bill to permit commissioners to take some immediate actions

- One co-sponsor proposed alternative language to require the Governor to obtain the approval of the Council to declare an emergency.

Testimony in Opposition

- It is critical to be able to respond quickly to an emergency for effective response; may need to respond in hours; a slow response could imperil the lives and property of NH residents.
- It is unrealistic to expect 424 members to be located, assembled, complete a debate and vote before declaring a state of emergency; the Governor is able to act much more quickly.
- Federal emergency management and homeland security laws recognize the nation's governors as the contact in civil emergencies and disasters; they are entrusted with classified information in the event of an enemy attack.
- Federal laws empower the Governor to contact the President and call out the National Guard.
- The State Constitution provides for the continuity of operations if the Governor is indisposed or cannot be reached; this provision was used recently when a flood occurred while the Governor was out of the country. The President of the Senate assumed emergency responsibilities until the Governor returned.
- The bill would give the Legislature the authority to “move from office any public officer having administrative responsibilities under RSA 21-P:34 through 21-P:48” for a period not exceeding 30 days [proposed new RSA 4:51, III(d)]. This authority currently is granted only to the Governor. It is unreasonable to have the Director of Homeland Security and Emergency Management working under the supervision of the Commissioner of Safety and the Governor, and also subject to possible removal by the Legislature.

Committee Report: Inexpedient to Legislate, vote 8-1, Consent Calendar

Rep. Jack B. Flanagan for Legislative Administration. This bill would remove the governor's authority to declare a state of emergency and grant that authority solely to the legislature. For a number of reasons, the majority of the committee felt that this bill was not practical. These reasons include that the legislature is not in session year round, and our state may be bound by certain requirements set forth by the federal government dealing with important matters relating to emergency operations, natural disaster relief, and homeland security. As the chief

executive of the state, the governor should have the authority to declare emergencies and be able to direct state resources.

Floor Action: Found Inexpedient to Legislate, voice vote

Final Action Killed in the House

Legislative Declaration of a State of Emergency; Concurrent Resolution

RSA 4:45, I grants the Legislature the authority to declare a state of emergency “by concurrent resolution of the house and senate”.

Other circumstances when the Legislature has the authority to act by concurrent resolution adopted by a majority vote of each chamber:

- To declare a vacancy in the office of Governor. This article is triggered 6 months after the Governor or the Supreme Court declare that the Governor is unable to fulfill the duties of the office by reason of physical or mental incapacity. If the General Court is not in session when the 6-month period expires, the Acting Governor shall convene a special session for the sole purpose of considering and acting on declaring a vacancy in the office of the Governor, upon the written request of $\frac{1}{4}$ of the members of each chamber. - N.H. Const. Pt. 2, Art. 49-a
- To terminate an order issued by the Chief Justice of the Supreme Court suspending deadlines regarding speedy trials for a 21-day period during a declared state of emergency – RSA 490:6-a

Different Types of Resolutions

House Rules define the three types of resolutions as follows:

Joint resolution –

- Has the force and effect of law, must pass both the house and senate and be signed by the governor.
- Must be treated as bills (NH Constitution, Pt. II, Art. 45); must be introduced and considered in the same manner as bills, except that they can only be used for temporary provisions.
- Cannot be used to amend the public or private laws of New Hampshire (the RSA or the session laws), but they can be used to appropriate money for limited purposes; to establish temporary study committees; and to make adjustments in the state retirement system for certain individuals.
- Effective upon passage, for this reason that are useful for supplemental or deficiency appropriations, but such appropriations may not extend beyond the second fiscal year of the biennium. As with other appropriations, if a resolution

makes an appropriation from the general fund the governor must be authorized to draw a warrant for the sums appropriated.

Concurrent resolution –

- Must be passed by both houses but is not sent to the governor for signature.
- Do not have the effect of a law
- Cannot be used to appropriate money
- May be used to put the legislature on record as supporting or disavowing some aspect of national or state policy; may be utilized to express appreciation to some individual or group.

Simple resolution

- Adopted by one chamber of the legislature only
- Do not have the effect of law
- Written to show appreciation to some individual or group, to ask the supreme court for an advisory opinion on a bill originating in that body, to express sympathy for an individual's death or illness, or, in a lighter vein, to commemorate an event affecting one of the members.

Source: House Rules, Definitions

If I can provide further information on this, please let me know.



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To: Rep. Gregory G. Hill, Chairman, House Legislative Administration Committee
Rep. Carol M. McGuire, Chairman, House Executive Departments and
Administration Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 23, 2021

RE: Bills Proposing Revisions to the Process for Declaring and Imposing a State of
Emergency; 2021 Legislative Session

On March 13, 2020, Governor Chris Sununu signed Executive Order 2020-04 and declared a state of emergency invoking RSA 4:45, III(e) and RSA 4:47, III. RSA 4:45, II(a) provides that a state of emergency is automatically terminated 21 days after its declaration unless it is renewed, Executive Order 2020-4 has been renewed 16 times and is currently set to terminate on March 5, 2021.

At least 16 bills or resolutions have been filed in the 2021 session to amend the State of Emergency laws or in response to Executive Orders imposed during the 2020-2021 State of Emergency. These bills have been referred to 5 different standing committees of the House of Representatives. Many of these bills have been referred to the House Executive Departments and Administration Committee and the House Legislative Administration Committee. Public hearings on the state of emergency bills have been scheduled for March 1 in both committees. Two bills relating to the state of emergency laws have been voted out of committee and are on the House Calendar for this week.

House Criminal Justice Committee

1. HB 63, relative to the reversal or forgiveness of emergency order violations

Hearing: January 27, 2021

Summary:

- provides that the state shall not enforce, and shall reverse, any prior finding of violation of the governor’s emergency orders regarding the COVID-19 pandemic.
- provides for annulment of an arrest or criminal conviction for violation of an emergency order issued in response to COVID-19.

Committee Amendment:

- removes references to release from settlement agreements
- revises effective date to be upon passage or upon termination of the COVID-19 State of Emergency, whichever is later

Committee Report: Majority: Ought to Pass with Amendment, vote 11-10,
Regular Calendar
Minority: Inexpedient to Legislate

Rep. Scott Wallace for the Majority of Criminal Justice and Public Safety. The COVID-19 pandemic has been a difficult time for everyone. Small businesses have been hurt especially hard. Without large legal compliance teams or alternative staff available to cover for those with medical issues, many have struggled to implement the guidance in the highly technical pandemic emergency orders. This bill would forgive any violations of the emergency orders when the state of emergency is over: return any revoked or suspended licenses, refund any fines collected, annul any criminal charges, and make the history inadmissible in future licensing decisions. This limits the long term damage to small businesses, gives them certainty that they are getting their licenses back so they can plan for the future, and provides a path for unity when these trying times are behind us. It also mitigates the constitutional concerns, and court challenges that may arise from them, regarding the alternative civil penalties issued under Emergency Order #65 when a penalty has already been identified in statute for violating an emergency order. The amendment removes some unnecessary language related to enforcement methods that have not been utilized and makes the bill effective upon the end of the COVID-19 state of emergency instead of upon passage.

Rep. David Meuse for the Minority of Criminal Justice and Public Safety. This bill would essentially remove any reason for citizens or for businesses to comply with legal orders issued by the governor under a state of emergency. It would require fines to be refunded and the record of any penalties to be removed from an individual’s record at the end of the state of emergency. This bill should be rejected because it takes away the possibility of holding people accountable for violating orders designed to protect public health during the worst public health

emergency in over 100 years. While penalties could continue to be imposed and orders enforced by the Attorney General during the state of emergency, this bill would effectively reverse those penalties once the state of emergency is allowed to expire. This is simply bad public policy. During a pandemic that has touched us all, passing this bill would allow those who feel entitled to ignore orders motivated by the need to protect public health that has killed over 1,000 New Hampshire residents and over 400,000 of our fellow Americans to violate them impunity and with the knowledge that they will suffer no long term consequences. By removing the threat of consequences for violators, this bill sends precisely the wrong message at a time when compliance with these orders is essential to contain the further spread of the coronavirus and ensure the survival of our citizens and our businesses while minimizing additional hospitalizations and deaths. The minority urges rejection of this bill.

2. HB 493, establishing a criminal penalty for an assault committed against a person who is conveying public health or safety guidance or requirements during a declared state of emergency.

Hearing: March 1, 2021

Summary:

- establishes a criminal penalty of a Class B Misdemeanor for the assault of another person who is relaying public health or safety guidance or requirements during a declared state of emergency.

House Health and Human Services Committee

3. HB 187, relative to the emergency powers of the commissioner of health and human services.

Hearing: February 1, 2021

Summary:

- makes various changes to the powers of the DHHS Commissioner during a public health emergency;
- authorizes the Joint Legislative Oversight Committee on Health And Human Services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner;
- gives a person subject to a treatment order for a communicable disease a right to a hearing on the order;
- amends the membership and duties of the Ethics Oversight Advisory Committee responsible for advising the commissioner on ethical issues related to response to outbreaks of communicable diseases

Committee Report: Ought to Pass with Amendment, vote 19-2, Regular Calendar

Rep. William Marsh for Health, Human Services and Elderly Affairs. This bill establishes retrospective legislative oversight over emergency orders from the commissioner of the Department of Health and Human Services (DHHS), issued under RSA 21-P. The bill also establishes legislative oversight over various powers under the public health and infectious disease laws. The critical part of this bill, and the only issue on which there was a difference of opinion, is on page 2, line 32, which gives the Health and Human Services Oversight Committee the authority to rescind emergency orders by a two-thirds vote. The majority feels this measure is essential to restore the balance of power between the branches, but is sufficiently high to prevent its misuse. Current law was appropriately used to limit the distribution of hydroxychloroquine under the emergency order when there was a shortage. The bill clarifies that we did not grant the power to prevent the prescribing of a drug medical professionals have reason to believe might be effective. Existing law in RSA 21-P:53 V clearly states individuals have a right to refuse ordered treatment including vaccination. However the statutory reference calls that into doubt as it refers to a statute telling a justice of the peace to order treatment. The bill corrects the reference, clearly allowing individuals to refuse treatment and remain in quarantine. Legislative oversight over other emergency powers is also established through the Ethics Oversight Advisory Committee. This committee is in statute but had no members appointed; the Governor used the State Disaster Medical Advisory Committee to reconstitute this necessary committee to create the vaccine distribution plan. This committee would also review other emergency orders, and address ethical concerns with emergency orders. The amendment does the following: It eliminates section 2 of the bill as drafted, which was determined to be unnecessary. It rewrites the charge to the Ethics Oversight Advisory Committee to be less burdensome and to use aggregate and de-identified data. Last, it undoes changes to the membership of HHS Oversight in last year's HB1245 on page 9. We do not believe those changes were intended to remove minority party input from HHS Oversight.

House Executive Departments and Administration Committee

All hearings scheduled for March 1

4. HB 275, relative to the governor's power to initiate a state of emergency and various emergency powers.

Summary:

- Requires the governor to identify conditions necessary to extend a state emergency in the declaration of the emergency
- Requires the Legislature (by majority vote of both chambers) or the Executive Council (by unanimous consent of members present) to renew a state of emergency
- Makes several further revisions to the state of emergency law

5. HB 414, relative to evacuations under a state of emergency

Summary:

- provides that the governor may recommend, but not compel, evacuation under the emergency management powers of RSA 4:45.
- provides that emergency services shall not be required for those who choose not to evacuate.

6. HB 417, relative to the powers of the governor during a renewal of a declared state of emergency.

Summary:

- terminates a state of emergency called by the governor after 30 days (rather than 21 days)
- requires a majority vote of the House of Representatives prior to termination to renew a state of emergency
- requires any orders issued by the governor to be approved by a majority of the House of Representatives if a state of emergency is renewed

7. HB 433, limiting renewal of states of emergency.

Summary:

- permits the governor to renew a state of emergency only once, after which time, unless half of the membership of either chamber is incapacitated, it must be renewed by a concurrent resolution passed by the legislature.

House Judiciary Committee

8. HB 402, relative to takings of property in a declared state of emergency

Hearing: not yet scheduled

Summary:

- requires a two-thirds vote of the legislature for the taking of property in a declared emergency under RSA 4:46.

9. HB 542, relative to the applicability of a state of emergency declaration to a house of worship.

Hearing: not yet scheduled

Summary:

- provides that any prohibition on in-person gatherings during a declared state of emergency shall not apply to houses of worship.

10. HB 550, relative to the nonpayment of rent during the state of emergency.

Hearing: February 2, 2021

Summary:

- establishes a procedure for a court to continue an eviction action for a residential property during the state of emergency.

House Legislative Administration Committee***All hearings scheduled for March 1***

11. HB 277, relative to termination of a state of emergency by the legislature.

Summary:

- provides that either chamber of the legislature, acting separately, may terminate a state of emergency order using the petition process for calling a special session (RSA 16)
- RSA 16 requires not less than 50 members of the House, not more than 10 of whom shall reside in the same county, and not less than 8 members of the Senate to file a petition calling for a Special Session with the Secretary of State; the petition must state the reason or reasons why the public welfare requires a Special Session of the General Court

12. HB 280, relative to termination of an emergency order issued by the governor

Summary:

- provides that the legislature may terminate an emergency order, or any part of an emergency order, by concurrent resolution, adopted by a majority of vote of each chamber.

13. HB 325, relative to termination of a state of emergency by simple resolution

Summary:

- provides for termination of a declared state of emergency by a simple resolution adopted by either body of the legislature.

14. HB 389, relative to the establishment of a joint legislative emergency executive order oversight committee during a declared state of emergency.

Summary:

- Establishes a Joint Legislative Emergency Executive Order Oversight Committee, composed of 4 members of the Senate and 6 members of the House, to be appointed for their term of office by December 30 after every General Election
- Authorizes the committee to approve or deny the renewal of emergency executive orders declaring a state of emergency
- Provides that emergency executive orders may also be renewed by a Special Session of the General Court pursuant to RSA 16

15. HB 559, relative to state of emergency declarations.

Summary:

- requires a majority vote of each chamber of the legislature to renew a state of emergency beyond the initial 21-day period.

16. HCR 2, terminating the state of emergency declared by the governor due to the Novel Coronavirus (COVID-19).

Summary:

- Terminates the state of emergency declared by the governor due to COVID-19, pursuant to the legislature's authority under RSA 4:45, II(c)
- Terminates all executive branch orders and actions taken pursuant to Executive Order 2020-04, as extended by subsequent executive orders, on the effective date of the resolution

If I can provide further information on this, please let me know.

Current NH State of Emergency Laws

Powers of the Governor

- RSA 4:45-47, State of Emergency Laws, p. 1-4

Department of Safety

- RSA 21-P:34-48, Homeland Security and Emergency Management, p. 4-17
- RSA 21-P:48-a, Emergency Services and Communications, p. 17
- RSA 21-P:52, Statewide Incident Command System, p. 18
- RSA 21-P:52-a, Statewide Threat Notification System for Schools, p. 18
- RSA 21-P:53-54, Public Health Emergency Management Powers, p 19-21

Department of Health and Human Services, Public Health

- RSA 141-C, DHHS, Communicable Disease, p. 21-40

Chapter 4: Powers of the Governor and Council in Certain Cases

4:45 State of Emergency Declaration; Powers. –

I. The governor shall have the power to declare a state of emergency, as defined in RSA 21-P:35, VIII, by executive order if the governor finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. The general court shall have the same power to declare a state of emergency by concurrent resolution of the house and senate. An executive order or concurrent resolution declaring a state of emergency shall specify the:

- (a) Nature of the emergency;
- (b) Political subdivisions or geographic areas subject to the declaration;
- (c) Conditions that have brought about the emergency; and
- (d) Duration of the state of emergency, if less than 21 days.

II. (a) A state of emergency shall terminate automatically 21 days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section. The governor may, by executive order, renew a declaration of a state of emergency as many times as the governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

(b) If the governor finds that maintaining the state of emergency is no longer justified, the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

III. During the existence of a state of emergency, and only for so long as such state of emergency shall exist, the governor shall have and may exercise the following additional emergency powers:

- (a) To enforce all laws, rules, and regulations relating to emergency management and to assume

control of any or all emergency management forces and helpers in the state.

(b) To sell, lend, lease, give, transfer, receive, or deliver materials or perform services for emergency management purposes on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property.

(c) To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees.

(d) Subject to the provisions of the state constitution, to remove from office any public officer having administrative responsibilities under RSA 21-P:34 through 21-P:48. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving him or her an opportunity to be heard in his or her defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding 30 days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law.

(e) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.

(f) To declare an emergency temporary location or locations for the seat of state government at such place or places within this state as the governor may deem advisable under the circumstances and to take such action and issue such orders as may be necessary for an orderly transaction of the affairs of state government to such emergency temporary location or locations. Such emergency temporary location or locations shall remain the seat of government until the legislature shall by law establish a new location or locations or until the state of emergency is declared to be ended by the governor and the seat of government is returned to its normal location.

Source. 2002, 257:4, eff. July 1, 2002.

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 needs of the owner and the owner's household, during the expected duration of the emergency.

(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.

I-b. This section shall not apply to personal property owned by or intended for use by individuals or families.

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. 2003, 319:99, 100. 2006, 124:1, 2. 2012, 229:1, 2, eff. Aug. 17, 2012.

4:47 Emergency Management Powers. –

The governor shall have emergency management authority as defined in RSA 21-P:35, V, and pursuant to such authority may exercise emergency management powers including:

- I. The power to enter into mutual aid agreements with other states relative to emergency management issues.
- II. The power to provide for emergency lines of succession to such appointive offices in the state government as the governor in his or her discretion deems to be necessary to insure reasonable continuity of state government in the event of a disaster.
- III. The power to make, amend, suspend and rescind necessary orders, rules and regulations to carry out the provisions of this subdivision in the event of a disaster beyond local control.
- IV. The power to cooperate with the President of the United States and the commanders of the United States armed forces, the Emergency Management Agency of the United States, and other appropriate federal officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction and control of:
 - (a) Drills, mobilization of emergency management forces, and other tests and exercises;
 - (b) Warnings and signals for drills or actual emergencies and the mechanical devices to be used in connection with them; and
 - (c) The evacuation and reception of the civilian population.

Source. 2002, 257:4, eff. July 1, 2002.

**Chapter 21-P Department of Safety
Homeland Security and Emergency Management**

21-P:34 Purpose. – Because of the possibility of the occurrence of natural and human-caused disasters resulting from fire, flood, hurricane, earthquake, prolonged power outages, disruption or contamination of the food or water supply, degradation of critical facilities and vital systems, disruption of communication systems, or other natural, technological or human causes, including acts of terrorism, and in order that the state of New Hampshire will be adequately prepared to cope with such disasters; and, generally, in order to preserve the lives and the property of the people of the state, a state division of emergency services, communications, and management is hereby created under the direction of the director of the division of homeland security and emergency management. The emergency management powers provided in this subdivision are conferred upon the governor and upon other executive heads of governing bodies of the state; the creation of local organizations for emergency management in the political subdivisions of the state is authorized; and provision is made for the rendering of mutual aid among the political

subdivisions of the state and between this and other states and to cooperate with the federal government with respect to the carrying out of emergency management functions. It is further declared to be the purpose of this subdivision and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster or incident of terrorism that may occur.

Source. 2002, 257:7. 2003, 319:106. 2004, 171:2. 2008, 361:2, eff. July 11, 2008.

21-P:35 Definitions. –

In this subdivision:

I. "Commissioner" means the commissioner of safety.

II. [Repealed.]

III. "Council" means the advisory council on emergency preparedness and security.

IV. "Director" means the director of the division of homeland security and emergency management.

V. "Emergency management" means the preparation for and the carrying out of all emergency functions, including but not limited to emergency response and training functions, to prevent, minimize, and repair injury or damage resulting from the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or human cause, including but not limited to fire, flood, earthquake, windstorm, wave actions, technological incidents, oil or chemical spill, or water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, terrorist act, or riot.

VI. "Local organization for emergency management" means an organization created in accordance with the provisions of this subdivision by state, county, or local authority to perform local emergency management functions.

VII. "Political subdivision" means counties, cities, towns, and duly established village precincts.

VIII. "State of emergency" means that condition, situation, or set of circumstances deemed to be so extremely hazardous or dangerous to life or property that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm.

Source. 2002, 257:7. 2003, 319:131, II. 2004, 171:3. 2008, 361:3, eff. July 11, 2008.

21-P:36 Division of Homeland Security and Emergency Management. –

I. There is hereby created a division of homeland security and emergency management within the department of safety under the supervision of the director of homeland security and emergency management nominated and appointed as provided in RSA 21-P:5-a.

II. The division shall consist of 2 bureaus, a bureau of homeland security and a bureau of emergency management. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of homeland security and emergency management. The director and other personnel of the division shall be provided

with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner provided for personnel of other state agencies. The division and its personnel shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

III. The commissioner of safety shall nominate an assistant director of homeland security and emergency management, for appointment by the governor with consent of the council, to serve at the pleasure of the commissioner. The assistant director shall receive the salary provided in RSA 94:1-a for the position.

IV. During service as assistant director, the assistant director of the division of homeland security and emergency management shall be eligible to be a group II member if he or she was a group II member or receiving a group II retirement allowance prior to appointment.

Source. 2002, 257:7. 2003, 319:107. 2004, 171:4. 2008, 361:4, eff. July 11, 2008. 2013, 196:4, eff. July 9, 2013.

Section 21-P:36-a

21-P:36-a Repealed by 2012, 226:4, III, eff. June 16, 2012. –

Section 21-P:37

See Executive Order 2020-06 (2020 NH EO 2020-06 (2000, 1006:1.)) as modified by Executive Order 2020-07 (2020 NH EO 2020-07 (2020, 1007:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:37 Emergency Management Powers Conferred. –

The director shall have general direction and control of the division of homeland security and emergency management, and shall be responsible for the carrying out of the provisions of this subdivision. In the event of disaster beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within the state. In performing the director's duties under this subdivision and to effect its policy and purposes, the director is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation, and is further authorized and empowered:

I. To prepare a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the greatest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state and private agencies, such plans to be integrated into and coordinated with the emergency management plan and program of this state to the greatest possible extent.

II. In accordance with such plan and program for the emergency management of this state, to procure supplies and equipment, to institute training programs and public information programs, and to take other necessary preparatory steps to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

III. To make such studies and surveys of industries, transportation, communication, housing and medical facilities, and resources, including but not limited to food, petroleum, and housing, and

other facilities in the state as may be necessary to ascertain the capabilities of the state for emergency management, and to plan for their most efficient emergency use.

IV. On behalf of the state and subject to the approval of the governor, to coordinate mutual aid plans between or among political subdivisions of the state.

V. [Repealed.]

VI. To prepare a comprehensive plan and program for the evacuation of search and rescue dogs and service animals, as defined in RSA 167-D.

Source. 2002, 257:7. 2003, 319:108, 131, III. 2004, 171:5. 2006, 230:1. 2008, 361:15. 2011, 170:3, eff. Jan. 1, 2012.

21-P:37-a State Policy for Service Animals. – In cases of emergency, it shall be the policy of the state that service animals shall not be separated from the persons they serve. Every effort shall be made to keep service animals and the persons they serve together, and all appropriate state emergency planning and state sponsored emergency training shall be based on such assumptions.

Source. 2006, 230:2, eff. July 31, 2006.

21-P:37-b Agreement Resulting From Disaster Declaration. – If, as the result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and the speaker of the house of representatives within 30 days after approval by the governor and council. Any obligation of the general fund as the result of such an agreement shall be transmitted to the president of the senate and the speaker of the house of representatives for prompt payment. Administrative costs of the state of New Hampshire incident to such obligation shall be included in the submission to the general court.

Source. 2008, 361:5, eff. July 11, 2008.

21-P:37-c Exceptional Disaster Relief Loans. –

I. In this section, an "exceptional disaster relief loan" means a temporary loan from the state treasury to assist communities experiencing exceptional costs due to natural disasters.

II. (a) When the President of the United States declares an area a federal disaster area and a municipality has applied for federal emergency assistance from the Federal Emergency Management Administration (FEMA), the governor, with the approval of the executive council, may approve a loan in the amount up to the anticipated assistance from FEMA from funds not otherwise appropriated.

(b) In order to be eligible for an exceptional disaster relief loan, the per-occurrence cost of a municipality's critical disaster relief project or projects shall equal or exceed 25 percent of the amount raised by local property taxes in the municipality's last annual budget.

III. A municipality shall not receive more than one exceptional disaster relief loan per declared federal disaster.

IV. A municipality shall not be obligated for more than 2 exceptional disaster relief loans.

V. A municipality receiving an exceptional disaster relief loan shall remit the anticipated assistance from FEMA to the state treasurer within 15 days of receipt.

VI. If the state treasury provides advance funding to a municipality that has applied for and is waiting for FEMA disaster relief funding, the interest rate to be assessed on such advance funding shall be no greater than the prevailing rate at which the state treasury is able to invest its commingled cash.

VII. If the amount of FEMA assistance a municipality receives is less than the exceptional disaster relief loan, the state treasurer, with the advice and consent of governor and council, shall negotiate terms of repayment of the difference. If the municipality and the state treasurer are unable to reach an agreement, the department of revenue administration shall include the amount in the amount apportioned for setting property tax rates.

VIII. The director of homeland security and emergency management shall administer the exceptional disaster relief loan program.

Source. 2018, 53:1, eff. July 14, 2018.

21-P:38 Emergency Management Powers and Duties Regarding Communications Systems. – The division of emergency services and communications shall ascertain what means exist for rapid and efficient communications during natural and man-made disasters. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system which may be established for purposes of emergency management. In studying the character and feasibility of any such system or its several parts, the division of emergency services and communications shall evaluate the possibility of the multi-purpose use of such a system for general state and local government purposes. The division shall make recommendations regarding such communications systems to the assistant commissioner as appropriate.

Source. 2002, 257:7. 2003, 319:109. 2004, 171:6. 2008, 361:14. 2011, 224:334, eff. July 1, 2011.

21-P:39 Local Organization for Emergency Management. –

I. Each political subdivision of the state shall establish a local organization for emergency management in accordance with the state emergency management plan and program. Each local organization for emergency management shall have a local director who shall be appointed and removed by the county commissioners of a county, the city council of a city, or board of selectmen of a town, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such appointing officials. Each local organization shall have jurisdiction only within its respective political subdivision, and the director appointed by that political subdivision shall be responsible to his or her appointing authority. The appointing authority may appoint one of its own members or any other citizen or official to act as local director and shall notify the state director in writing of such appointment. If a local director is removed, the state director shall be notified immediately. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized.

II. Until a local director has been appointed, the chief elected official shall be directly responsible for the organization, administration, and operation of such local organization for

emergency management.

III. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision may exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

IV. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may meet at any place within or without the territorial limits of such political subdivision and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute sites or places as the emergency temporary location or locations of such government where all or any part of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of such political subdivision, but shall be within this state.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:40 Mutual Aid Arrangements. – The local director of each local organization for emergency management may, with the approval of the commissioner and in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Parties shall be entitled to the same immunities and exemptions as provided in RSA 21-P:41.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:41 Immunity and Exemption. –

I. All functions under this subdivision and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the state nor any of its political subdivisions nor any agency of the state or political subdivision, nor any private corporations, organizations, or agencies, nor any emergency management worker complying with or reasonably attempting to comply with this subdivision, or any order or rule adopted or regulation promulgated pursuant to the provisions of this subdivision, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this subdivision, under the workers' compensation law, or under any retirement law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

II. Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency.

III. As used in this section the term "emergency management worker" includes any full or part-time paid, volunteer, or auxiliary employee of this state, other states, territories, possessions, the District of Columbia, the federal government, any neighboring country, or of any political subdivision of such entities, or of any corporation, agency or organization, public or private, performing emergency management services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any of its political subdivisions.

IV. Dentists licensed in this state, nurses registered in this state, student nurses undergoing training at a licensed hospital in this state, or emergency medical care providers licensed under RSA 153-A, during any emergency, shall be regarded as authorized emergency management workers and while so engaged may practice, in addition to the authority granted them by other statutes, administration of anesthetics; minor surgery; intravenous, subcutaneous, and intramuscular procedures; and oral and topical medication under the general but not necessarily direct supervision of a member of the medical staff of a legally incorporated and licensed hospital of this state, and to assist such staff members in other medical and surgical procedures.

V. Any emergency management worker, performing emergency management services at any place in this state pursuant to agreements, compacts or arrangements for mutual aid and assistance, to which the state or one of its political subdivisions is a party, shall possess the same powers, duties, immunities, and privileges the worker would ordinarily possess if performing his or her duties in the state or political subdivision in which normally employed or rendering services.

VI. Any emergency management worker shall:

- (a) If the worker is an employee of the state, have the powers, duties, rights, and privileges and receive the compensation incidental to his or her employment;
- (b) If the worker is an employee of a political subdivision of the state, whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to his or her employment; and
- (c) If the worker is not an employee of the state or one of its political subdivisions, be entitled to the same rights as to compensation for injuries as are provided by law for the employees of this state. The emergency management personnel shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving, and shall be reimbursed for all actual travel and subsistence expenses incurred under orders issued by the director.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:42 Private Liability. – Any person owning or controlling real estate or other premises or private property who grants a license or privilege or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises or private property for the purpose of compliance or attempting to comply with this subdivision during an actual or impending emergency or practice exercise, together with his or her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or private property or loss of, or damage to, the property of such person.

Source. 2002, 257:7, eff. July 1, 2002.

See Executive Order 2020-06 (NH LEGIS E.O. 2020-06 (2020, 1006:1.)) as modified by Executive Order 2020-07 (NH LEGIS E.O. 2020-07 (2020, 1007:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:43 Appropriations and Authority to Accept Services, Gifts, Grants, and Loans.

– Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management. Whenever the federal government or any federal agency or officer offers to the state, or through the state to any of its political subdivisions, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, commissioner, or such political subdivision, acting with the consent of the governor and through its executive officer, city council, or board of selectmen, may accept such offer, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. Whenever any person, firm or corporation offers to the state or to any of its political subdivisions services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, or such political subdivision, acting through its executive officer, city council, or board of selectmen, may accept such offer, subject to its terms.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:44 Utilization of Existing Services and Facilities. – In carrying out the provisions of this subdivision, the governor, executive heads of state agencies, and local executive officers of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and its political subdivisions to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:45 Enforcement. – It shall be the duty of every organization for emergency management established under this subdivision and of the officers of such organization to execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this subdivision or RSA 4:45.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:46 New Hampshire Emergency Response and Recovery Fund. – There is hereby established a New Hampshire emergency response and recovery fund. The fund shall provide a source for the matching funds required as a commitment to secure Federal Emergency Management Agency relief assistance grants for costs incurred in disasters declared by the

President of the United States. The fund shall be nonlapsing and continually appropriated to the department of safety.

Source. 2002, 257:7, eff. July 1, 2002.

[RSA 21-P:46-a repealed by 2013, 273:4, II, effective on the date when all moneys in the New Hampshire disaster fund have been disbursed as provided by 2013, 173:5.]

21-P:46-a New Hampshire Disaster Relief Fund. –

I. There shall be established a fund that is to be accounted for separately from all other funds and which shall be designated as the New Hampshire disaster relief fund, which shall be credited and continually appropriated to the director for disaster relief. The moneys in 2 existing funds, one in the legislative branch known as the disaster fund, and one in the office of the state treasurer, known as the New Hampshire disaster relief fund 2011, shall lapse into the New Hampshire disaster relief fund on the effective date of this section.

II. Funds in the New Hampshire disaster relief fund shall be made available to individuals who suffer damage and loss as a result of a declared disaster. All disbursements from the fund shall be approved by the director of homeland security and emergency management, in consultation with the individual assistance committee appointed under paragraph III.

III. The director shall appoint an individual assistance committee to review, evaluate, and make recommendations on requests for individual assistance. The committee shall be comprised of representatives from the nonprofit community, human service organizations, disaster response organizations, the Community Action Programs, and volunteer organizations, who shall serve at the pleasure of the director. The director shall designate a committee chair.

IV. The director shall maintain complete records of all funds disbursed from the New Hampshire disaster relief fund and shall report all such disbursements to the individual assistance committee every 6 months following the effective date of this section.

Source. 2013, 273:3, eff. July 24, 2013.

See Emergency Order #65 (NH LEGIS E.O. 2020-65-Emerg. (2020, 2065:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:47 Penalty. – If any person violates or attempts to violate any order, rule, or regulation made pursuant to this subdivision, such person shall be guilty of a misdemeanor.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:48 Advisory Council on Emergency Preparedness and Security. –

I. There is hereby created an advisory council on emergency preparedness and security, consisting of the following members:

- (a) The director of the division of homeland security and emergency management.
- (b) The attorney general, or designee.
- (c) The chair of the public utilities commission, or designee.
- (d) The adjutant general, or designee.
- € The commissioner of the department of health and human services, or designee.
- (f) The director of the division of fire safety.
- (g) The commissioner of the department of safety, or designee.
- (h) The director of the office of strategic initiatives.
- (i) The commissioner of the department of transportation, or designee.
- (j) The commissioner of the department of natural and cultural resources, or designee.
- (k) The commissioner of the department of agriculture, markets, and food, or designee.
- (l) The commissioner of the department of environmental services, or designee.
- (m) The commissioner of the department of administrative services, or designee.
- (n) The director of the division of ports and harbors, Pease development authority.
- (o) The director of police standards and training.
- (p) The director of the division of fire standards and training.
- (q) A local police chief, appointed by the governor.
- € A local fire chief, appointed by the governor.
- (s) A county sheriff appointed by the governor.
- (t) A representative of the Professional Firefighters of New Hampshire, appointed by the governor.
- (u) The director of the division of state police.
- (v) The director of the division of public health services.
- (w) The commissioner of the department of corrections, or designee.
- (x) The executive director of the department of fish and game, or designee.
- (y) The executive director of the New Hampshire Hospital Association.
- (z) A representative of a regional emergency planning committee, appointed by the governor.
- (aa) One member of the state hazardous materials cooperative, appointed by the governor.
- (bb) A representative of the hazardous materials transporter industry, appointed by the governor.
- (cc) A representative of the hazardous materials industry, appointed by the governor.
- (dd) The director of the division of emergency communications and services.
- (ee) A representative of the Business and Industry Association, appointed by the governor.
- (ff) A representative from the United States Environmental Protection Agency, appointed by that agency.
- (gg) A representative from the Federal Bureau of Investigation, appointed by the Bureau.
- (hh) A representative from the United States Coast Guard, appointed by that agency.
- (ii) [Repealed.]
- (jj) A representative of the nuclear power industry, appointed by the governor.
- (kk) A representative of the United States Department of Homeland Security, appointed by the department.
- (ll) The primary investigator for the Centers for Disease Control and Assistant Secretary for

Preparedness and Response (ASPR) grant programs.

(mm) A representative of the state citizens corps, appointed by the governor.

(nn) A representative of the emergency medical services medical control board, appointed by the board.

(oo) The United States Attorney for the District of New Hampshire, or designee.

(pp) A representative from the department of health and human services radiological health program, designated by the commissioner of health and human services.

(qq) A representative from the department of environmental services environmental health program, designated by the commissioner of environmental services.

(rr) A representative from the department of environmental services waste management division, designated by the commissioner of environmental services.

(ss) A judicial branch representative, chosen by the chief justice of the supreme court.

(tt) A representative of a volunteer emergency response non-governmental organization, appointed by the governor.

(uu) The commissioner of the department of information technology, or designee.

(vv) Such other representatives as the governor, from time to time, may deem necessary for the fulfillment of the council's mandates.

II. (a) The council shall advise the governor on issues involving the state's ability to respond to natural and human-caused disasters, and the preparation and maintenance of a state disaster plan in conformance with any federal regulation or law.

(b) The director of homeland security and emergency management shall seek the advice of the council in matters pertaining to any of the state's emergency plans, including the allocation of state and federal resources to meet the objectives of such plan.

(c) The council shall serve the functions of the state emergency response commission (SERC) and the Centers for Disease Control's state public health emergency preparedness committee, and may form subcommittees as necessary to perform these functions.

(d) The council or an appropriate subcommittee of the council shall review state and federal legislative proposals and regulations, problems with hazardous material transportation, emergency response action team plans, and training and instructional materials on the transportation of hazardous materials, and make recommendations as necessary regarding the efficacy of controls relative to such transportation and the best means for applying such controls without duplication of responsibility or regulation.

€ The council shall make available upon request through the department of safety current regulations and reference materials relative to hazardous materials and address any regulations or ordinances that appear to be in conflict.

(f) The council shall oversee statewide radio communications interoperability efforts through the statewide interoperability executive committee, established in paragraph IV, and approve the strategic statewide interoperable communications plan developed by the committee under paragraph VII.

(g) The council shall periodically and otherwise as necessary report to the governor, the senate president, and the speaker of the house of representatives on any recommendations of the council that pertain to the state's preparedness and ability to respond to natural and human-caused disasters and acts of terrorism.

(h) The commissioner of safety or the commissioner's designee shall serve as the chairperson of the council.

III. No fewer than 20 members shall constitute a quorum at any meeting. For ex officio positions

a designee from that organization may be appointed in writing by the member to represent him or her at any meeting which the member is unable to attend.

IV. There is established within the department of safety a radio interoperability governance group known as the statewide interoperability executive committee (SIEC). The SIEC shall report to the council and shall be comprised of the following members:

(a) The commissioner of the department of safety, or designee, who shall serve as chairperson of the committee.

(b) The statewide interoperability coordinator, who shall serve as an ex-officio member of the committee.

(c) The director of the division of homeland security and emergency management, or designee.

(d) Two representatives of the New Hampshire Association of Chiefs of Police, one of whom serves as chief of police for a city and one of whom serves as chief of police for a town.

€ Two representatives of the New Hampshire Association of Fire Chiefs, one of whom serves as fire chief for a city and one of whom serves as fire chief for a town.

(f) A representative of a charitable organization that provides disaster relief, appointed by the commissioner.

(g) One member of the house of representatives, appointed by the speaker of the house of representatives.

(h) One member of the senate, appointed by the senate president.

(i) One member of the Professional Fire Fighters of New Hampshire, appointed by the association.

(j) One representative of the New Hampshire Sheriff's Association, appointed by the association.

(k) The state fire marshal, or designee.

(l) One member of the New Hampshire Police Association, appointed by the association.

(m) A representative of the New Hampshire Hospital Association, appointed by the association.

(n) A local emergency medical services provider, appointed by the commissioner.

(o) A local public health official, appointed by the commissioner.

(p) A local public works official, appointed by the commissioner.

(q) A representative of the New Hampshire Emergency Dispatchers Association, appointed by the association.

€ One representative of a major public safety dispatch center, appointed by the commissioner.

(s) The commissioner of the department of administrative services, or designee.

(t) The executive director of fish and game, or designee.

(u) The commissioner of transportation, or designee.

(v) The commissioner of business and economic affairs, or designee.

(w) The commissioner of natural and cultural resources, or designee.

(x) The commissioner of health and human services, or designee.

(y) The director of emergency services and communications, or designee.

(z) The university of New Hampshire police chief.

(aa) The adjutant general, or designee.

(bb) The department of safety, grants management coordinator, or designee.

(cc) The department of safety, director of state police, or designee.

(dd) The assistant commissioner of safety.

(ee) A representative of the department of justice, appointed by the attorney general.

(ff) A representative of fire mutual aid districts, appointed by the districts.

(gg) The director of fire standards and training and emergency medical services, or designee.

(hh) A department of safety emergency services radio technician, appointed by the commissioner of safety.

(ii) The commissioner of the department of information technology, or designee.

(jj) The commissioner of the department of corrections, or designee.

(kk) Not more than 2 representatives of private, broadband technology-related businesses, appointed by the executive management group.

(ll) Not more than 2 representatives of the university of New Hampshire broadband technology-related business, appointed by the executive management group of the SIEC.

(mm) Not more than 7 subject matter experts, based on the identified need of the SIEC, appointed by the executive management group.

V. Public members of the committee shall serve 3-year terms. Representatives of state agencies and legislative members of the committee shall serve terms coterminous with their term in office.

If in the course of a member's term, the member becomes ineligible because of a change of occupation or is no longer a member of the group that he or she represented, he or she shall continue to serve until a replacement is qualified and designated. Voting members of the committee shall elect by majority vote a vice-chairperson and a secretary, each of whom shall serve a term of 2 years. A voting member, or the member's designee, may submit a single alternate member, who may serve as a voting member in the absence of the voting member or designee by submitting the name and position in writing to the chair prior to the alternate making any vote. A quorum shall consist of 12 voting members of the committee.

VI. The SIEC shall include an executive management group and 3 working groups.

(a) The executive management group shall be responsible for aligning overarching interoperability strategies and plans, and maintaining fiduciary and fiscal compliance. The executive management group shall be comprised of the following 8 members:

(1) The chairpersons of the 3 SIEC working groups established in subparagraph (b).

(2) The chairperson of the SIEC.

(3) The vice-chairperson of the SIEC.

(4) The secretary of the SIEC.

(5) A legislative member of the SIEC, elected by the SIEC.

(6) The statewide interoperability coordinator.

(b) The working groups shall be comprised of voting members of the SIEC selected by the commissioner and shall consist of a radio frequency communications working group, a data communications working group, and an operations working group.

(c) The chairperson of each working group shall serve on the executive management group of the SIEC representing the interest of his or her group.

(d) The SIEC and the working groups may invite subject matter experts to provide information and testimony relevant to the committee or group.

VII. The SIEC shall oversee statewide radio communications interoperability efforts and shall develop, with the approval of the council, a strategic statewide interoperable communications plan and any amendments thereto. The SIEC shall:

(a) Utilize the most contemporaneous statewide communications interoperability plan (SCIP), the National Emergency Communications Plan, and the SCIP action plan as a framework to better understand the current baselines of communications interoperability and to determine how to best implement each step toward interoperability in the state, with neighboring states, and with federal partners.

(b) Direct the working groups established in paragraph VI to identify and recommend

technologies, operating procedures, network consolidation, and other resources that will enhance communications interoperability in New Hampshire.

(c) Create a statewide communications interoperability strategy and spending plan; attempt to bridge regional plans with the statewide strategy; and oversee implementation of the statewide communications interoperability plan and the national emergency communications plan.

(d) Recommend best practices, policies, procedures, and protocols for communications personnel, including dispatchers and dispatch center supervisors as well as technical communications support staff.

€ Establish training baselines and recommend training for key communications personnel, and help to ensure that training opportunities supporting communications interoperability are available to all public safety first responders and public safety dispatchers.

Source. 2002, 257:7. 2003, 319:110-113. 2004, 171:7, 8, 28; 257:44. 2005, 149:5. 2008, 361:6. 2011, 169:2, eff. Jan. 1, 2012; 224:274, III, eff. July 1, 2011. 2012, 265:5, eff. June 18, 2012. 2015, 176:3, 4, eff. June 26, 2015. 2017, 156:14, I, 64, eff. July 1, 2017. 2018, 251:1, 2, eff. Aug. 11, 2018.

Emergency Services and Communications

21-P:48-a Division of Emergency Services and Communications. –

I. There is hereby created a division of emergency services and communications within the department of safety under the supervision of the director of emergency services and communications and reporting to the assistant commissioner. The commissioner shall nominate a director of the division of emergency services and communications for appointment by the governor, with the consent of the council, who shall serve a term of 4 years until a successor has been appointed. The director shall be responsible to carry out such duties as are specifically enumerated in this subdivision and as may be assigned by the office of the commissioner. The director shall be academically and technically qualified to hold the position and shall receive the salary specified in RSA 94:1-a for the director of emergency services and communications.

II. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of emergency services and communications. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With general oversight by the assistant commissioner, the director shall coordinate the activities of all organizations for emergency 911 telecommunications within the state, state and local, county, and private, and shall maintain liaison with and cooperate with police, fire, emergency medical, and sheriff's departments and emergency telecommunications organizations of other states and of the federal government. The director shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

Source. 2008, 361:7. 2011, 224:335, eff. July 1, 2011. 2016, 147:3, eff. July 1, 2016.

Statewide Incident Command System

21-P:52 Incident Command System Adopted. – There shall be a statewide incident command system based on the incident command system of the National Interagency Incident Management System. The commissioner of safety shall adopt rules pursuant to RSA 541-A to implement the statewide incident command system. The statewide incident command system shall be used in responding to any natural or man-made cause that requires emergency management by multiple agencies or departments within state and local government.

Source. 2004, 106:1, eff. July 16, 2004.

Statewide Threat Notification System for Schools

21-P:52-a Statewide Threat Notification System for Schools. –

- I. The department of safety, in conjunction with the United States Department of Homeland Security, shall commence a process of due diligence in anticipation of future deployment of a statewide, real-time threat notification system for schools, the purpose of which shall be to link school personnel directly to law enforcement in the event of a direct threat against the school community or a general emergency situation in which law enforcement would respond.
- II. The department of safety shall solicit requests for information (RFI) for a statewide, real-time threat notification system based on the following criteria:
 - (a) The system would be activated by authorized school personnel using classroom desktop computers, laptop computers, mobile phones, fobs, and other suitable devices.
 - (b) Upon activation, the system would determine the location of the nearest law enforcement officers, regardless of jurisdiction, and directly notifies them of the activation.
 - (c) The system would notify the following state and local agencies of the activation:
 - (1) The bureau of emergency communications, or state 911 center.
 - (2) The New Hampshire state police.
 - (3) The New Hampshire information and analysis center.
 - (4) The department of safety, division of homeland security and emergency management.
 - (5) The appropriate local or regional dispatch center for the school.
 - (d) The system would provide electronic school floor plans and related documents to responding officers.
 - € The system would provide a communication method for responding officers to communicate with school personnel.
- III. The threat notification system for schools shall be a state-funded program, available to all school districts and law enforcement agencies in the state. However, participation in the program by local school districts and local law enforcement agencies shall be voluntary.
- IV. No state funds are appropriated for the due diligence process.
- V. Deployment of a statewide real-time threat alert system is contingent on an appropriation of funds from surplus revenues received by the state during the 2020-2021 biennium.
- VI. The commissioner of the department of safety shall adopt rules, under RSA 541-A, relative to implementation and operation of the real-time threat notification system for schools.

Source. 2019, 346:396, eff. July 1, 2019.

Public Health Emergency Management Powers

See Emergency Order #30 (NH LEGIS E.O. 2020-30-Emerg. (2020, 2030:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:53 Public Health Powers and Duties. –

During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the governor's council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, and any other law to the contrary, purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to

treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of RSA 141-C:15, VI.

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

Source. 2008, 271:1, eff. June 26, 2008.

21-P:54 Safe Disposal of Corpses. –

I. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

- (a) Adopt and enforce such measures to provide for the safe disposal of corpses as may be necessary for the health and welfare of the community;
- (b) Take possession and control of any corpse and direct the embalming, burial, cremation, interment, disinterment, transportation, and disposal of corpses;
- (c) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to accept any corpse or provide the use of its business or facility if such actions are necessary for emergency response;
- (d) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to clearly label any corpse with all available information necessary to identify the decedent and the apparent cause of death;
- (e) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state having custody of a corpse of a person known or believed to have had an infectious disease to clearly label the corpse with a tag indicating that the corpse is so infected and indicating, if known, the infectious disease; and
- (f) Compel every person in charge of disposing of any corpse to maintain a written record of each corpse and all available information to identify the decedent.

II. In carrying out the foregoing actions, the department, to the extent feasible under the circumstances, shall adhere to the religious practices and preferences of the decedents where known.

III. The costs of embalming, cremation, burial, or other disposal of a corpse pursuant to this

section shall be a cost to the estate of the decedent and shall be a necessary expense of the funeral and burial of the decedent pursuant to RSA 554:19, I(b).

IV. Any taking of real or personal property in this section shall be subject to the provisions of RSA 4:46.

Source. 2008, 271:1. 2010, 189:1, eff. Jan. 1, 2011.

Title X Public Health

RSA 141-C Communicable Disease

141-C:1 Policy. – The outbreak and spread of communicable disease cause unnecessary risks to health and life, interfere with the orderly workings of business, industry, government, and the process of education, and disrupt the day-to-day affairs of communities and citizens. Because the control of communicable disease may be attained by personal actions, the timely intervention of medical practices, and cooperation among health care providers, federal, state, and municipal officials, and other groups and agencies, it is hereby declared to be the policy of this state that communicable diseases be prevented, and that such occurrences be identified, controlled, and, when possible, eradicated at the earliest possible time by application of appropriate public health measures and medical practices.

Source. 1986, 198:21, eff. Aug. 2, 1986.

141-C:2 Definitions. –

In this chapter:

I. "Agent" means any individual authorized by the commissioner to assist in carrying out the provisions of this chapter.

II. "Baggage" means the personal belongings of travelers. Such personal belongings need not be in the personal possession of the traveler.

III. "Care" means the furnishing of necessary services to a person infected with a communicable disease. The term includes provisions for shelter, food, and such other services that the person is unable to provide for himself due to his infection or its physical effects.

IV-a. "Child" means any person between birth and 18 years of age.

IV-b. "Child care agency" means "child day care agency" as defined in RSA 170-E:2, IV and "child care agency" as defined in RSA 170-E:25, II.

V. "Commodity" means any animal or animal product, plant or plant product, or inanimate material intended to be sold or distributed to the public.

VI. "Communicable disease" means illness due to a microorganism, virus, infectious substance, biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, which may be transmitted directly or indirectly to any person from an infected person, animal or arthropod (including insecta or arachnida) or through the vehicle of an intermediate host, vector, or inanimate environment.

VII. "Conveyance" means any vessel, aircraft, motor vehicle or other mode of transportation which is engaged in the transport of passengers, baggage, or cargo.

VIII. "Decontamination" means the act of rendering anything free from the causal agents of

communicable disease.

IX. "Commissioner" means the commissioner of department of health and human services, or his designee.

X. "Department" means the department of health and human services.

X-a. "Health care provider" means any person who or entity which provides health care services including, but not limited to, hospitals, medical clinics and offices, clinical laboratories, physicians, naturopaths, chiropractors, pharmacists, dentists, registered and other nurses, and nurse practitioners, paramedics, and emergency medical technicians.

XI. "Health officer" means any individual appointed under RSA 128:1 or employed under RSA 47:12.

XI-a. "Immunization" means inoculation with a specific antigen to promote antibody formation in the body.

XI-b. "Immunizing agent" means a vaccine, antitoxin, or other substance used to increase a person's immunity to a disease.

XII. "Isolation" means the separation, for the period of communicability, of infected persons from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

XII-a. "Protected health information" means any information, whether in oral, written, electronic visual, or any other form, that relates to an individual's physical or mental health status, condition, treatment, service, products purchased, or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

XIII. "Quarantine" means the restriction of activities of well persons who have been exposed to a case of communicable disease, during its period of communicability, to prevent disease transmission during the incubation period if infection should occur. It also means the detention of a conveyance, commodity, baggage, or cargo in a separate place for such time as may be necessary and during which decontamination may be carried out.

XIII-a. "School" means any facility which provides primary or secondary education.

XIV. "Treatment" means the provision of medical services to prevent, control, or eliminate the infection of a person by a communicable disease.

Source. 1986, 198:21. 1987, 193:1-3. 1990, 257:1. 1994, 208:1. 1995, 310:93, 183. 2002, 258:6-8, eff. July 1, 2002.

141-C:3 Duties of Department. –

The department shall:

I. Identify, investigate, and test for communicable diseases posing a threat to the citizens of the state and its visitors.

II. Educate the general public, persons who provide health services to the public, and those persons responsible for the health and well-being of other persons relative to measures that will prevent the contraction of communicable disease, minimize its effects, and impede its spread.

III. Coordinate such medical, municipal, and other services as may be necessary to control, and, when possible, eradicate communicable diseases when they occur.

Source. 1986, 198:21. 1995, 310:175, eff. Nov. 1, 1995.

141-C:4 Duties of Commissioner. –

The commissioner shall:

- I. Identify communicable diseases to be reported to the department under RSA 141-C:8.
- II. Investigate outbreaks of communicable diseases under RSA 141-C:9.
- III. Establish, maintain, and suspend isolation and quarantine to prevent the spread of communicable diseases under RSA 141-C:11.
- IV. Order persons who pose a threat to the life and health of the public to receive such treatment and care as necessary to eliminate the threat under RSA 141-C:15.
- V. Purchase and distribute such pharmaceutical agents as may be deemed necessary to prevent the acquisition and spread of communicable disease under RSA 141-C:17.
- VI. Provide laboratory services to support the detection and control of communicable disease under RSA 141-C:19.
- VII. Educate the public relative to the cause, prevention and treatment of communicable disease and relative to the provisions of this chapter and its rules regarding reporting, investigations, examinations, treatment and care.
- VIII. Regulate, in public places, conveyances, and buildings, the use of a common drinking cup under RSA 141-C:6.
- IX. Prohibit, in public places, conveyances, or buildings the use of a common towel.
- X. Authorize treatment, under the orders of a licensed physician, as may be necessary to carry out the provisions of this chapter.

Source. 1986, 198:21. 1990, 61:1. 1991, 3:1. 1995, 310:175, 183, eff. Nov. 1, 1995.

141-C:5 Duties of Health Officers. –

Health officers shall:

- I. Assist the commissioner, when requested to do so, in the establishment and maintenance of isolation and quarantine in their respective cities and towns, and enforce all rules adopted by the commissioner relative to isolation and quarantine.
- II. Attend meetings with the commissioner, when requested, for consultation on matters relating to public health, the restriction and prevention of communicable diseases, or the consideration of other important sanitary matters related to preventing or controlling the spread of communicable diseases.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:6 Rulemaking. –

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

- I. Identifying communicable diseases to be reported under RSA 141-C:8.
- II. The design and content of all forms required under this chapter including forms for reporting communicable diseases under RSA 141-C:8.
- III. Reporting required under RSA 141-C:7.
- IV. The conduct of investigations carried out under RSA 141-C:9, I.
- V. The procedure for disclosure of information under RSA 141-C:10.
- VI. Establishing, maintaining, and lifting the isolation and quarantine of cases, carriers, or

- suspected cases or carriers of communicable diseases under RSA 141-C:11.
- VII. Decontamination of commodities, conveyances, baggage, and cargo under RSA 141-C:11, IV.
- VIII. Issuing and carrying out orders for the treatment and care and for the restriction and control of diseases under RSA 141-C:15.
- IX. Distribution of pharmaceutical agents under RSA 141-C:17.
- X. Laboratory testing, fee schedules, and the waiving of fees under RSA 141-C:19.
- XI. Regulating use of the common cup under RSA 141-C:4, VIII.
- XII. The procedure for written orders under RSA 141-C:12.
- XIII. Other communicable diseases requiring immunization under RSA 141-C:20-a, I.
- XIV. The child's age for administration of a vaccine for immunization.
- XV. The number of doses necessary for each vaccine.
- XVI. The acceptable level of immunization necessary for a child to be enrolled in a school or child care agency under RSA 141-C:20-a, II(b).
- XVII. Procedures for keeping immunization records under RSA 141-C:20-b, II.
- XVIII. The immunization registry established under RSA 141-C:20-f.
- XIX. Identifying microbial isolates of reportable diseases and patient specimens to be retained or forwarded to the public health laboratories.
- XX. Establishing a registry of biological agents present in New Hampshire.
- XXI. Procedures relating to information, specimens, and samples as required under RSA 141-C:10, IV.
- XXII. Procedures for administration of and disbursement from the mosquito control fund, established in RSA 141-C:25.

Source. 1986, 198:21. 1987, 193:4. 1990, 61:2. 1995, 310:183. 1998, 183:2. 2002, 258:9, 10. 2006, 284:2, eff. July 1, 2006.

[RSA 141-C:6-a repealed by 2020, 9:3, effective November 1, 2021.]

141-C:6-a Commission Established. –

- I. There is hereby established a commission to study the use and limitations of serological diagnostic tests to determine the presence or absence of Lyme and other tick-borne diseases and the development of appropriate methods to educate physicians and the public with respect to the inconclusive nature of prevailing test methods.
- II. (a) The members of the commission shall be as follows:
- (1) Two members of the house health, human services and elderly affairs committee, one of whom shall be a physician and one of whom shall be a lay person, appointed by the speaker of the house of representatives.
 - (2) One member of the senate who shall be a member of the health and human services committee, appointed by the president of the senate.
 - (3) A representative of the New Hampshire Medical Society, appointed by the society.
 - (4) A physician licensed under RSA 329 who is certified to treat Lyme disease patients by the International Lyme and Associated Diseases Society (ILADS), appointed by the society.
 - (5) The state epidemiologist, or designee.
 - (6) Two members of the public who have been treated for chronic Lyme and/or other tick-borne

diseases, alternatively referred to as Post Treatment Lyme Disease Syndrome (PTLDS), one of whom shall have been a Lyme disease patient for at least 5 years, appointed by the governor.

(7) One mental health professional, appointed by the New Hampshire chapter of the National Alliance on Mental Illness (NAMI).

(8) A physician specializing in neurology, rheumatology, or later-stage tick-borne infection treatment specialist, appointed by the Infectious Disease Society of America (IDSA).

(9) A tick-borne disease expert, appointed by the SOLO Wilderness Medicine School.

(10) A nurse practitioner or a representative of the New Hampshire Nurse Practitioner Association, appointed by the association.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall:

(a) Consider expert studies and testimony on the role of clinical diagnosis, the limitations of serological diagnostic tests, and the complexities presented by co-infections relating to symptomology, diagnosis, and treatment in determining the presence or absence of Lyme and other tick-borne diseases, including at a minimum testing methods recommended respectively by IDSA, ILADS, the Center for Disease Control and Prevention (CDC), and the Tick-Borne Disease Working Group (TBDWG) established under the 21st Century Cures Act of 2016.

(b) Consider and make recommendations relative to appropriate methods to educate the medical profession and the public on the inconclusive nature of currently prevailing methods of diagnosing Lyme and other tick-borne diseases.

(c) Consider the newly proposed recommendations on tick-borne illness by the Centers for Disease Control and Prevention.

(d) Recommend legislation that the commission deems appropriate to address the rising incidence of chronic Lyme and other tick-borne diseases in New Hampshire.

IV. The first meeting of the commission shall be called by the first-named house member, who shall serve as chairperson of the commission. The first meeting of the commission shall be held within 45 days of the effective date of this section. The commission shall meet as often as necessary, but no less often than monthly, and shall hear testimony from patients treated for chronic Lyme and other tick-borne diseases, medical practitioners licensed in New Hampshire or other states who diagnose and treat chronic Lyme and other tick-borne diseases, and academic and professional experts experienced in the diagnosis and treatment of such diseases. Six members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2021.

Source. 2020, 9:2, eff. July 14, 2020.

141-C:7 Reporting of Communicable Disease. –

I. Upon becoming aware of any communicable disease or communicable disease syndrome listed under RSA 141-C:8, any health care provider, clinical laboratory director, the superintendent or other person in charge of any hospital, or other health care facility, or any other person having under his or her care or observation a person afflicted with a communicable disease or communicable disease syndrome, or who has reason to believe that a person was or might have been afflicted with a communicable disease at the time of death, shall report to the commissioner

the communicable disease or communicable disease syndrome and shall provide social security numbers, if persons were given the option at the original point of collection to provide social security numbers voluntarily, and such additional information and periodic reports as required under RSA 141-C:9, I.

II. Any veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person engaged in the care of animals shall report animals having or suspected of having any disease that may cause a communicable disease in humans.

III. Any clinical laboratory director shall forward to the department's public health laboratory isolates of reportable infectious microorganisms as specified by the commissioner. In addition, any clinical laboratory director performing any testing for reportable diseases shall retain the original patient specimens for 7 days after issuing a final test result for diseases specified by the commissioner and shall submit such specimens to the public health laboratories upon request.

IV. In addition to the foregoing requirements for health care providers, a pharmacist shall report, if required under rulemaking procedures by the commissioner, any unusual or increased types of prescriptions, or unusual trends in pharmacy visits that may be caused by a communicable disease. Prescription-related events that require a report may include, but are not limited to:

(a) An unusual increase in the number of prescriptions to treat fever, respiratory, or gastrointestinal complaints.

(b) An unusual increase in the number of prescriptions for antibiotics.

(c) An unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory, or gastrointestinal complaints.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:11. 2003, 309:6, eff. Sept. 19, 2003.

141-C:8 List of Diseases; Report Forms. – The commissioner shall compile a list of reportable communicable diseases necessary to protect the citizenry. The commissioner shall develop and provide a form for the reporting of communicable diseases under this section. The form shall include, at a minimum, the name, age, address, occupation, and place of occupation of the person. Reportable information shall not include psychiatric, psychological, or other mental health records or information.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:12, eff. July 1, 2002.

141-C:9 Investigations; Examinations. –

I. The commissioner or designee may investigate incidents of communicable diseases. Such investigations shall include, but not be limited to, requiring additional information and periodic reports from the reporting official, interviews with reporting officials, their patients, and other persons affected by or having information pertaining to the communicable disease, surveys of such individuals, inspections of buildings and conveyances and their contents, and laboratory analysis of samples collected during the course of such inspections. The commissioner shall adopt such rules as are necessary to carry out investigations with due regard for the rights of person and property. The commissioner may call upon health officers, as authorized by RSA 141-C:5, I, to assist in such investigations.

II. Any person having or suspected of having a communicable disease, any person who is a communicable disease carrier or contact or any person who is suspected of being a communicable disease carrier or contact shall, when requested by the commissioner or designee,

submit to a physical examination for the purpose of determining the existence of a communicable disease. Such persons shall submit specimens of body secretions, excretions, body fluids, and discharges for laboratory examinations when so requested by the commissioner or designee.

Source. 1986, 198:21. 1994, 208:2. 1995, 310:183, eff. Nov. 1, 1995.

141-C:10 Disclosure; Confidentiality. –

I. Any protected health information provided to or acquired by the department under this chapter shall be released only with the informed, written consent of the individual or to those authorized persons having a legitimate need to acquire or use the information and then only so much of the information as is necessary for such persons to provide care and treatment to the individual who is the subject of the protected health information, investigate the causes of disease transmission in the particular case, or control the spread of the disease among the public. Any release of information under this section without the informed, written consent of the individual shall be conditioned upon the protected health information remaining confidential.

II. Analyses and compilations of data which do not disclose protected health information shall be available to the public under RSA 91-A.

III. The physician-patient privilege shall not apply to information required to be reported or provided to the commissioner under this chapter.

IV. The department shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this chapter. The department shall adopt rules, pursuant to RSA 541-A, relative to the types of information, specimens, and samples to be acquired and the length of time such information, specimens, and samples shall be retained before being destroyed. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other micro-organisms therein.

Source. 1986, 198:21. 1994, 208:3. 1995, 310:183. 2002, 258:13, eff. July 1, 2002.

141-C:11 Isolation and Quarantine. –

I. Whenever it is necessary to prevent the introduction or spread of communicable diseases within this state or from another state, or to restrict such diseases if introduced, and when such communicable diseases pose a substantial threat to the health and life of the citizenry, the commissioner shall establish isolation or quarantine for persons who are cases or carriers, or suspected cases or carriers of communicable diseases, and establish quarantine for commodities, conveyances, baggage and cargo that are carriers or suspected carriers of the communicable diseases by written order prepared in accordance with RSA 141-C:12. Such isolation or quarantine shall be by the least restrictive means necessary to protect the citizenry which, in the case of an individual, shall be at a place of his or her choosing unless the commissioner determines such place to be impractical or unlikely to adequately protect the public health. The commissioner shall adopt such rules regarding the establishment, maintenance and lifting of isolation and quarantine as the commissioner may deem best for protecting the health of the public.

II. When a conveyance, operator, crew, passenger, baggage, cargo or commodity is placed in isolation or quarantine, the owners, consignees, assignees and operators shall submit to such

investigations as authorized by RSA 141-C:9, I, regarding any circumstance or event concerning the health of the operator, crew, passengers and the sanitary condition of the conveyance, baggage, cargo or commodity. The operator, crew and passengers shall submit to such examinations, as authorized by RSA 141-C:9, II, as the commissioner may determine appropriate.

III. The commissioner may, in ordering isolation or quarantine of persons, require that treatment be obtained in accordance with rules adopted under RSA 141-C:15.

IV. The order of quarantine for commodities, conveyances, baggage and cargo may require, as a condition for lifting the quarantine, that decontamination be performed. The commissioner shall adopt such rules pursuant to RSA 541-A as are necessary for the performance of decontamination.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:20, eff. July 1, 2002.

141-C:12 Orders. –

I. The commissioner, in imposing isolation and quarantine under RSA 141-C:11, in requiring treatment under RSA 141-C:15, or in excluding children under RSA 141-C:20-d, shall do so by written order. The order shall include, as appropriate, the following information:

- (a) The cause of the quarantine or isolation.
- (b) The location of quarantine or isolation.
- (c) When appropriate, that decontamination be performed on commodities, conveyances, baggage and cargo.
- (d) When treatment is required as part of the order, where such treatment is available and, if applicable, what effect the receipt of treatment may have on the conditions of isolation and quarantine.
- (e) The period of duration of isolation or quarantine.
- (f) The commissioner's signature.
- (g) The reason and length of time for the exclusion of children from schools and child care facilities.

II. Orders issued under this section shall be complied with immediately.

III. When an individual subject to an order for isolation or quarantine refuses to cooperate with such order, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing isolation or quarantine and the place or facility where the individual shall be isolated or quarantined. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the individual is to be isolated or quarantined.

Source. 1986, 198:21. 1987, 193:5, 6. 1995, 310:94, 183. 2002, 258:14, eff. July 1, 2002.

141-C:13 Evading Quarantine; Breaking Quarantine. –

I. If, after an order is issued under RSA 141-C:12, any commodity, conveyance, cargo or baggage is not removed to the place of quarantine or is not decontaminated or is brought near any dwelling house, facility, or housing providing services to people, or near any place of business or manufacture without the permission of the commissioner or his designee, the commissioner shall petition the superior court to review the order.

II. If any person ordered to undergo isolation or quarantine leaves such place of quarantine, a place designated by the commissioner for the decontamination of commodities, conveyances, baggage and cargo under quarantine, or a place of treatment and care of persons under isolation or quarantine without the permission of the commissioner or his designee, the commissioner shall petition the superior court for review of the order.

III. When an individual subject to an order for isolation or quarantine refuses to cooperate with such order, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing isolation or quarantine and the place or facility where the individual shall be isolated or quarantined. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the individual is to be isolated or quarantined.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:15, eff. July 1, 2002.

141-C:14 Invading Isolation; Quarantine. – If any person shall, without permission of the commissioner, his designee, or a health officer acting on the request of the commissioner, enter a place of isolation or quarantine, board a conveyance under quarantine, enter the limits of a place designated for the decontamination of cargo or baggage under quarantine, or enter a place designated for the treatment of persons placed under isolation or quarantine and such person is not an employee or agent of the facility providing such treatment, he shall be considered infected and ordered to undergo isolation or quarantine under RSA 141-C:11. He shall remain there at his own expense until the commissioner determines that there is no threat to the citizenry by virtue of the exposure to the cause of isolation or quarantine.

Source. 1986, 195:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:14-a Due Process. –

I. Any person subject to an order for submission of a specimen, or for examination, immunization, treatment, isolation, quarantine, provision of information, inspection of a building or conveyance, or any other order of the commissioner under this chapter or RSA 21-P:53, may request a hearing in the superior court to contest such order. The commissioner shall provide, or cause to be provided, to the person both oral and written notice of the right to contest the order and the form for making the request, which form shall require no more than the person's name, address, and signature and the time and date of the signature.

II. Submission of the completed form to the law enforcement officer or other individual serving the order shall be considered a filing with the superior court and such officer or other individual shall promptly deliver the form to the superior court.

III. The superior court shall schedule a hearing and render a decision upon the request within 48 hours of the time the request was made. If the court determines that exigencies related to protection of the health of the public preclude a hearing and decision within the 48-hour period, the hearing and decision may take place within a suitable time as determined by the court, but in no event later than 120 hours after the time the request was made.

IV. No examination, specimen, immunization, treatment, or other action shall be required against the will of a person who has filed a request for a hearing. A person may be held in isolation or quarantine pending the outcome of the court hearing, but may no longer be held if the court fails

to render its decision within the time period required under paragraph III.

V. At the hearing the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the person poses a threat to public health, or that the information to be produced or inspection of a building or conveyance is necessary to protect against a serious threat to the public health, and the order issued by the commissioner is thereby warranted to alleviate such threat.

VI. All orders issued under this chapter shall be in writing and a copy shall be provided to the person subject to the order at the time it is served. Every person who contests an order of the commissioner under this chapter shall be given a copy of the executed form contesting such order.

VII. Nothing in this chapter shall be construed to require the medical examination, medical treatment, or immunization of a person who objects, and no criminal penalties shall be imposed as a result. Notwithstanding this paragraph, such a person may be subject to isolation or quarantine for the minimum period necessary to protect the public health, as determined by the court in its decision following the hearing pursuant to this section.

Source. 2002, 258:16. 2008, 271:2, 3, eff. June 26, 2008.

141-C:15 Treatment, Care of Sick; Costs. –

I. Any person infected with a communicable disease, or reasonably suspected of being infected with a communicable disease, and whose continued presence among the citizenry poses a significant threat to health and life, shall be ordered by the commissioner under RSA 141-C:11, to report to a health care provider or health care facility to undergo such treatment and care as the commissioner may deem necessary to eliminate the threat. The commissioner shall adopt rules, pursuant to RSA 541-A, necessary to issue and carry out such orders for treatment and to restrict and control communicable disease through treatment.

II. If the person subject to the order cannot be removed to a health care provider or to a health care facility for treatment without danger to his life or to the citizenry, the commissioner shall impose isolation or quarantine under RSA 141-C:11 and shall arrange for treatment and care as necessary to mitigate the threat.

III. The commissioner shall assist indigent persons who are infected with tuberculosis and supply them with anti-tuberculosis drugs for treatment and preventative therapy, chest x-rays, and such physical examinations as necessary to monitor the course of treatment and therapy.

IV. The cost of treatment and care, except treatment provided under RSA 141-C:15, III, and physical examinations under RSA 141-C:9 and RSA 141-C:18, shall be a cost to the person, or his parent or guardian, or, if such person is indigent, from such public funds available for such purposes. Costs of physical examinations and treatment and care provided to the operator, passengers and crew of conveyances who are, or might have been, infected by means of the conveyance, shall be a cost to the owner, consignee or assignee of the conveyance.

V. The cost for maintenance of quarantine for commodities, conveyances, cargo and baggage, and for the decontamination of commodities, conveyances, cargos and baggage, shall be a cost to the owner, consignee or assignee of the commodity or conveyance.

VI. When an individual subject to an order for treatment by the commissioner refuses to undergo such ordered treatment, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing treatment, the nature of the treatment to be provided, and the place or facility where the treatment

shall be provided. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the treatment is to be provided.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:17, eff. July 1, 2002.

141-C:15-a Administration of Certain Prescription Medication for Treatment or Prevention of a Communicable Disease. –

I. Notwithstanding the provisions of RSA 326-B:2, I-a, and RSA 329:1-c, a health care professional authorized to prescribe prescription medication for the treatment or prevention of a communicable disease may prescribe, dispense, or distribute directly or by standing order, drugs and testing to a patient he or she did not evaluate and with whom there is no established health care provider-patient relationship to empirically treat for, or provide an agent or prophylaxis to prevent, a communicable disease that poses a threat to public health. Any such prescription shall be regarded as being issued for a legitimate medical purpose and in accordance with established clinical practice guidelines, when available.

II. Communicable diseases that pose a threat to public health for the purposes of paragraph I shall be limited to the following:

(a) *Bordetella pertussis*, *Chlamydia trachomatis*, *Neisseria gonorrhoea*, and *Neisseria meningitidis*; or

(b) Diseases that constitute an immediate threat to public health and for which the commissioner, or designee, declares a public health incident under RSA 508:17-a or issues clinical guidance that requests providers to consider prescribing, dispensing, or distributing immunizing agents or drugs under paragraph I in order to control a disease outbreak.

III. No health care professional who, acting in good faith and with reasonable care, prescribes, dispenses, or distributes an agent or drug and testing for the treatment or prevention of a communicable disease as described in paragraph I, shall be subject to any criminal or civil liability, or any professional disciplinary action, for any action authorized by this section or any outcome resulting from an action authorized by this section.

Source. 2017, 42:2, eff. May 9, 2017. 2020, 39:2, eff. July 29, 2020.

141-C:16 Mode of Treatment and Care. – Nothing in this chapter shall be construed to authorize the commissioner to restrict in any manner a person's right to select the mode of treatment of his choice, or to refuse treatment, when treatment is ordered by the commissioner under RSA 141-C:15, I, or to request any physical examination or treatment of a person who in good faith relies upon spiritual means or prayer for healing. Such reliance or treatment or refusal of treatment shall not be considered a danger or menace to others under any provisions of this chapter; provided, however, that there is compliance with the sanitary, isolation and quarantine laws and rules adopted under this chapter. This section shall not be construed to prevent a parent or guardian from exercising his legal responsibilities.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:16-a Closure; Decontamination. –

I. The commissioner, with the written approval of the governor, may close, direct, and compel

the evacuation and decontamination of any building located within the state that is accessible to the public, such as businesses, primary and secondary schools, and universities, regardless of whether publicly or privately owned, when there is reasonable cause to believe the building may present an imminent danger to the public health. The commissioner may also cause any material located within or on the grounds of a building to be decontaminated or destroyed when there is reasonable cause to believe that the material may present imminent danger to the public health. Destruction of any material under this chapter shall be considered a taking of private property and shall be subject to the compensation provisions of RSA 4:46.

II. Notice shall be made by posting notice on all means of ingress or egress of the building and, within 24 hours of posting, mailing the notice, return receipt requested, to the owner of record. The notice shall state the reason for the action and its anticipated duration.

III. Orders issued pursuant to this section shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the action taken is reasonably necessary to protect the health of the public.

IV. Orders issued under this section shall be subject to the due process provisions of RSA 141-C:14-a.

Source. 2002, 258:22. 2008, 336:1, eff. July 7, 2008.

141-C:16-b Cancellation of Events. – The commissioner, with the written approval of the governor, may order the cancellation of public gatherings and events within the state, or in specific geographic areas of the state, as is deemed necessary to prevent an imminent danger to the public health. Notice of any order canceling a public gathering or event shall be made in writing, shall specify the reason for the cancellation, and shall be delivered to the organizer of the event or owner of the venue where the event was to occur in a manner that will give as much notice prior to the cancellation as is reasonably possible. Notice shall also be given to the public in a manner that is reasonably likely to be available to the members of the public affected by the order. Such order shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that cancellation of the public gathering or event is reasonably necessary to protect the health of the public.

Source. 2008, 336:2, eff. July 7, 2008.

141-C:17 Purchase; Distribution. – The commissioner may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents which the commissioner deems advisable to prevent, prepare for, or respond to an outbreak of

communicable disease or other serious threat to the public health. Any medications distributed in the event of a public health incident declared pursuant to RSA 508:17-a shall be exempt from labeling in accordance with RSA 318:47-b. State employees and other persons acting under the authority and direction of the commissioner may carry out the activities authorized under this section.

Source. 1986, 198:21. 1990, 61:3. 1994, 208:8. 1995, 310:183. 2008, 271:4, eff. June 26, 2008.

141-C:17-a Vaccine Purchase Fund. – There is hereby established a vaccine purchase fund for the purchase of antitoxins, serums, vaccines and immunizing agents, which are to be provided to the public at no cost except for the actual cost of administering such agents, under RSA 141-C:17. Any funds provided to the department for this purpose and deposited in the fund shall not be used for any other purpose. Moneys in the fund shall be continually appropriated to the commissioner of the department of health and human services.

Source. 1991, 280:1. 1995, 310:175, 182, eff. Nov. 1, 1995.

141-C:17-b Custody; Rationing. – If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, and such shortage poses a serious threat to the public health, the commissioner, with the written approval of the governor, may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such agents as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner may determine the preference and priority for distribution of such agents, such as giving preference to health care providers and emergency response personnel. The commissioner, with the written approval of the governor, shall have the discretion to take custody of all supplies of specific anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, existing within the state to ensure that such agents are distributed and utilized appropriately. Notice of an order issued pursuant to this section shall be given in writing to the owner of the personal property, or, if the owner cannot be readily determined, to the person in charge of the location where the personal property is located. The notice shall specify the reason for the action and its expected duration. Such order shall be effectively immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. The owner of any property subject to an order issued pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden shall be on the commissioner to prove by clear and convincing evidence that the order is reasonably necessary to protect the health, safety, and welfare of the public. Multiple requests for hearings under this section may be consolidated into one hearing if the underlying facts are similar, the court deems such consolidation to be appropriate, and the court determines that such consolidation will adequately satisfy the due process rights of the persons who requested a hearing.

Source. 2008, 336:3, eff. July 7, 2008.

141-C:17-c Compensation and Expenditures. – Items taken by the commissioner pursuant to the provisions of this chapter shall be subject to the compensation provisions of RSA 4:46, but in no event shall the owner thereof be entitled to more than the Medicaid rate for the item that was in effect at the time of the taking. Notwithstanding the provisions of RSA 9:19-9:21, the commissioner may make such expenditures as necessary to carry out the provisions of this chapter; provided, that expenditures are made from funds appropriated to the department that the commissioner determines to be available for this purpose and information regarding the expenditures is promptly submitted to the fiscal committee of the general court and the governor and council.

Source. 2008, 336:3, eff. July 7, 2008.

141-C:18 Sexually Transmitted Disease. –

I. The commissioner may request the examination, and order isolation, quarantine, and treatment of any person reasonably suspected of having been exposed to or of exposing another person or persons to a sexually transmitted disease. Any order of treatment issued under this paragraph shall be in accordance with RSA 141-C:11, RSA 141-C:12, and RSA 141-C:15.

II. Any minor 14 years of age or older may voluntarily submit himself to medical diagnosis and treatment for a sexually transmitted disease and a licensed physician may diagnose, treat or prescribe for the treatment of a sexually transmitted disease in a minor 14 years of age or older, without the knowledge or consent of the parent or legal guardian of such minor.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:19 Laboratory Support Services; Rules. –

I. The commissioner shall make available laboratory tests for the early detection and control of communicable diseases such as acquired immune deficiency syndrome, rubella, herpes virus, legionnaire's disease, eastern equine encephalitis, viral hepatitis, chlamydia, rabies, rotavirus, rubeola, influenza, salmonella, pertussis and toxoplasmosis.

II. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to adding to the list of communicable diseases in paragraph I for which testing shall be available and establishing a fee schedule for all tests available under this section. The commissioner may waive such fees when it is in the best interest of the health of the public to do so.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20 Education. – The commissioner or his designee shall prepare and distribute such current public information materials relative to the cause, prevention, and treatment of the various communicable diseases and relative to rules adopted under this chapter as may best instruct health care providers and the public in methods of prevention and control of communicable diseases, including proper treatment methods.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-a Immunization. –

I. All parents or legal guardians shall have their children who are residing in this state

immunized against certain diseases. These diseases shall include, but not be limited to, diphtheria, mumps, pertussis, poliomyelitis, rubella, rubeola, and tetanus. The commissioner shall adopt rules under RSA 541-A relative to other diseases which require immunization.

II. No child shall be admitted or enrolled in any school or child care agency, public or private, unless the following is demonstrated:

(a) Immunization under paragraph I;

(b) Partial immunization relative to the age of the child as specified in rules adopted by the commissioner; or

(c) Exemption under RSA 141-C:20-c.

III. Nothing in this section shall require an immunization/vaccination requirement for diseases that are noncommunicable. Noncommunicable disease means a disease that is not infectious or transmissible from person-to-person.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995. 2017, 137:1, eff. Aug. 15, 2017.

141-C:20-b Records. –

I. Any person who immunizes a child shall complete a form to be supplied by the commissioner and shall give the completed form to the parent or legal guardian.

II. Schools and child care agencies shall keep immunization records for all enrolled children. Such records shall be available for inspection during reasonable hours upon request by the commissioner or his designee.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-c Exemptions. –

A child shall be exempt from immunization if:

I. A physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

II. A parent or legal guardian objects to immunization because of religious beliefs. The parent or legal guardian shall sign a notarized form stating that the child has not been immunized because of religious beliefs.

Source. 1987, 193:7. 2001, 18:1, eff. Jan. 1, 2002.

141-C:20-d Exclusion During Outbreak of Disease. – During an outbreak of a communicable disease for which immunization is required under RSA 141-C:20-a, children exempted under RSA 141-C:20-c shall not attend the school or child care agency threatened by the communicable disease. The commissioner shall prepare a written order as required under RSA 141-C:12, I.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-e Immunization Reports. – Schools and child care agencies, whether public or private, shall make an annual report to the commissioner relative to the status of immunization of all enrolled children.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-f Immunization Registry. –

I. The department shall establish and maintain a state immunization registry. The registry shall be a single repository of accurate, complete and current immunization records to aid, coordinate, and promote effective and cost-efficient disease prevention and control efforts.

II. No patient, or the patient's parent or guardian if the patient is a minor, shall be required to participate in the immunization registry.

III. Physicians, nurses, and other health care providers may report an immunization to the immunization registry unless the patient, or the patient's parent or guardian if the patient is a minor, refuses to allow reporting of this information.

IV. Access to the information in the registry shall be limited to primary care physicians, nurses, other appropriate health care providers as determined by the commissioner, schools, child care agencies, and government health agencies or researchers demonstrating a legitimate need for such information as determined by the commissioner.

V. The information contained in the registry shall be used for the following purposes:

(a) To ensure that registrants receive all recommended immunizations in a timely manner by providing access to the registrant's immunization record.

(b) To improve immunization rates by facilitating notice to registrants of overdue or upcoming immunizations.

(c) To control communicable diseases by assisting in the identification of individuals who require immediate immunization in the event of a disease outbreak.

VI. The commissioner shall adopt rules under RSA 541-A concerning the following:

(a) The establishment and maintenance of the immunization registry.

(b) The methods for submitting and content of reports of immunizations.

(c) Procedures for the patient, or the patient's parent or guardian if the patient is a minor, to decline to participate in the registry.

(d) Procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to review and correct information contained in the registry.

(e) Procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to withdraw consent for participation at any time and to remove information from the registry.

(f) Limits on and methods of access to the registry by those authorized to gain access under paragraph IV of this section.

(g) Procedures for managed care organizations to obtain summary statistics of immunization information on managed care organization members from the immunization registry.

VII. Any person reporting, receiving, or disclosing information to or from the immunization registry as authorized by this section or by any rule adopted pursuant to this section shall not be liable for civil damages of any kind connected with such submission or disclosure of immunization information.

VIII. Nothing in this section is intended to affect the obligations of persons under RSA 141-C:20-a to have their children properly immunized.

IX. Nothing in this section shall preclude the right of the patient, or the patient's parent or

guardian if the patient is a minor, to claim exemption from immunization as defined in RSA 141-C:20-c; nor shall anything in this section require such patient to be included in the registry if the patient, or the patient's parent or guardian if the patient is a minor, objects thereto on any grounds, including but not limited to, that such registry conflicts with the religious beliefs of the patient, or the patient's parent or guardian if the patient is a minor.

X. No health care provider shall discriminate in any way against a person solely because that person elects not to participate in the immunization registry.

Source. 1998, 183:3, eff. Aug. 14, 1998.

141-C:21 Penalty. – Any person who shall violate, disobey, refuse, omit or neglect to comply with any of the provisions of RSA 141-C, or of the rules adopted pursuant to it, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

Source. 1986, 198:21, eff. Aug. 2, 1986.

141-C:22 Penalty for Sale or Use for Personal Gain. – Any natural person selling or disposing of any pharmaceutical agents purchased or distributed under RSA 141-C:17 for personal gain shall be guilty of a misdemeanor. Any other person shall be guilty of a felony.

Source. 1986, 198:21. 1990, 61:4, eff. June 5, 1990.

141-C:23 Injunction. – A civil action may be instituted in superior court on behalf of the department for injunctive relief to prevent the violation of the provisions of this chapter or rules adopted under this chapter. The court may proceed in the action in a summary manner or otherwise and may enjoin in all such cases any person in violation of any provisions of this chapter or its rules.

Source. 1994, 208:4. 1995, 310:175, eff. Nov. 1, 1995.

141-C:24 Mosquito Control Districts; Rulemaking. – Contiguous municipalities may establish mosquito control districts for the purposes of applying for moneys from the mosquito control fund established in RSA 141-C:25 and for the purposes of applying for spraying permits. The commissioner, in consultation with the commissioner of the department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to the establishment of such mosquito districts. A mosquito control district established pursuant to RSA 430:13 shall be considered a mosquito control district under this chapter.

Source. 2006, 284:1. 2007, 22:1, eff. July 1, 2007.

141-C:25 Mosquito Control Fund. –

I. There is hereby established a nonlapsing and continually appropriated mosquito control fund to assist cities, towns, and mosquito control districts by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. The purpose of the fund is to provide financial assistance, when needed, to cities, towns, and mosquito control districts engaging in mosquito control and

abatement activities in response to a declared threat to the public health. Any balance remaining in the mosquito control fund at the close of the fiscal year ending June 30, 2009 shall lapse to the general fund.

II. In order to be eligible to receive funding, a city, town, or mosquito control district shall have in place a comprehensive mosquito control plan approved by the commissioner. This plan shall include at a minimum:

- (a) A list of the pesticides (active ingredient) and methods by which these pesticides will be applied to ensure that the application is done in a safe and proper manner.
- (b) Safeguards that will be taken to protect the health of the public, wildlife, and resources within the state including provisions for the measuring and monitoring of residual pesticides in the water and soil.
- (c) A comprehensive public awareness campaign geared toward prevention and designed to educate the public about the health risks associated with mosquitoes.
- (d) Appropriate abatement measures.

III. (a) The commissioner, in consultation with the Centers for Disease Control and Prevention, and with the concurrence of the governor, may determine that a threat to the public health exists that warrants expedited mosquito control and abatement activities within a city, town, or mosquito control district. Such determination shall be based on local factors which may include:

- (1) Historical and current climatic conditions.
- (2) Historical and current mosquito population indices.
- (3) Historical and current mosquito, veterinary, and human arboviral disease surveillance.
- (b) An expedited approval process shall be established for the implementation of mosquito control and abatement activities, including the application of pesticides. The commissioner of the department of agriculture, markets, and food may authorize expedited mosquito control and abatement activities pursuant to this paragraph.

IV. A city, town, or mosquito control district shall be eligible to receive funds if the commissioner determines that:

- (a) The city, town, or mosquito control district has a comprehensive mosquito control plan approved by the commissioner in accordance with paragraph II;
- (b) The city, town, or mosquito control district has engaged or plans to engage in mosquito control and abatement activities pursuant to paragraph III;
- (c) The commissioner, after consultation with the Centers for Disease Control and Prevention, has determined that mosquito control and abatement activities are appropriate to mitigate the public health threat; and
- (d) A threat to public health has been determined in accordance with paragraph III.

IV-a. Following a determination of eligibility under paragraph IV, the city, town, or mosquito control district shall be eligible for funding for mosquito control and abatement activities occurring during the same calendar year prior to or after a determination of a public health threat under paragraph III.

V. A city, town, or mosquito control district's receipt of funds, as well as the amount of funding, shall be at the discretion of the commissioner. In exercising his or her discretion, the commissioner shall consider the following criteria:

- (a) The nature and degree of the declared threat to the public health.
- (b) The nature and degree of the city, town, or mosquito control district's mosquito control and abatement activities in response to the declared threat to the public health.
- (c) The city, town, or mosquito control district shall show cause why funding assistance from the

mosquito control fund is necessary.

(d) Funding from the mosquito control fund shall not exceed 25 percent of the cost of mosquito control and abatement activities pursuant to the declared threat to the public health.

(e) Funding is available.

Source. 2006, 284:1. 2008, 73:1, eff. July 20, 2008.

141-C:26 Acute Care Centers. – The commissioner, with the written approval of the governor, may establish, operate, or authorize the operation of temporary acute care centers for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care. Any such facility so established or designated shall be exempt from the provisions of RSA 151. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding the facility and staffing requirements, screening and admission criteria, payment and reimbursements, clinical standards, recordkeeping, and discharge criteria for acute care centers. In adopting such rules, the commissioner shall take into consideration, to the extent feasible, the rights and responsibilities of patients set forth in RSA 151:21. For purposes of immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

Source. 2008, 271:5. 2012, 282:7, eff. June 30, 2015.

141-C:27 Ethics Committee. –

I. There is hereby established an ethics committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic.

II. The committee shall consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

III. The members of the committee shall be as follows:

(a) The director of the division of public health services.

(b) The state epidemiologist.

(c) The attorney general, or designee.

(d) A representative of a public health network, appointed by the commissioner.

(e) A representative from a college or university public health program, appointed by the commissioner.

(f) A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

(g) A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.

(h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.

- (i) The commissioner of the department of safety, or designee.
 - (j) A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.
 - (k) A representative of a hospital, appointed by the New Hampshire Hospital Association.
 - (l) A county representative, appointed by the New Hampshire Association of Counties.
- IV. The commissioner shall appoint a member of the committee to act as chairperson. The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.
- V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.
- VI. The committee shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner.

Source. 2008, 336:4, eff. July 7, 2008.

141-C:28 No Conflict With Emergency Management Powers. – Nothing in this chapter shall be construed to limit or restrict the exercise of the governor's emergency management powers under RSA 4:45-RSA 4:47.

Source. 2008, 336:4, eff. July 7, 2008.



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

To: House Committee on Executive Departments and Administration
House Committee on Legislative Administration

From: Paul Smith, House Clerk
Jim Cianci, House Counsel

Date: March 3, 2021

Re: Governor's emergency power bills

Your committee is currently in possession of certain bills related to the governor's emergency power authority. In reviewing this legislation, we have noted individual provisions which give cause for concern and may require closer examination. While we do not take any position on the policy of these bills, we wish to indicate specific procedural, parliamentary, and legal issues for the committee's consideration.

The first issue involves the powers of the General Court. Legislative authority may only be exercised by a quorum of both bodies of the legislature, not by the House or Senate alone, and cannot be delegated to a committee. *See Opinion of the Justices*, 121 N.H. 552, 559-560 (1981); *see also* MASON'S MANUAL OF LEGISLATIVE PROCEDURE (2020) § 48 (1) ("A legislative body cannot delegate its powers, duties or responsibilities to any other person or group, including a committee of its own members, in as much as those powers, duties and responsibilities are delegated to the legislature by the people through the constitution.")

Furthermore, the full extent of legislative authority cannot be exercised by simple resolution. Pursuant to House Rules, "[a] simple resolution is one that is considered by the legislative body in which it is introduced and is of interest to only that body. **Neither house nor senate resolutions have the effect of law.** They are written to show appreciation to some individual or group, to ask the supreme court for an advisory opinion on a bill originating in that body, to express sympathy for an individual's death or illness, or, in a lighter vein, to commemorate an event affecting one of the members." (emphasis added)

To the extent that HB's 277, 325, 389 (Leg. Ad.) and HB 417 (ED&A) provide that legislative authority may be exercised by any method other than the full House and Senate or by any method other than one having the full effect of law, those provisions warrant close scrutiny.

The second issue involves the reference to RSA Chapter 16 (Special Legislative Sessions) contained in HB's 277 and 389 (Leg. Ad.). Based upon advice from former House Counsel Chuck Douglas in 2017, the majority vote provision contained in RSA 16:4 conflicts with the 2/3 vote provision contained in Part 2, Article 15 of the New Hampshire Constitution. He advised that a constitutional requirement cannot be contradicted by statute and any statute which conflicts with the constitution is unconstitutional; therefore, while the procedures contained in RSA Chapter 16 may be followed, the constitutional requirement in Part 2, Article 15 must also be met. We continue to agree with the opinion of Attorney Douglas and wish to inform the committee of his guidance on this matter.

We appreciate the opportunity to provide this information to aid your committee in its consideration of this legislation.



EMERGENCY POWERS

JILL PERLOW, SENIOR ASSISTANT ATTORNEY GENERAL



EMERGENCY POWER STATUTES

- Three primary statutory sections we are looking at when discussing emergency powers
 - RSA 4:45-47 (Governor's Powers)
 - RSA 21-P:34-53 (Homeland Security & Emergency Management Powers)
 - RSA Ch. 141-C (Public Health Powers)

WHY EMERGENCY POWERS?

- Purpose is found in RSA 21-P:34

- State is adequately prepared to preserve the lives and the property of the people of the state when faced with natural and human-caused disasters by providing emergency management powers to
 - the governor;
 - other executive heads of governing bodies of the state – the local officials; and
 - local organizations for emergency management.
 - And to coordinate the implementation of those powers across the state, with other states, and the federal government – coordinating to the maximum extent possible.
- Disasters: fire, flood, hurricane, earthquake, prolonged power outages, disruption or contamination of the food or water supply, degradation of critical facilities and vital systems, disruption of communication systems, or other natural, technological or human causes, including acts of terrorism

WHO CAN DECLARE A STATE OF EMERGENCY?

- The Governor
- The Legislature
- RSA 4:45, I

WHAT IS A STATE OF EMERGENCY?

- “State of emergency” means:
 - that condition, situation, or set of circumstances
 - deemed to be so extremely hazardous or dangerous to life or property
 - that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm.” RSA 21-P:35, VIII.

WHERE IS THE STATE OF EMERGENCY?

- Where is the condition, situation, or set of circumstances occurring?
 - Within this state, RSA 4:45, I.
 - Either focused in a political subdivision or specific geographic areas, RSA 4:45, I(b)
 - Beyond local control and impacts the whole state, RSA 21-P:37

WHEN IS THERE A STATE OF EMERGENCY?

- a natural, technological, or man-made disaster of major proportions
 - is imminent or
 - has occurred within this state,

HOW IS AN EMERGENCY DECLARED?

- The Governor can declare a state of emergency by issuing an executive order that:
 - specifies the nature of the emergency,
 - the geographic areas subject to the declaration,
 - the conditions that have brought about the emergency, and
 - the duration of the state of emergency if less than 21 days (states of emergency automatically terminate after 21 days unless renewed per the statute). RSA 4:45, I (a-d).
- The legislature, by concurrent resolution, may declare a state of emergency, subject to the same requirements. RSA 4:45, I.

HOW DOES A STATE OF EMERGENCY END?

- The Governor does not renew a declared state of emergency and the declaration expires. RSA 4:45, II(a).
- The Governor issues an executive order ending the state of emergency before the current order expires. RSA 4:45, II(b)
- The legislature, by concurrent resolution, may terminate a state of emergency the Governor has declared. RSA 4:45, I(c).

WHAT ARE THE EMERGENCY POWERS?

Upon the declaration of a state of emergency, the Governor may exercise several emergency powers, including:

- assume control of any or all emergency management forces and helpers in the state; RSA 4:45, III(a);
- Obtaining or transferring materials or services for emergency management purposes RSA 4:45, III(b);
- evacuation of all or part of the population RSA 4:45, III(c);
- remove from office any public officer having administrative responsibilities in emergencies; RSA 4:45, III(d);
- such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; RSA 4:45, III(e).
- To declare an emergency temporary location or locations for the seat of state government...RSA 4:45, III(f)

ADDITIONAL EMERGENCY POWERS

- Acquire or dispose of real or personal property as necessary RSA 4:46.
- Enter into mutual aid agreements with other states RSA 4:47, I
- Provide for emergency lines of succession to such appointive offices in the state government. RSA 4:47, II
- Make, amend, suspend, and rescind necessary orders, rules and regulations necessary to respond to the emergency. RSA 4:47, III
- The Governor can accept services, equipment, supplies, materials, or funds from the federal government RSA 21-P:43
- Both the Governor and executives of local political subdivisions accept services, equipment, supplies, materials, or funds from private individuals and companies, RSA 21-P:43

ADDITIONAL EMERGENCY POWERS – PUBLIC HEALTH

The DHHS Commissioner is authorized to:

- Order persons who pose a threat to the life and health of the public to receive such treatment and care as necessary to eliminate the threat. RSA 141-C:15; RSA 21-P:53,V
- Establish isolation or quarantine for persons who are cases or carriers, or suspected cases or carriers of communicable diseases. RSA 141-C:11
- Establish quarantine for commodities, conveyances, baggage and cargo that are carriers or suspected carriers of the communicable diseases. RSA 141-C:11
- Control the safe disposal of corpses. RSA 21-P:54
- Purchase, distribute and ration such pharmaceutical agents as may be deemed necessary to prevent the acquisition and spread of communicable diseases. RSA 141-C:17; RSA 21-P:53, II & III
- Provide laboratory services to support the detection and control of communicable diseases. RSA 141-C:19.
- Order evacuation and decontamination of any building located within the state that is accessible to the public. RSA 141-C:16-a
- Order the cancellation of public gatherings and events within the state, or in specific geographic areas of the state. RSA 141-C:16-b
- Operate temporary acute care centers with the Governor's written approval. RSA 141-C:26 and RSA 508:17-a.

Representative Andrew Prout
6 Raven Drive, Hudson, NH 03051

Executive Departments and Administration Committee
107 North Main Street
Concord, NH 03301

March 1st, 2021

Re: Written testimony in support of HB433

To the honorable members of the committee,

The intent of this bill is to ensure that the legislature is involved, and has a role to approve, long-term states of emergency. I think everyone agrees that the executive branch needs some ability to react quickly – more quickly than the legislature can be assembled – when an emergency situation arises, and it makes sense for the legislature to delegate the authority for that. However, when this emergency situation persists for an extended period of time... the legislature should have a role.

This bill sets that line at 42 days – one 21 days state of emergency declaration and one renewal. It also contains a provision for the clerk of the legislative bodies to certify that the majority of members of the legislature are incapacitated, and by extension that they could not meet with a quorum, in which case the limitation on the executive is waived.

Representative Andrew Prout
Prime Sponsor, HB433



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To: Rep. Gregory G. Hill, Chairman, House Legislative Administration Committee
Rep. Carol M. McGuire, Chairman, House Executive Departments and
Administration Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 10, 2021

RE: State of Emergency Declaration; History of NH Law; Use of Concurrent
Resolutions; Adoption of Concurrent Resolutions

You asked for a legislative history of laws addressing the Governor's power to declare a state of emergency.

SUMMARY

The New Hampshire Civil Defense Act (RSA 107) was adopted in 1949, establishing the first formal framework at the state level for responding to an emergency created by an enemy attack or a natural disaster. A section was added to the law in 1953, granting the Governor and the Legislature the authority to proclaim an emergency and to assert "that the safety and welfare of the inhabitants of this state require an invocation" of emergency powers. The provision adopted in 1953 also identified additional emergency powers granted to the Governor during a declared emergency.

The laws addressing the declaration and powers associated with a state of emergency have been codified in different sections of the NH statutes over the years. The provisions addressing the authority to declare a state of emergency have been in RSA 4:45-4:47 since 2002.

This memorandum identifies the major changes to the emergency powers law from 1949 to 2002 and provides information on states of emergency declared in New Hampshire over the last 18 years. It also provides information on a 2015 bill to repeal the Governor's authority to declare a state of emergency and give the sole authority for such a declaration to the General Court.

Executive Order 2020-4, declaring a state of emergency due to Novel Coronavirus (COVID-19)

On March 13, 2020, Governor Chris Sununu signed Executive Order 2020-04 and declared a state of emergency invoking RSA 4:45, III(e) and RSA 4:47, III. These laws grant the Governor the authority to "perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population;" and the "power to make, amend, suspend and rescind necessary orders, rules and regulations" to carry out emergency management functions in the event of a disaster beyond local control. This executive order includes directives that apply to multiple entities including state agencies, state and local governments, schools, residential care facilities and all residents and visitors to the state. RSA 4:45, II(a) provides that a state of emergency is automatically terminated 21 days after its declaration unless it is renewed, Executive Order 2020-4 has been renewed 15 times and is currently set to terminate on February 12, 2021.

NH States of Emergency

Floods, hurricanes and severe winter storms are the most common natural disasters in New Hampshire. In addition, emergency responders also prepare for potential manmade disasters that could occur in the industrialized areas of the state during the transportation of hazardous materials or at the Seabrook Station nuclear power plant.

Recent States of Emergency Declared by NH Governors; terminations enacted by Executive Order noted

- 8/11/2003 – Benson; limited State of Emergency, flooding due to torrential rains associated with the severe storms
- 12/12/2008 – Lynch; State of Emergency, severe weather and ice storm
- 2/26/2010 – Lynch; State of Emergency, winter storm with extreme weather with heavy rains and strong winds causing power outages and floods
- 7/3/2013 – Hassan; State of Emergency, severe weather, thunderstorms, persistent rains, flooding and extensive damage, evacuations; **terminated 7/12/2013**
- 8/14/2014 – Hassan, State of Emergency statewide due to overdoses related to the use or misuse of the product “Smacked”
- 1/26/2015 – Hassan; State of Emergency, severe winter storm, snow, high winds, coastal flooding; **terminated 1/28/2015**
- 3/1/2020 – Chris Sununu; State of Emergency due to the Novel Coronavirus (COVID-19)

NH Major Disasters Declared by Federal Government, 2000-2020

In the last 20 years, the federal government has issued 12 emergency declarations for New Hampshire as well as 26 declarations of major disasters. Other than the COVID-19 pandemic this year, most of the federally-declared emergencies and disasters in this time period involved severe winter storms with heavy snow and other severe storms, including hurricanes and tornados, that led to flood damage.

History of NH Law on State of Emergency Declaration

Prior to the adoption of state and federal civil defense acts during the early years of the Cold War, government historically took emergency actions affecting private property under general police powers, such as orders prohibiting public gatherings during the Spanish flu outbreak from 1918 to 1920.

The federal Civil Defense Act was adopted in 1950 and was described as creating a basic framework for preparations to minimize the effect of an attack on the country. The first NH Civil Defense Act was adopted in 1949. The stated purpose of the law was to ensure that the state was adequately prepared to cope with disasters resulting from “enemy attack, sabotage, or other hostile action, or from fire, flood, hurricane, earthquake, other natural causes,...”. The law established a Civil Defense Agency led by a director appointed by the Governor and Council. The director was charged with coordinating civil defense activities and was authorized to cooperate with civil defense agencies in other states and federal government.

The NH Civil Defense Agency was replaced by the Governor’s Office of Emergency Management in 1987. Subsequently, in 2002, the office was renamed and moved to the Department of Safety. There was broad support for moving the Office of Emergency Management to the Department of Safety, although there was some testimony in opposition to this shift. The Senate Finance Committee amendment revised RSA 4:45 relative to the declaration and termination of a state of emergency, including the 21-day termination provision and the authority to renew a state of emergency.

Timeline of Reorganization of Emergency Response Office and State of Emergency Declaration Provision

1949 – RSA 107 NH Civil Defense Act adopted

Office in charge of coordination: Civil Defense Agency; Director of agency appointed by the Governor and Council and works at the direction of the Governor
[RSA 107:3]

Authority to declare emergency: not addressed

1953 –Emergency Powers section added to law

Authority to declare emergency:

- Governor may proclaim
- House or Senate may proclaim by resolution
[RSA 107:8]

1987 –RSA 107-C Emergency Management Act adopted, RSA 107 repealed

Office in charge of coordination: Governor’s Office of Emergency Management
[RSA 107-C:3]

Authority to declare emergency:

- Governor may proclaim
- House and Senate may proclaim by joint resolution
- no provision for the termination of a state of emergency
[RSA 107-C:5]

2002 RSA 4:45-4:47 and RSA 12-P 34-48 Office of Emergency Management, Department of Safety adopted; RSA 107-C repealed

Office in charge of coordination: Office of Emergency Management, Division of Fire Safety, Department of Safety; State Fire Marshal directs division [RSA 21-P:34-48]

Authority to declare emergency:

- Governor may declare by executive order [RSA 4:45, I]
- General Court may declare by concurrent resolution of the House and Senate [RSA 4:45, I]
- a state of emergency terminates automatically after 21 days, unless it is renewed [RSA 4:45, II(a)]
- Legislature has authority to terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber [RSA 4:45, II(c)]

2002 –Shift to the Department of Safety

HB 1461 (2002) moved the Office of Emergency Management out of the Governor’s Office and into the Division of Fire Safety. It was sponsored by Reps. Clegg, Whalley, and Konys and Sens. Francoeur, O’Neil, Eaton and D’Allesandro.

Supporters included the State Fire Marshal (who was also the Acting Director of the Office of Emergency Management at the time), the NH Fire Chiefs Association, individual firefighters, the Attorney General and the Chairman of the Public .

Testimony in support noted that up until that time, emergency management efforts had generally centered on responses to natural disasters and critical incident preparedness for potential accidents at the Seabrook Station or Vermont Yankee nuclear power plants. The terrorist attacks on September 11, 2001 changed the view of emergency threats and required greater and more complex forms of interagency collaboration. It was noted that the lines of communication and authority are not always clear during an emergency. The Department of Safety was seen as the central agency for law enforcement communication and responses involving both state and municipal emergency responders, and therefore the most effective and efficient location for the Office of Emergency Management. This shift was also seen as allowing for the sharing of intelligence among federal, state and local law enforcement personnel.

Governor's Position on 2002 Legislation

Proponents noted that the legislation retained the Governor's powers relative to the declaration of a state of emergency as well as the Governor's general emergency management authority. Special Counsel to Governor Shaheen testified in the Senate that she had not initiated this legislation but was not opposed to a change in organizational structure that would enhance coordination and efficiency. The Governor's primary concern was to ensure that the current emergency process and powers were retained to the extent possible. To that end, her counsel worked on an amendment ensuring that the Governor and Council retained authority over the Coordinator of Emergency Management. Under RSA 21-P:36, I, in the final version of the bill, the Commissioner of Safety nominated the coordinator for appointment by the Governor with the consent of the Council. The coordinator served at the pleasure of the Governor and may be removed, with or without cause, by the Governor and Council.

Opponents included Rep. Ken Wyler and the former Director of the OEM.

Testimony in opposition from the former Director of the Office of Emergency Management indicated that RSA 107-C was a model for other states. He expressed concern over the shift of authority away from elected leadership and to appointed officials and stressed that the office functions as a manager and coordinator rather than a direct response unit. Opponents felt that shifting the office out of the Governor's Office would dilute the Governor's powers and cloud the chain of command. They also feared that this transfer would create added expenses and questioned the indication in the fiscal note that there would be savings to the state.

Votes on HB 1461 (2002)

The committee votes on HB 1461 were all unanimous. There was some debate on the bill on the floor of the House.

House Votes:

ED&A Committee, Ought to Pass with Amendment, vote 15-0,

Regular Calendar
Passed with amendment, roll call vote 238-112

Senate Votes:

ED&A Committee, Ought to Pass with Amendment, 5-0
Passed with amendment, voice vote
Finance Committee, Ought to Pass with Amendment, vote 5-0
Passed with amendment, voice vote

Signed by Governor, 5/17/2002 Effective 7/1/2002
Chapter 257, Laws of 2002

2015 Legislation to Repeal the Governor's Authority to Declare a State of Emergency

HB 452, repealing the governor's authority to declare a state of emergency

Sponsors: Rep. Itse, Rep. Hoell, Rep. Ingbretson, Rep. Hannon, Rep. Dan McGuire, Rep. Seaworth and Rep. Seidel

Summary:

- Repealed RSA 4:45 (State of Emergency Declaration; Powers) and enacted a new section, RSA 4:51 granting the General Court the sole authority to declare a state of emergency
- Retained provisions authorizing the General Court to declare a state of emergency by the adoption of a concurrent resolution of the House and Senate; declaration terminated automatically after 21 days unless renewed
- Substituted the General Court for the Governor in several sections addressing State of Emergency powers

House Action

Referred to: House Legislative Administration Committee

House Hearing: February 5, 2015

Testimony in Support

- It is more appropriate to grant authority to declare a state of emergency to a larger number of people, the Legislature, rather than grant one person this power; the Governor may exceed his or her authority
- In response to concerns that the Legislature cannot act as quickly and assemble to take a vote in some emergency situations, such as a major storm, proponents

suggested amending the bill to permit commissioners to take some immediate actions

- One co-sponsor proposed alternative language to require the Governor to obtain the approval of the Council to declare an emergency.

Testimony in Opposition

- It is critical to be able to respond quickly to an emergency for effective response; may need to respond in hours; a slow response could imperil the lives and property of NH residents.
- It is unrealistic to expect 424 members to be located, assembled, complete a debate and vote before declaring a state of emergency; the Governor is able to act much more quickly.
- Federal emergency management and homeland security laws recognize the nation's governors as the contact in civil emergencies and disasters; they are entrusted with classified information in the event of an enemy attack.
- Federal laws empower the Governor to contact the President and call out the National Guard.
- The State Constitution provides for the continuity of operations if the Governor is indisposed or cannot be reached; this provision was used recently when a flood occurred while the Governor was out of the country. The President of the Senate assumed emergency responsibilities until the Governor returned.
- The bill would give the Legislature the authority to “move from office any public officer having administrative responsibilities under RSA 21-P:34 through 21-P:48” for a period not exceeding 30 days [proposed new RSA 4:51, III(d)]. This authority currently is granted only to the Governor. It is unreasonable to have the Director of Homeland Security and Emergency Management working under the supervision of the Commissioner of Safety and the Governor, and also subject to possible removal by the Legislature.

Committee Report: Inexpedient to Legislate, vote 8-1, Consent Calendar

Rep. Jack B. Flanagan for Legislative Administration. This bill would remove the governor's authority to declare a state of emergency and grant that authority solely to the legislature. For a number of reasons, the majority of the committee felt that this bill was not practical. These reasons include that the legislature is not in session year round, and our state may be bound by certain requirements set forth by the federal government dealing with important matters relating to emergency operations, natural disaster relief, and homeland security. As the chief

executive of the state, the governor should have the authority to declare emergencies and be able to direct state resources.

Floor Action: Found Inexpedient to Legislate, voice vote

Final Action Killed in the House

Legislative Declaration of a State of Emergency; Concurrent Resolution

RSA 4:45, I grants the Legislature the authority to declare a state of emergency “by concurrent resolution of the house and senate”.

Other circumstances when the Legislature has the authority to act by concurrent resolution adopted by a majority vote of each chamber:

- To declare a vacancy in the office of Governor. This article is triggered 6 months after the Governor or the Supreme Court declare that the Governor is unable to fulfill the duties of the office by reason of physical or mental incapacity. If the General Court is not in session when the 6-month period expires, the Acting Governor shall convene a special session for the sole purpose of considering and acting on declaring a vacancy in the office of the Governor, upon the written request of $\frac{1}{4}$ of the members of each chamber. - N.H. Const. Pt. 2, Art. 49-a
- To terminate an order issued by the Chief Justice of the Supreme Court suspending deadlines regarding speedy trials for a 21-day period during a declared state of emergency – RSA 490:6-a

Different Types of Resolutions

House Rules define the three types of resolutions as follows:

Joint resolution –

- Has the force and effect of law, must pass both the house and senate and be signed by the governor.
- Must be treated as bills (NH Constitution, Pt. II, Art. 45); must be introduced and considered in the same manner as bills, except that they can only be used for temporary provisions.
- Cannot be used to amend the public or private laws of New Hampshire (the RSA or the session laws), but they can be used to appropriate money for limited purposes; to establish temporary study committees; and to make adjustments in the state retirement system for certain individuals.
- Effective upon passage, for this reason that are useful for supplemental or deficiency appropriations, but such appropriations may not extend beyond the second fiscal year of the biennium. As with other appropriations, if a resolution

makes an appropriation from the general fund the governor must be authorized to draw a warrant for the sums appropriated.

Concurrent resolution –

- Must be passed by both houses but is not sent to the governor for signature.
- Do not have the effect of a law
- Cannot be used to appropriate money
- May be used to put the legislature on record as supporting or disavowing some aspect of national or state policy; may be utilized to express appreciation to some individual or group.

Simple resolution

- Adopted by one chamber of the legislature only
- Do not have the effect of law
- Written to show appreciation to some individual or group, to ask the supreme court for an advisory opinion on a bill originating in that body, to express sympathy for an individual's death or illness, or, in a lighter vein, to commemorate an event affecting one of the members.

Source: House Rules, Definitions

If I can provide further information on this, please let me know.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Executive Departments and Administration Committee
New Hampshire House of Representatives

FROM: Jill Perlow, Senior Assistant Attorney General

DATE: February 5, 2021

RE: Questions from Emergency Powers Presentation

Q: Is there any limit to the number of times the Governor can renew a state of emergency?

A: No, there is no set number of renewals, however, it can only be renewed as long as the conditions supporting the existence of an emergency still exist.

Q: If the legislature ended the state of emergency, would that limit the ability of the Governor to receive and spend federal funds?

A: The authority to accept and expend federal funds in RSA 21-P:43 is not limited to situations when there is a declared state of emergency. If New Hampshire ends its state of emergency, however, the State would no longer be eligible to receive federal reimbursement funds from FEMA for costs incurred due to the State's response to the COVID-19 pandemic. *See* 42 U.S.C. § 5170 (a) ("As part of such request, and as a prerequisite to major disaster assistance under this chapter, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan") (emphasis added); *See also* 42 U.S.C. § 5191 (a). To be eligible for reimbursement, that Governor must certify that "[t]he situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments" and that "[f]ederal assistance [from FEMA] is necessary to supplement the efforts and available resources of the State[.]" 44 C.F.R. 206.36 (b) (1) & (2); *See also* RSA 4:47, IV.

Additionally, if the state of emergency were terminated, this would mean that the State would shoulder 100% of the costs of the National Guard deployment at the vaccine and testing sites, since FEMA would no longer reimburse the Department of Defense for its share of costs. Typically, FEMA reimburses 75% of eligible costs and the State pays 25%. However, on January 21, 2021, President Biden issued a memorandum to the Secretaries of Defense and

Homeland Security directing that the FEMA will reimburse 100% of the eligible costs related to the pandemic.

There would be other impacts if the State of Emergency was lifted in New Hampshire, including the termination of emergency orders related to healthcare workers and vaccine distribution/dispensing. Also, there would be financial impacts because a termination would also terminate Emergency Orders (“EO”) that contain the following unemployment benefits:

- **Waiting Week:** The law requiring people filing for unemployment benefits to first serve a waiting week would be reinstated. EO5 suspended the waiting week. This would impact people filing a new claim going forward from the date the state of emergency is lifted but would not impact people currently filing.
- **Unemployment Tax Rates:** EO5 redirected all benefit payments to the trust fund rather than being charged against an employer’s experience based tax rate. So essentially what this means for a for-profit employer is that their UI tax rate is not being negatively impacted by all of the benefits being paid to former employees. For non-profit employers this means that they have not been required to reimburse the trust fund for benefits paid to their former employees. Now this only involves state benefits and does not involve all of the federal benefits. This change would result in a delayed impact for the for-profits as they would not see a real impact with an increased tax rate until August when rate determinations are mailed. For the non-profits this impact would be immediate as going forward they would be required to reimburse the trust fund for 50% of the state UI benefit charges. The other 50% would continue to be paid by the Federal government through March 13th.
- **\$100 Minimum Benefit:** EO 68 increased the state weekly minimum unemployment benefit to \$100/week. This was done in order to make sure everyone got to take advantage of the \$300 federal enhancement back in August/September that was issued per Presidential Memorandum and administered by FEMA. If the state of emergency were lifted we would then revert back to the benefit schedule in statute which would effectively mean approximately 3,000 people would have their weekly benefit rate reduced.

It is currently not known whether any future appropriations from the federal government will be conditioned on a state of emergency, but it is possible.

Q: Is there anything about the Governor’s emergency powers in the Constitution?

A: There is no Constitutional provision that specifically addresses emergency powers. The Governor’s Constitutional authority is found in Part 2, Articles 41-59 and describes the role of Governor as the supreme executive magistrate and vests the executive power of the state in the Governor.

Q: The constitution only provides that the legislature has the authority to suspend statutes. How is it that the Governor has been able to suspend statutes?

A: Part 1, Article 29 of the NH Constitution provides: *The power of suspending the laws, or the execution of them, ought never to be exercised but by the Legislature, or by authority derived therefrom, to be exercised in such particular cases only as the Legislature shall expressly provide for.* The legislature delegated the authority to suspend statutes to the Governor through its enactment of RSA 4:45-47, which authorizes the Governor in limited circumstances and for limited times to take actions and issue orders necessary to respond to an emergency.

Q: Where the statute authorizes the Governor to:

- *Perform such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and*
- *The power to make, amend, suspend and rescind necessary orders, rules and regulations to carry out the provisions of this subdivision in the event of a disaster beyond local control*

Is there no limit what the Governor can do, so long as he thinks it is necessary to respond?

A: Yes, there is a limit. First, there are constitutional limits to the Governor's actions. In addition, the statute limits the Governor's actions in that they must be in response to the declared emergency and to promote and secure the safety and protection of the civilian population.

4:45 State of Emergency Declaration; Powers. –

I. The governor: if the governor finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section, the governor shall may declare a state of emergency for the purpose of calling a special session of the general court pursuant to The Constitution of the State of New Hampshire, Part 2, Article 50. The governor may specify the location of the Special Session to be held in a place other than the statehouse to protect the health or safety of the members of the general court. The governor shall petition the general court to declare a state of emergency. This state of emergency shall last 10 days. If a quorum cannot be achieved in the special session, the governor may continue the state of emergency for 10 days to convoke the general court. The state of emergency can be continued as many times as necessary until a quorum of the general court is achieved or until the emergency ceases to exist.

II. The general court has independent power to call a special session and declare a state of emergency by concurrent resolution of the house and senate.

III. A concurrent resolution or executive order declaring a state of emergency shall specify the:

- (a) Nature of the emergency;
- (b) Political subdivisions or geographic areas subject to the declaration;
- (c) Conditions that have brought about the emergency; and
- (d) Duration of the state of emergency, if less than 21 days.

A resolution shall specify any temporary amendment to statutes pertaining to the state of emergency.

IV. (a) A state of emergency shall terminate automatically 21 days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section.

(b) If the governor finds that maintaining the state of emergency is no longer justified, and the the general court has been unable to convene ,the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

V. During the existence of a state of emergency, and only for so long as such state of emergency shall exist, the governor shall have and may exercise the following additional emergency powers:

(a) To enforce all laws, rules, and regulations relating to emergency management, **providing that no executive order shall be contrary to, or suspend any statute**, and to assume control of any or all emergency management forces and helpers in the state. Any new rules promulated by executive order affecting the general public, and until the general court can be convened must be concurred by a majority of the executive council.

(b) To sell, lend, lease, give, transfer, receive, or deliver materials or perform services for emergency management purposes on such terms and conditions as the governor shall prescribe ~~and without regard to the limitations of any existing law~~, **subject to the approval of the Joint Fiscal Committee and the concurrence of a majority the executive council**, and to account to the state treasurer for any funds received for such property.

(c) To provide for the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees.

(d) Subject to the provisions of the state constitution, to remove from office any public officer having administrative responsibilities under RSA 21-P:34 through 21-P:48. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving him or her an opportunity to be heard in his or her defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding 30 days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law.

(e) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population, **provided that no executive order shall be contrary to, or suspend existing statute**.

(f) To declare an emergency temporary location or locations for the seat of state government at such place or places within this state as the governor may deem advisable under the circumstances and to take such action and issue such orders as may be necessary for an orderly transaction of the affairs of state government to such emergency temporary location or locations. Such emergency temporary location or locations shall remain the seat of government until the legislature shall by law establish a new location or locations or until the state of emergency is declared to be ended by the governor and the seat of government is returned to its normal location.



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To: Rep. Gregory G. Hill, Chairman, House Legislative Administration Committee
Rep. Carol M. McGuire, Chairman, House Executive Departments and
Administration Committee

From: Pam Smarling, Senior Committee Researcher
House Committee Research

Date: February 23, 2021

RE: Bills Proposing Revisions to the Process for Declaring and Imposing a State of
Emergency; 2021 Legislative Session

On March 13, 2020, Governor Chris Sununu signed Executive Order 2020-04 and declared a state of emergency invoking RSA 4:45, III(e) and RSA 4:47, III. RSA 4:45, II(a) provides that a state of emergency is automatically terminated 21 days after its declaration unless it is renewed, Executive Order 2020-4 has been renewed 16 times and is currently set to terminate on March 5, 2021.

At least 16 bills or resolutions have been filed in the 2021 session to amend the State of Emergency laws or in response to Executive Orders imposed during the 2020-2021 State of Emergency. These bills have been referred to 5 different standing committees of the House of Representatives. Many of these bills have been referred to the House Executive Departments and Administration Committee and the House Legislative Administration Committee. Public hearings on the state of emergency bills have been scheduled for March 1 in both committees. Two bills relating to the state of emergency laws have been voted out of committee and are on the House Calendar for this week.

House Criminal Justice Committee

1. HB 63, relative to the reversal or forgiveness of emergency order violations

Hearing: January 27, 2021

Summary:

- provides that the state shall not enforce, and shall reverse, any prior finding of violation of the governor’s emergency orders regarding the COVID-19 pandemic.
- provides for annulment of an arrest or criminal conviction for violation of an emergency order issued in response to COVID-19.

Committee Amendment:

- removes references to release from settlement agreements
- revises effective date to be upon passage or upon termination of the COVID-19 State of Emergency, whichever is later

Committee Report: Majority: Ought to Pass with Amendment, vote 11-10,
Regular Calendar
Minority: Inexpedient to Legislate

Rep. Scott Wallace for the Majority of Criminal Justice and Public Safety. The COVID-19 pandemic has been a difficult time for everyone. Small businesses have been hurt especially hard. Without large legal compliance teams or alternative staff available to cover for those with medical issues, many have struggled to implement the guidance in the highly technical pandemic emergency orders. This bill would forgive any violations of the emergency orders when the state of emergency is over: return any revoked or suspended licenses, refund any fines collected, annul any criminal charges, and make the history inadmissible in future licensing decisions. This limits the long term damage to small businesses, gives them certainty that they are getting their licenses back so they can plan for the future, and provides a path for unity when these trying times are behind us. It also mitigates the constitutional concerns, and court challenges that may arise from them, regarding the alternative civil penalties issued under Emergency Order #65 when a penalty has already been identified in statute for violating an emergency order. The amendment removes some unnecessary language related to enforcement methods that have not been utilized and makes the bill effective upon the end of the COVID-19 state of emergency instead of upon passage.

Rep. David Meuse for the Minority of Criminal Justice and Public Safety. This bill would essentially remove any reason for citizens or for businesses to comply with legal orders issued by the governor under a state of emergency. It would require fines to be refunded and the record of any penalties to be removed from an individual’s record at the end of the state of emergency. This bill should be rejected because it takes away the possibility of holding people accountable for violating orders designed to protect public health during the worst public health

emergency in over 100 years. While penalties could continue to be imposed and orders enforced by the Attorney General during the state of emergency, this bill would effectively reverse those penalties once the state of emergency is allowed to expire. This is simply bad public policy. During a pandemic that has touched us all, passing this bill would allow those who feel entitled to ignore orders motivated by the need to protect public health that has killed over 1,000 New Hampshire residents and over 400,000 of our fellow Americans to violate them impunity and with the knowledge that they will suffer no long term consequences. By removing the threat of consequences for violators, this bill sends precisely the wrong message at a time when compliance with these orders is essential to contain the further spread of the coronavirus and ensure the survival of our citizens and our businesses while minimizing additional hospitalizations and deaths. The minority urges rejection of this bill.

2. HB 493, establishing a criminal penalty for an assault committed against a person who is conveying public health or safety guidance or requirements during a declared state of emergency.

Hearing: March 1, 2021

Summary:

- establishes a criminal penalty of a Class B Misdemeanor for the assault of another person who is relaying public health or safety guidance or requirements during a declared state of emergency.

House Health and Human Services Committee

3. HB 187, relative to the emergency powers of the commissioner of health and human services.

Hearing: February 1, 2021

Summary:

- makes various changes to the powers of the DHHS Commissioner during a public health emergency;
- authorizes the Joint Legislative Oversight Committee on Health And Human Services to review, and rescind by a 2/3 vote, emergency orders issued by the commissioner;
- gives a person subject to a treatment order for a communicable disease a right to a hearing on the order;
- amends the membership and duties of the Ethics Oversight Advisory Committee responsible for advising the commissioner on ethical issues related to response to outbreaks of communicable diseases

Committee Report: Ought to Pass with Amendment, vote 19-2, Regular Calendar

Rep. William Marsh for Health, Human Services and Elderly Affairs. This bill establishes retrospective legislative oversight over emergency orders from the commissioner of the Department of Health and Human Services (DHHS), issued under RSA 21-P. The bill also establishes legislative oversight over various powers under the public health and infectious disease laws. The critical part of this bill, and the only issue on which there was a difference of opinion, is on page 2, line 32, which gives the Health and Human Services Oversight Committee the authority to rescind emergency orders by a two-thirds vote. The majority feels this measure is essential to restore the balance of power between the branches, but is sufficiently high to prevent its misuse. Current law was appropriately used to limit the distribution of hydroxychloroquine under the emergency order when there was a shortage. The bill clarifies that we did not grant the power to prevent the prescribing of a drug medical professionals have reason to believe might be effective. Existing law in RSA 21-P:53 V clearly states individuals have a right to refuse ordered treatment including vaccination. However the statutory reference calls that into doubt as it refers to a statute telling a justice of the peace to order treatment. The bill corrects the reference, clearly allowing individuals to refuse treatment and remain in quarantine. Legislative oversight over other emergency powers is also established through the Ethics Oversight Advisory Committee. This committee is in statute but had no members appointed; the Governor used the State Disaster Medical Advisory Committee to reconstitute this necessary committee to create the vaccine distribution plan. This committee would also review other emergency orders, and address ethical concerns with emergency orders. The amendment does the following: It eliminates section 2 of the bill as drafted, which was determined to be unnecessary. It rewrites the charge to the Ethics Oversight Advisory Committee to be less burdensome and to use aggregate and de-identified data. Last, it undoes changes to the membership of HHS Oversight in last year's HB1245 on page 9. We do not believe those changes were intended to remove minority party input from HHS Oversight.

House Executive Departments and Administration Committee

All hearings scheduled for March 1

4. HB 275, relative to the governor's power to initiate a state of emergency and various emergency powers.

Summary:

- Requires the governor to identify conditions necessary to extend a state emergency in the declaration of the emergency
- Requires the Legislature (by majority vote of both chambers) or the Executive Council (by unanimous consent of members present) to renew a state of emergency
- Makes several further revisions to the state of emergency law

5. HB 414, relative to evacuations under a state of emergency

Summary:

- provides that the governor may recommend, but not compel, evacuation under the emergency management powers of RSA 4:45.
- provides that emergency services shall not be required for those who choose not to evacuate.

6. HB 417, relative to the powers of the governor during a renewal of a declared state of emergency.

Summary:

- terminates a state of emergency called by the governor after 30 days (rather than 21 days)
- requires a majority vote of the House of Representatives prior to termination to renew a state of emergency
- requires any orders issued by the governor to be approved by a majority of the House of Representatives if a state of emergency is renewed

7. HB 433, limiting renewal of states of emergency.

Summary:

- permits the governor to renew a state of emergency only once, after which time, unless half of the membership of either chamber is incapacitated, it must be renewed by a concurrent resolution passed by the legislature.

House Judiciary Committee

8. HB 402, relative to takings of property in a declared state of emergency

Hearing: not yet scheduled

Summary:

- requires a two-thirds vote of the legislature for the taking of property in a declared emergency under RSA 4:46.

9. HB 542, relative to the applicability of a state of emergency declaration to a house of worship.

Hearing: not yet scheduled

Summary:

- provides that any prohibition on in-person gatherings during a declared state of emergency shall not apply to houses of worship.

10. HB 550, relative to the nonpayment of rent during the state of emergency.

Hearing: February 2, 2021

Summary:

- establishes a procedure for a court to continue an eviction action for a residential property during the state of emergency.

House Legislative Administration Committee***All hearings scheduled for March 1***

11. HB 277, relative to termination of a state of emergency by the legislature.

Summary:

- provides that either chamber of the legislature, acting separately, may terminate a state of emergency order using the petition process for calling a special session (RSA 16)
- RSA 16 requires not less than 50 members of the House, not more than 10 of whom shall reside in the same county, and not less than 8 members of the Senate to file a petition calling for a Special Session with the Secretary of State; the petition must state the reason or reasons why the public welfare requires a Special Session of the General Court

12. HB 280, relative to termination of an emergency order issued by the governor

Summary:

- provides that the legislature may terminate an emergency order, or any part of an emergency order, by concurrent resolution, adopted by a majority of vote of each chamber.

13. HB 325, relative to termination of a state of emergency by simple resolution

Summary:

- provides for termination of a declared state of emergency by a simple resolution adopted by either body of the legislature.

14. HB 389, relative to the establishment of a joint legislative emergency executive order oversight committee during a declared state of emergency.

Summary:

- Establishes a Joint Legislative Emergency Executive Order Oversight Committee, composed of 4 members of the Senate and 6 members of the House, to be appointed for their term of office by December 30 after every General Election
- Authorizes the committee to approve or deny the renewal of emergency executive orders declaring a state of emergency
- Provides that emergency executive orders may also be renewed by a Special Session of the General Court pursuant to RSA 16

15. HB 559, relative to state of emergency declarations.

Summary:

- requires a majority vote of each chamber of the legislature to renew a state of emergency beyond the initial 21-day period.

16. HCR 2, terminating the state of emergency declared by the governor due to the Novel Coronavirus (COVID-19).

Summary:

- Terminates the state of emergency declared by the governor due to COVID-19, pursuant to the legislature's authority under RSA 4:45, II(c)
- Terminates all executive branch orders and actions taken pursuant to Executive Order 2020-04, as extended by subsequent executive orders, on the effective date of the resolution

If I can provide further information on this, please let me know.

Archived: Wednesday, April 7, 2021 2:05:45 PM
From: [Kathe Molloy](#)
Sent: Sunday, February 28, 2021 11:17:27 PM
To: [~House Executive Departments and Administration](#); [Kathe Molloy](#)
Subject: In Support of HB 433
Importance: Normal

Dear Committee;

Please note my support of HB 433. And, please support this bill that outlines very clearly the circumstances in which the governor may renew an SOE. Thank you for your time and efforts.

Regards,
Kathe Molloy
148 Elm Street
Claremont, NH 03743

Archived: Wednesday, April 7, 2021 2:05:45 PM
From: kbourque@appletherapy.com
Sent: Monday, March 1, 2021 10:15:59 AM
To: ~House Executive Departments and Administration
Subject: OPPOSE HB 493
Importance: Normal

House Executive Departments and Administration,

I am sending this email with the hopes that all of you will do the right thing and oppose HB 493 state of emergency the "Chairman Mao's Mandatory Mask Act," a bill that would make you a criminal for failing to don a face diaper or social distance when an employee asks you to do so in public.

I urge all of you to remember why you were elected, to uphold the state of NH constitution!! Please do your jobs!!

Respectfully,
Kellie


Archived: Wednesday, April 7, 2021 2:05:45 PM
From: kbourque@appletherapy.com
Sent: Monday, March 1, 2021 10:36:55 AM
To: ~House Executive Departments and Administration
Subject: OPPOSE HB 493
Importance: Normal

House Executive Department and Administration,

I am sending this email with the hopes that all of you will uphold the NH constitution as you were all elected to do. End the mandate madness now. End the unconstitutional, unlawful state of emergency. End the "Chairman Mao's Mandatory Mask Act," a bill that would make you a criminal for failing to don a face diaper or social distance when an employee asks you to do so in public.

We the people have had enough!! End it today!!

Respectfully,
Kellie

Archived: Wednesday, April 7, 2021 2:05:45 PM
From: [Andrew Prout](#)
Sent: Monday, March 1, 2021 9:52:24 PM
To: ~[House Executive Departments and Administration](#)
Cc: [Miriam Simmons](#)
Subject: Written testimony in favor of HB433
Importance: Normal
Attachments:
[HB433 - Written Testimony.pdf](#) 

Members of the Executive Departments and Administration Committee,
Please see attached written testimony in favor of HB433.

-Andrew Prout
NH State Representative
Hillsborough 37: Hudson & Pelham

Archived: Wednesday, April 7, 2021 2:05:46 PM
From: [Miriam Simmons](#)
Sent: Wednesday, April 7, 2021 8:47:30 AM
To: [Miriam Simmons](#)
Subject: and HB 433
Response requested: No
Importance: Normal

From: Alvin <absee@4liberty.net>
Sent: Sunday, February 28, 2021 11:56 PM
To: ~House Executive Departments and Administration
<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>
Subject: [CAUTION: SUSPECT SENDER] HB 275, HB 414, HB 417 and HB 433

From: Alvin See
Loudon NH 03307
603-738-0656
March 1, 2021

I am in support of HB 275, HB 414, HB 417 and HB 433. While these bills cover some of the same RSAs and may be combined or coordinated, I want to request that the Committee keep the provisions of requiring the Governor to not violate existing law or especially the Constitution of our state when enacting a State of Emergency.

I also feel that the Governor should not be permitted to extend a state of emergency without Legislative confirmation in some manner.

Of note are HB 277, HB 280, HB 325, HB 559 and HB 389 which are in the Legislative Administration committee with hearings this morning. These five bills all affect the same RSAs as the four bills being heard this morning by the Executive Departments and Administration committee. Please consider the effects of these bills. It is unfortunate that all nine (unless there are more that I have missed) weren't assigned to the same committee.

Sent from [Mail](#) for Windows 10

Archived: Wednesday, April 7, 2021 2:05:46 PM
From: [Miriam Simmons](#)
Sent: Wednesday, April 7, 2021 8:49:15 AM
To: [Miriam Simmons](#)
Subject: HB 433
Response requested: No
Importance: Normal

From: Patti Anastasia <patti.anastasia@gmail.com>
Sent: Sunday, February 28, 2021 10:26 PM
To: ~House Executive Departments and Administration
<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>
Subject: my thoughts on bills in your House Executive Departments and Administration committee

Hello, here are my thoughts on bills in your committee.

HB 275 — I am opposed to this bill. Checks and balances are in place that require a 2/3 majority to overturn a governor's veto. At a minimum, I would like to see the same 2/3 majority should be required to overturn the governor's issuance of a state of emergency.

HB 417 — I am opposed to this bill. Again, a minimum of a 2/3 majority should be required to overturn the governor's issuance of a state of emergency. I am also opposed to this addition to the RSA: No emergency order may be issued by the governor or approved by the house of representatives that would in anyway restrict the people's right to keep and bear arms beyond those laws specifically in effect prior to the state of emergency. This shall include but not be limited to the right of licensed firearms dealers to sell firearms and ammunition during any emergency or any order that would delay or otherwise hinder the delivery of such items so that they may be brought to market.

HB 414 — Evacuation orders are not issued lightly and they are issued for the public safety. This bill jeopardizes public safety. It also puts a burden on emergency service providers. What happens when it is not clear whether someone in need of emergency services wants to evacuate but is unable to or that person refuses to evacuate?

HB 433 — again, any legislation that changes the governor's ability to enact emergency orders should require a 2/3 majority of the legislature.

regards,
Patti Anastasia
Londonderry

Archived: Wednesday, April 7, 2021 2:05:46 PM

From: [Miriam Simmons](#)

Sent: Wednesday, April 7, 2021 9:13:16 AM

To: [Miriam Simmons](#)

Subject: HB 433 emergency declarations

Response requested: Yes

Importance: Normal

Attachments:

[RSA 4 45.docx](#) 

From: Daniel Itse <itsenh@comcast.net>

Sent: Sunday, February 28, 2021 10:02 PM

To: ~House Executive Departments and Administration

<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>

Subject: emergency declarations

Members of the House Committee on Executive Departments and Administration,

You are hearing a number of Bills regarding the Governors powers on emergency declarations and states of emergency. Constitutionally, the Governor has one power in regard to states of emergency described in Part 2, Article 50, which is to convene the Legislature.

Part 2 [Art.] 50 The governor, with advice of council, shall have full power and authority, in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days, in any one recess of said court; and during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same. (note I did not include the title as the titles, and for that matter the article numbers are an editor's note from 1841 unless amended after about 1950)

June 2, 1784

Amended 1792 changing president to governor.

Furthermore, Part 1, Articles 12 and 29 do not allow power of making laws to be delegated outside of the legislative branch. As there were no administrative departments until the 1830s, and considering the founders fear of executive power (the king, and there was no independent executive power until 1784), the rational reference to delegated power in Article 29 is to subordinate legislative bodies (towns and counties) the legislative bodies of which are the people themselves, or representatives chosen by them.

[Art.] 12. [Protection and Taxation Reciprocal.] Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection, and to yield his personal service when necessary. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they, or their representative body, have given their consent.

June 2, 1784

Amended 1964 by striking out reference to buying one's way out of military service.

Part 1[Art.] 29 The power of suspending the laws, or the execution of them, ought never to be exercised but by the Legislature, or by authority derived therefrom, to be exercised in such particular cases only as the Legislature shall expressly provide for.

June 2, 1784

The John Lock states this as the non-delegation doctrine: Paragraph 141Fourthly, The legislative cannot transfer the power of making laws to any other hands: for it being but a delegated power from the people, they who have it cannot pass it over to others. ...The power of the legislative, being derived from the people by a positive voluntary grant and institution, can be no other than what that positive grant conveyed, which being only to make

laws, and not to make legislators, the legislative can have no power to transfer their authority of making laws, and place it in other hands. Paragraph 142 Fourthly, The legislative neither must nor can transfer the power of making laws to any body else, or place it any where, but where the people have.

In 2016, I attempted to repeal the Governors power to declare and act upon a State of Emergency. That of course failed. However, after further study, I have developed a more structured approach. One has to understand that according the theory of government under which our State was founded (Locke's Second Treatise) the executive has limited power to act when Legislature is out of Session. This is called executive perogative, Locke devotes a chapter to it. There are several principles under which this problem must be considered.


1. The Constitution states that only the Legislature (or subordinate legislative bodies subject to the Legislature) can make law, Part 1, Article 12 and 29.
2. The Governor's first duty in an emergency is to convene the Legislature.
3. Our form of government never allows public policy to be the product of one person.
4. What happens if the Legislature cannot achieve a quorum.
5. Executive perogative only allows the relaxation of law, not the strengthening or expansion of it.

To this end I developed the attached change to RSA 4:45.

My intent is not to tell you what to do, that is your responsibility, but as one who has been your position, and considered these problems in detail, particularly in regard to our State Constitution, and as the only Chairman of Constitutional Review in the 21st century, I respectfully offer my best opinion. My proposal is a way to deal with emergent situations, and stay with the strict confines of our Constitution.

Dan

Daniel C. Itse
Life is a Fact, Not an Opinion.
603-702-0381

Archived: Wednesday, April 7, 2021 2:05:46 PM
From: [Miriam Simmons](#)
Sent: Wednesday, April 7, 2021 9:14:43 AM
To: [Miriam Simmons](#)
Subject: HB 433 Paul Smith and Jim Cianci memo on Emergency Order bills
Response requested: Yes
Importance: Normal
Attachments:
[Emergency order bills memo smith cianci 3.3.21.pdf](#) 

From: Pam Smarling <Pam.Smarling@leg.state.nh.us>
Sent: Wednesday, March 3, 2021 9:35 AM
To: ~House Legislative Administration <HouseLegislativeAdministration@leg.state.nh.us>; ~House Executive Departments and Administration <HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>
Subject: Paul Smith and Jim Cianci memo on Emergency Order bills

TO: All Members of the House Legislative Administration and ED&A Committees,

I received the attached memorandum from the House Clerk and House Legal Counsel this morning. They asked me to distribute it to all of you. It identifies some issues for your consideration in some of the emergency order bills before the committees.

Pam

Pam Smarling, Senior Committee Researcher
House Committee Research, Room 409, LOB
33 N. State St., Concord, NH 03301
(603) 271-3387



Archived: Wednesday, April 7, 2021 2:05:46 PM

From: [Miriam Simmons](#)

Sent: Wednesday, April 7, 2021 9:16:19 AM

To: [Miriam Simmons](#)

Subject: HB 433 follow up information from the AG's Office relative to Emergency Powers presentation

Response requested: Yes

Importance: Normal

Attachments:

[Emergency Powers Presentation.pdf](#); [Memorandum to Executive Departments & Administrative Committee, NH House of Representatives.pdf](#) ;

From: Pam Smarling <Pam.Smarling@leg.state.nh.us>

Sent: Monday, February 8, 2021 1:37 PM

To: ~House Executive Departments and Administration
<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>

Subject: follow up information from the AG's Office relative to Emergency Powers presentation

TO: All Members of the House ED&A Committee,

During the ED&A orientation last month, Jill Perlow, Senior Assistant AG, presented a review of the NH emergency powers statutes. Committee members asked her several questions during this presentation and she promised to look into their questions and provide further information. I received a copy of her responses and the slides from her presentation today and am forwarding them on to you for your review.

Pam

Pam Smarling, Senior Committee Researcher
House Committee Research, Room 409, LOB
33 N. State St., Concord, NH 03301
(603) 271-3387



Archived: Wednesday, April 7, 2021 2:05:46 PM

From: [Miriam Simmons](#)

Sent: Wednesday, April 7, 2021 9:17:32 AM

To: [Miriam Simmons](#)

Subject: HB 433 background material for March 1st

Response requested: No

Importance: High

Attachments:

[status of 2021 State of Emergency bills.pdf](#) [Memo leg history NH state of emergency law.pdf](#) [Current NH State of Emergency Laws.pdf](#)

From: Miriam Simmons <miriam.simmons@leg.state.nh.us>

Sent: Friday, February 26, 2021 12:55 PM

To: ~House Executive Departments and Administration
<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>

Subject: background material for March 1st

Importance: High

From Pam Smarling – supplemental background material.

..for March 1st

Monday's public hearing and work session

From: Pam Smarling <Pam.Smarling@leg.state.nh.us>

Sent: Tuesday, February 23, 2021 11:25 AM

To: ~House Executive Departments and Administration
<HouseExecutiveDepartmentsandAdministration@leg.state.nh.us>

Subject: background material for next week's hearings

TO: All Members of the House ED&A Committee,

To supplement the PowerPoint presentation put together by Jill Perlow and her follow up memo, I have put together some background information for your preparations for the hearings next week. This information has also been sent to the members of the House Legislative Administration Committee (by a stroke of luck I staff both committees).

Attached are:

1. A summary of the current status of the 16 state of emergency bills filed this year
2. A history of the NH state of emergency law
3. The full text of the state of emergency laws

I hope this is helpful.

Pam

Pam Smarling, Senior Committee Researcher
House Committee Research, Room 409, LOB
33 N. State St., Concord, NH 03301
(603) 271-3387



Current NH State of Emergency Laws

Powers of the Governor

- RSA 4:45-47, State of Emergency Laws, p. 1-4

Department of Safety

- RSA 21-P:34-48, Homeland Security and Emergency Management, p. 4-17
- RSA 21-P:48-a, Emergency Services and Communications, p. 17
- RSA 21-P:52, Statewide Incident Command System, p. 18
- RSA 21-P:52-a, Statewide Threat Notification System for Schools, p. 18
- RSA 21-P:53-54, Public Health Emergency Management Powers, p 19-21

Department of Health and Human Services, Public Health

- RSA 141-C, DHHS, Communicable Disease, p. 21-40

Chapter 4: Powers of the Governor and Council in Certain Cases

4:45 State of Emergency Declaration; Powers. –

I. The governor shall have the power to declare a state of emergency, as defined in RSA 21-P:35, VIII, by executive order if the governor finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. The general court shall have the same power to declare a state of emergency by concurrent resolution of the house and senate. An executive order or concurrent resolution declaring a state of emergency shall specify the:

- (a) Nature of the emergency;
- (b) Political subdivisions or geographic areas subject to the declaration;
- (c) Conditions that have brought about the emergency; and
- (d) Duration of the state of emergency, if less than 21 days.

II. (a) A state of emergency shall terminate automatically 21 days after its declaration unless it is renewed under the same procedures set forth in paragraph I of this section. The governor may, by executive order, renew a declaration of a state of emergency as many times as the governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

(b) If the governor finds that maintaining the state of emergency is no longer justified, the governor shall issue an executive order terminating the state of emergency.

(c) The legislature may terminate a state of emergency by concurrent resolution adopted by a majority vote of each chamber. The governor's power to renew a declaration of a state of emergency shall terminate upon the adoption of a concurrent resolution under this subparagraph; provided, however, that such resolution shall not preclude the governor from declaring a new emergency for different circumstances under paragraph I of this section.

III. During the existence of a state of emergency, and only for so long as such state of emergency shall exist, the governor shall have and may exercise the following additional emergency powers:

- (a) To enforce all laws, rules, and regulations relating to emergency management and to assume

control of any or all emergency management forces and helpers in the state.

(b) To sell, lend, lease, give, transfer, receive, or deliver materials or perform services for emergency management purposes on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property.

(c) To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees.

(d) Subject to the provisions of the state constitution, to remove from office any public officer having administrative responsibilities under RSA 21-P:34 through 21-P:48. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving him or her an opportunity to be heard in his or her defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding 30 days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law.

(e) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.

(f) To declare an emergency temporary location or locations for the seat of state government at such place or places within this state as the governor may deem advisable under the circumstances and to take such action and issue such orders as may be necessary for an orderly transaction of the affairs of state government to such emergency temporary location or locations. Such emergency temporary location or locations shall remain the seat of government until the legislature shall by law establish a new location or locations or until the state of emergency is declared to be ended by the governor and the seat of government is returned to its normal location.

Source. 2002, 257:4, eff. July 1, 2002.

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 needs of the owner and the owner's household, during the expected duration of the emergency.

(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.

I-b. This section shall not apply to personal property owned by or intended for use by individuals or families.

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. 2003, 319:99, 100. 2006, 124:1, 2. 2012, 229:1, 2, eff. Aug. 17, 2012.

4:47 Emergency Management Powers. –

The governor shall have emergency management authority as defined in RSA 21-P:35, V, and pursuant to such authority may exercise emergency management powers including:

- I. The power to enter into mutual aid agreements with other states relative to emergency management issues.
- II. The power to provide for emergency lines of succession to such appointive offices in the state government as the governor in his or her discretion deems to be necessary to insure reasonable continuity of state government in the event of a disaster.
- III. The power to make, amend, suspend and rescind necessary orders, rules and regulations to carry out the provisions of this subdivision in the event of a disaster beyond local control.
- IV. The power to cooperate with the President of the United States and the commanders of the United States armed forces, the Emergency Management Agency of the United States, and other appropriate federal officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction and control of:
 - (a) Drills, mobilization of emergency management forces, and other tests and exercises;
 - (b) Warnings and signals for drills or actual emergencies and the mechanical devices to be used in connection with them; and
 - (c) The evacuation and reception of the civilian population.

Source. 2002, 257:4, eff. July 1, 2002.

**Chapter 21-P Department of Safety
Homeland Security and Emergency Management**

21-P:34 Purpose. – Because of the possibility of the occurrence of natural and human-caused disasters resulting from fire, flood, hurricane, earthquake, prolonged power outages, disruption or contamination of the food or water supply, degradation of critical facilities and vital systems, disruption of communication systems, or other natural, technological or human causes, including acts of terrorism, and in order that the state of New Hampshire will be adequately prepared to cope with such disasters; and, generally, in order to preserve the lives and the property of the people of the state, a state division of emergency services, communications, and management is hereby created under the direction of the director of the division of homeland security and emergency management. The emergency management powers provided in this subdivision are conferred upon the governor and upon other executive heads of governing bodies of the state; the creation of local organizations for emergency management in the political subdivisions of the state is authorized; and provision is made for the rendering of mutual aid among the political

subdivisions of the state and between this and other states and to cooperate with the federal government with respect to the carrying out of emergency management functions. It is further declared to be the purpose of this subdivision and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster or incident of terrorism that may occur.

Source. 2002, 257:7. 2003, 319:106. 2004, 171:2. 2008, 361:2, eff. July 11, 2008.

21-P:35 Definitions. –

In this subdivision:

I. "Commissioner" means the commissioner of safety.

II. [Repealed.]

III. "Council" means the advisory council on emergency preparedness and security.

IV. "Director" means the director of the division of homeland security and emergency management.

V. "Emergency management" means the preparation for and the carrying out of all emergency functions, including but not limited to emergency response and training functions, to prevent, minimize, and repair injury or damage resulting from the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or human cause, including but not limited to fire, flood, earthquake, windstorm, wave actions, technological incidents, oil or chemical spill, or water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, terrorist act, or riot.

VI. "Local organization for emergency management" means an organization created in accordance with the provisions of this subdivision by state, county, or local authority to perform local emergency management functions.

VII. "Political subdivision" means counties, cities, towns, and duly established village precincts.

VIII. "State of emergency" means that condition, situation, or set of circumstances deemed to be so extremely hazardous or dangerous to life or property that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm.

Source. 2002, 257:7. 2003, 319:131, II. 2004, 171:3. 2008, 361:3, eff. July 11, 2008.

21-P:36 Division of Homeland Security and Emergency Management. –

I. There is hereby created a division of homeland security and emergency management within the department of safety under the supervision of the director of homeland security and emergency management nominated and appointed as provided in RSA 21-P:5-a.

II. The division shall consist of 2 bureaus, a bureau of homeland security and a bureau of emergency management. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of homeland security and emergency management. The director and other personnel of the division shall be provided

with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner provided for personnel of other state agencies. The division and its personnel shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

III. The commissioner of safety shall nominate an assistant director of homeland security and emergency management, for appointment by the governor with consent of the council, to serve at the pleasure of the commissioner. The assistant director shall receive the salary provided in RSA 94:1-a for the position.

IV. During service as assistant director, the assistant director of the division of homeland security and emergency management shall be eligible to be a group II member if he or she was a group II member or receiving a group II retirement allowance prior to appointment.

Source. 2002, 257:7. 2003, 319:107. 2004, 171:4. 2008, 361:4, eff. July 11, 2008. 2013, 196:4, eff. July 9, 2013.

Section 21-P:36-a

21-P:36-a Repealed by 2012, 226:4, III, eff. June 16, 2012. –

Section 21-P:37

See Executive Order 2020-06 (2020 NH EO 2020-06 (2000, 1006:1.)) as modified by Executive Order 2020-07 (2020 NH EO 2020-07 (2020, 1007:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:37 Emergency Management Powers Conferred. –

The director shall have general direction and control of the division of homeland security and emergency management, and shall be responsible for the carrying out of the provisions of this subdivision. In the event of disaster beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within the state. In performing the director's duties under this subdivision and to effect its policy and purposes, the director is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation, and is further authorized and empowered:

I. To prepare a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the greatest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state and private agencies, such plans to be integrated into and coordinated with the emergency management plan and program of this state to the greatest possible extent.

II. In accordance with such plan and program for the emergency management of this state, to procure supplies and equipment, to institute training programs and public information programs, and to take other necessary preparatory steps to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

III. To make such studies and surveys of industries, transportation, communication, housing and medical facilities, and resources, including but not limited to food, petroleum, and housing, and

other facilities in the state as may be necessary to ascertain the capabilities of the state for emergency management, and to plan for their most efficient emergency use.

IV. On behalf of the state and subject to the approval of the governor, to coordinate mutual aid plans between or among political subdivisions of the state.

V. [Repealed.]

VI. To prepare a comprehensive plan and program for the evacuation of search and rescue dogs and service animals, as defined in RSA 167-D.

Source. 2002, 257:7. 2003, 319:108, 131, III. 2004, 171:5. 2006, 230:1. 2008, 361:15. 2011, 170:3, eff. Jan. 1, 2012.

21-P:37-a State Policy for Service Animals. – In cases of emergency, it shall be the policy of the state that service animals shall not be separated from the persons they serve. Every effort shall be made to keep service animals and the persons they serve together, and all appropriate state emergency planning and state sponsored emergency training shall be based on such assumptions.

Source. 2006, 230:2, eff. July 31, 2006.

21-P:37-b Agreement Resulting From Disaster Declaration. – If, as the result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and the speaker of the house of representatives within 30 days after approval by the governor and council. Any obligation of the general fund as the result of such an agreement shall be transmitted to the president of the senate and the speaker of the house of representatives for prompt payment. Administrative costs of the state of New Hampshire incident to such obligation shall be included in the submission to the general court.

Source. 2008, 361:5, eff. July 11, 2008.

21-P:37-c Exceptional Disaster Relief Loans. –

I. In this section, an "exceptional disaster relief loan" means a temporary loan from the state treasury to assist communities experiencing exceptional costs due to natural disasters.

II. (a) When the President of the United States declares an area a federal disaster area and a municipality has applied for federal emergency assistance from the Federal Emergency Management Administration (FEMA), the governor, with the approval of the executive council, may approve a loan in the amount up to the anticipated assistance from FEMA from funds not otherwise appropriated.

(b) In order to be eligible for an exceptional disaster relief loan, the per-occurrence cost of a municipality's critical disaster relief project or projects shall equal or exceed 25 percent of the amount raised by local property taxes in the municipality's last annual budget.

III. A municipality shall not receive more than one exceptional disaster relief loan per declared federal disaster.

IV. A municipality shall not be obligated for more than 2 exceptional disaster relief loans.

V. A municipality receiving an exceptional disaster relief loan shall remit the anticipated assistance from FEMA to the state treasurer within 15 days of receipt.

VI. If the state treasury provides advance funding to a municipality that has applied for and is waiting for FEMA disaster relief funding, the interest rate to be assessed on such advance funding shall be no greater than the prevailing rate at which the state treasury is able to invest its commingled cash.

VII. If the amount of FEMA assistance a municipality receives is less than the exceptional disaster relief loan, the state treasurer, with the advice and consent of governor and council, shall negotiate terms of repayment of the difference. If the municipality and the state treasurer are unable to reach an agreement, the department of revenue administration shall include the amount in the amount apportioned for setting property tax rates.

VIII. The director of homeland security and emergency management shall administer the exceptional disaster relief loan program.

Source. 2018, 53:1, eff. July 14, 2018.

21-P:38 Emergency Management Powers and Duties Regarding Communications Systems. – The division of emergency services and communications shall ascertain what means exist for rapid and efficient communications during natural and man-made disasters. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system which may be established for purposes of emergency management. In studying the character and feasibility of any such system or its several parts, the division of emergency services and communications shall evaluate the possibility of the multi-purpose use of such a system for general state and local government purposes. The division shall make recommendations regarding such communications systems to the assistant commissioner as appropriate.

Source. 2002, 257:7. 2003, 319:109. 2004, 171:6. 2008, 361:14. 2011, 224:334, eff. July 1, 2011.

21-P:39 Local Organization for Emergency Management. –

I. Each political subdivision of the state shall establish a local organization for emergency management in accordance with the state emergency management plan and program. Each local organization for emergency management shall have a local director who shall be appointed and removed by the county commissioners of a county, the city council of a city, or board of selectmen of a town, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such appointing officials. Each local organization shall have jurisdiction only within its respective political subdivision, and the director appointed by that political subdivision shall be responsible to his or her appointing authority. The appointing authority may appoint one of its own members or any other citizen or official to act as local director and shall notify the state director in writing of such appointment. If a local director is removed, the state director shall be notified immediately. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized.

II. Until a local director has been appointed, the chief elected official shall be directly responsible for the organization, administration, and operation of such local organization for

emergency management.

III. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision may exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

IV. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may meet at any place within or without the territorial limits of such political subdivision and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute sites or places as the emergency temporary location or locations of such government where all or any part of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of such political subdivision, but shall be within this state.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:40 Mutual Aid Arrangements. – The local director of each local organization for emergency management may, with the approval of the commissioner and in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Parties shall be entitled to the same immunities and exemptions as provided in RSA 21-P:41.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:41 Immunity and Exemption. –

I. All functions under this subdivision and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the state nor any of its political subdivisions nor any agency of the state or political subdivision, nor any private corporations, organizations, or agencies, nor any emergency management worker complying with or reasonably attempting to comply with this subdivision, or any order or rule adopted or regulation promulgated pursuant to the provisions of this subdivision, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this subdivision, under the workers' compensation law, or under any retirement law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

II. Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency.

III. As used in this section the term "emergency management worker" includes any full or part-time paid, volunteer, or auxiliary employee of this state, other states, territories, possessions, the District of Columbia, the federal government, any neighboring country, or of any political subdivision of such entities, or of any corporation, agency or organization, public or private, performing emergency management services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any of its political subdivisions.

IV. Dentists licensed in this state, nurses registered in this state, student nurses undergoing training at a licensed hospital in this state, or emergency medical care providers licensed under RSA 153-A, during any emergency, shall be regarded as authorized emergency management workers and while so engaged may practice, in addition to the authority granted them by other statutes, administration of anesthetics; minor surgery; intravenous, subcutaneous, and intramuscular procedures; and oral and topical medication under the general but not necessarily direct supervision of a member of the medical staff of a legally incorporated and licensed hospital of this state, and to assist such staff members in other medical and surgical procedures.

V. Any emergency management worker, performing emergency management services at any place in this state pursuant to agreements, compacts or arrangements for mutual aid and assistance, to which the state or one of its political subdivisions is a party, shall possess the same powers, duties, immunities, and privileges the worker would ordinarily possess if performing his or her duties in the state or political subdivision in which normally employed or rendering services.

VI. Any emergency management worker shall:

- (a) If the worker is an employee of the state, have the powers, duties, rights, and privileges and receive the compensation incidental to his or her employment;
- (b) If the worker is an employee of a political subdivision of the state, whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to his or her employment; and
- (c) If the worker is not an employee of the state or one of its political subdivisions, be entitled to the same rights as to compensation for injuries as are provided by law for the employees of this state. The emergency management personnel shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving, and shall be reimbursed for all actual travel and subsistence expenses incurred under orders issued by the director.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:42 Private Liability. – Any person owning or controlling real estate or other premises or private property who grants a license or privilege or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises or private property for the purpose of compliance or attempting to comply with this subdivision during an actual or impending emergency or practice exercise, together with his or her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or private property or loss of, or damage to, the property of such person.

Source. 2002, 257:7, eff. July 1, 2002.

See Executive Order 2020-06 (NH LEGIS E.O. 2020-06 (2020, 1006:1.)) as modified by Executive Order 2020-07 (NH LEGIS E.O. 2020-07 (2020, 1007:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:43 Appropriations and Authority to Accept Services, Gifts, Grants, and Loans.

– Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management. Whenever the federal government or any federal agency or officer offers to the state, or through the state to any of its political subdivisions, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, commissioner, or such political subdivision, acting with the consent of the governor and through its executive officer, city council, or board of selectmen, may accept such offer, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. Whenever any person, firm or corporation offers to the state or to any of its political subdivisions services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, or such political subdivision, acting through its executive officer, city council, or board of selectmen, may accept such offer, subject to its terms.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:44 Utilization of Existing Services and Facilities. – In carrying out the provisions of this subdivision, the governor, executive heads of state agencies, and local executive officers of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and its political subdivisions to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:45 Enforcement. – It shall be the duty of every organization for emergency management established under this subdivision and of the officers of such organization to execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this subdivision or RSA 4:45.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:46 New Hampshire Emergency Response and Recovery Fund. – There is hereby established a New Hampshire emergency response and recovery fund. The fund shall provide a source for the matching funds required as a commitment to secure Federal Emergency Management Agency relief assistance grants for costs incurred in disasters declared by the

President of the United States. The fund shall be nonlapsing and continually appropriated to the department of safety.

Source. 2002, 257:7, eff. July 1, 2002.

[RSA 21-P:46-a repealed by 2013, 273:4, II, effective on the date when all moneys in the New Hampshire disaster fund have been disbursed as provided by 2013, 173:5.]

21-P:46-a New Hampshire Disaster Relief Fund. –

I. There shall be established a fund that is to be accounted for separately from all other funds and which shall be designated as the New Hampshire disaster relief fund, which shall be credited and continually appropriated to the director for disaster relief. The moneys in 2 existing funds, one in the legislative branch known as the disaster fund, and one in the office of the state treasurer, known as the New Hampshire disaster relief fund 2011, shall lapse into the New Hampshire disaster relief fund on the effective date of this section.

II. Funds in the New Hampshire disaster relief fund shall be made available to individuals who suffer damage and loss as a result of a declared disaster. All disbursements from the fund shall be approved by the director of homeland security and emergency management, in consultation with the individual assistance committee appointed under paragraph III.

III. The director shall appoint an individual assistance committee to review, evaluate, and make recommendations on requests for individual assistance. The committee shall be comprised of representatives from the nonprofit community, human service organizations, disaster response organizations, the Community Action Programs, and volunteer organizations, who shall serve at the pleasure of the director. The director shall designate a committee chair.

IV. The director shall maintain complete records of all funds disbursed from the New Hampshire disaster relief fund and shall report all such disbursements to the individual assistance committee every 6 months following the effective date of this section.

Source. 2013, 273:3, eff. July 24, 2013.

See Emergency Order #65 (NH LEGIS E.O. 2020-65-Emerg. (2020, 2065:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:47 Penalty. – If any person violates or attempts to violate any order, rule, or regulation made pursuant to this subdivision, such person shall be guilty of a misdemeanor.

Source. 2002, 257:7, eff. July 1, 2002.

21-P:48 Advisory Council on Emergency Preparedness and Security. –

I. There is hereby created an advisory council on emergency preparedness and security, consisting of the following members:

- (a) The director of the division of homeland security and emergency management.
- (b) The attorney general, or designee.
- (c) The chair of the public utilities commission, or designee.
- (d) The adjutant general, or designee.
- € The commissioner of the department of health and human services, or designee.
- (f) The director of the division of fire safety.
- (g) The commissioner of the department of safety, or designee.
- (h) The director of the office of strategic initiatives.
- (i) The commissioner of the department of transportation, or designee.
- (j) The commissioner of the department of natural and cultural resources, or designee.
- (k) The commissioner of the department of agriculture, markets, and food, or designee.
- (l) The commissioner of the department of environmental services, or designee.
- (m) The commissioner of the department of administrative services, or designee.
- (n) The director of the division of ports and harbors, Pease development authority.
- (o) The director of police standards and training.
- (p) The director of the division of fire standards and training.
- (q) A local police chief, appointed by the governor.
- € A local fire chief, appointed by the governor.
- (s) A county sheriff appointed by the governor.
- (t) A representative of the Professional Firefighters of New Hampshire, appointed by the governor.
- (u) The director of the division of state police.
- (v) The director of the division of public health services.
- (w) The commissioner of the department of corrections, or designee.
- (x) The executive director of the department of fish and game, or designee.
- (y) The executive director of the New Hampshire Hospital Association.
- (z) A representative of a regional emergency planning committee, appointed by the governor.
- (aa) One member of the state hazardous materials cooperative, appointed by the governor.
- (bb) A representative of the hazardous materials transporter industry, appointed by the governor.
- (cc) A representative of the hazardous materials industry, appointed by the governor.
- (dd) The director of the division of emergency communications and services.
- (ee) A representative of the Business and Industry Association, appointed by the governor.
- (ff) A representative from the United States Environmental Protection Agency, appointed by that agency.
- (gg) A representative from the Federal Bureau of Investigation, appointed by the Bureau.
- (hh) A representative from the United States Coast Guard, appointed by that agency.
- (ii) [Repealed.]
- (jj) A representative of the nuclear power industry, appointed by the governor.
- (kk) A representative of the United States Department of Homeland Security, appointed by the department.
- (ll) The primary investigator for the Centers for Disease Control and Assistant Secretary for

Preparedness and Response (ASPR) grant programs.

(mm) A representative of the state citizens corps, appointed by the governor.

(nn) A representative of the emergency medical services medical control board, appointed by the board.

(oo) The United States Attorney for the District of New Hampshire, or designee.

(pp) A representative from the department of health and human services radiological health program, designated by the commissioner of health and human services.

(qq) A representative from the department of environmental services environmental health program, designated by the commissioner of environmental services.

(rr) A representative from the department of environmental services waste management division, designated by the commissioner of environmental services.

(ss) A judicial branch representative, chosen by the chief justice of the supreme court.

(tt) A representative of a volunteer emergency response non-governmental organization, appointed by the governor.

(uu) The commissioner of the department of information technology, or designee.

(vv) Such other representatives as the governor, from time to time, may deem necessary for the fulfillment of the council's mandates.

II. (a) The council shall advise the governor on issues involving the state's ability to respond to natural and human-caused disasters, and the preparation and maintenance of a state disaster plan in conformance with any federal regulation or law.

(b) The director of homeland security and emergency management shall seek the advice of the council in matters pertaining to any of the state's emergency plans, including the allocation of state and federal resources to meet the objectives of such plan.

(c) The council shall serve the functions of the state emergency response commission (SERC) and the Centers for Disease Control's state public health emergency preparedness committee, and may form subcommittees as necessary to perform these functions.

(d) The council or an appropriate subcommittee of the council shall review state and federal legislative proposals and regulations, problems with hazardous material transportation, emergency response action team plans, and training and instructional materials on the transportation of hazardous materials, and make recommendations as necessary regarding the efficacy of controls relative to such transportation and the best means for applying such controls without duplication of responsibility or regulation.

€ The council shall make available upon request through the department of safety current regulations and reference materials relative to hazardous materials and address any regulations or ordinances that appear to be in conflict.

(f) The council shall oversee statewide radio communications interoperability efforts through the statewide interoperability executive committee, established in paragraph IV, and approve the strategic statewide interoperable communications plan developed by the committee under paragraph VII.

(g) The council shall periodically and otherwise as necessary report to the governor, the senate president, and the speaker of the house of representatives on any recommendations of the council that pertain to the state's preparedness and ability to respond to natural and human-caused disasters and acts of terrorism.

(h) The commissioner of safety or the commissioner's designee shall serve as the chairperson of the council.

III. No fewer than 20 members shall constitute a quorum at any meeting. For ex officio positions

a designee from that organization may be appointed in writing by the member to represent him or her at any meeting which the member is unable to attend.

IV. There is established within the department of safety a radio interoperability governance group known as the statewide interoperability executive committee (SIEC). The SIEC shall report to the council and shall be comprised of the following members:

(a) The commissioner of the department of safety, or designee, who shall serve as chairperson of the committee.

(b) The statewide interoperability coordinator, who shall serve as an ex-officio member of the committee.

(c) The director of the division of homeland security and emergency management, or designee.

(d) Two representatives of the New Hampshire Association of Chiefs of Police, one of whom serves as chief of police for a city and one of whom serves as chief of police for a town.

€ Two representatives of the New Hampshire Association of Fire Chiefs, one of whom serves as fire chief for a city and one of whom serves as fire chief for a town.

(f) A representative of a charitable organization that provides disaster relief, appointed by the commissioner.

(g) One member of the house of representatives, appointed by the speaker of the house of representatives.

(h) One member of the senate, appointed by the senate president.

(i) One member of the Professional Fire Fighters of New Hampshire, appointed by the association.

(j) One representative of the New Hampshire Sheriff's Association, appointed by the association.

(k) The state fire marshal, or designee.

(l) One member of the New Hampshire Police Association, appointed by the association.

(m) A representative of the New Hampshire Hospital Association, appointed by the association.

(n) A local emergency medical services provider, appointed by the commissioner.

(o) A local public health official, appointed by the commissioner.

(p) A local public works official, appointed by the commissioner.

(q) A representative of the New Hampshire Emergency Dispatchers Association, appointed by the association.

€ One representative of a major public safety dispatch center, appointed by the commissioner.

(s) The commissioner of the department of administrative services, or designee.

(t) The executive director of fish and game, or designee.

(u) The commissioner of transportation, or designee.

(v) The commissioner of business and economic affairs, or designee.

(w) The commissioner of natural and cultural resources, or designee.

(x) The commissioner of health and human services, or designee.

(y) The director of emergency services and communications, or designee.

(z) The university of New Hampshire police chief.

(aa) The adjutant general, or designee.

(bb) The department of safety, grants management coordinator, or designee.

(cc) The department of safety, director of state police, or designee.

(dd) The assistant commissioner of safety.

(ee) A representative of the department of justice, appointed by the attorney general.

(ff) A representative of fire mutual aid districts, appointed by the districts.

(gg) The director of fire standards and training and emergency medical services, or designee.

(hh) A department of safety emergency services radio technician, appointed by the commissioner of safety.

(ii) The commissioner of the department of information technology, or designee.

(jj) The commissioner of the department of corrections, or designee.

(kk) Not more than 2 representatives of private, broadband technology-related businesses, appointed by the executive management group.

(ll) Not more than 2 representatives of the university of New Hampshire broadband technology-related business, appointed by the executive management group of the SIEC.

(mm) Not more than 7 subject matter experts, based on the identified need of the SIEC, appointed by the executive management group.

V. Public members of the committee shall serve 3-year terms. Representatives of state agencies and legislative members of the committee shall serve terms coterminous with their term in office.

If in the course of a member's term, the member becomes ineligible because of a change of occupation or is no longer a member of the group that he or she represented, he or she shall continue to serve until a replacement is qualified and designated. Voting members of the committee shall elect by majority vote a vice-chairperson and a secretary, each of whom shall serve a term of 2 years. A voting member, or the member's designee, may submit a single alternate member, who may serve as a voting member in the absence of the voting member or designee by submitting the name and position in writing to the chair prior to the alternate making any vote. A quorum shall consist of 12 voting members of the committee.

VI. The SIEC shall include an executive management group and 3 working groups.

(a) The executive management group shall be responsible for aligning overarching interoperability strategies and plans, and maintaining fiduciary and fiscal compliance. The executive management group shall be comprised of the following 8 members:

(1) The chairpersons of the 3 SIEC working groups established in subparagraph (b).

(2) The chairperson of the SIEC.

(3) The vice-chairperson of the SIEC.

(4) The secretary of the SIEC.

(5) A legislative member of the SIEC, elected by the SIEC.

(6) The statewide interoperability coordinator.

(b) The working groups shall be comprised of voting members of the SIEC selected by the commissioner and shall consist of a radio frequency communications working group, a data communications working group, and an operations working group.

(c) The chairperson of each working group shall serve on the executive management group of the SIEC representing the interest of his or her group.

(d) The SIEC and the working groups may invite subject matter experts to provide information and testimony relevant to the committee or group.

VII. The SIEC shall oversee statewide radio communications interoperability efforts and shall develop, with the approval of the council, a strategic statewide interoperable communications plan and any amendments thereto. The SIEC shall:

(a) Utilize the most contemporaneous statewide communications interoperability plan (SCIP), the National Emergency Communications Plan, and the SCIP action plan as a framework to better understand the current baselines of communications interoperability and to determine how to best implement each step toward interoperability in the state, with neighboring states, and with federal partners.

(b) Direct the working groups established in paragraph VI to identify and recommend

technologies, operating procedures, network consolidation, and other resources that will enhance communications interoperability in New Hampshire.

(c) Create a statewide communications interoperability strategy and spending plan; attempt to bridge regional plans with the statewide strategy; and oversee implementation of the statewide communications interoperability plan and the national emergency communications plan.

(d) Recommend best practices, policies, procedures, and protocols for communications personnel, including dispatchers and dispatch center supervisors as well as technical communications support staff.

€ Establish training baselines and recommend training for key communications personnel, and help to ensure that training opportunities supporting communications interoperability are available to all public safety first responders and public safety dispatchers.

Source. 2002, 257:7. 2003, 319:110-113. 2004, 171:7, 8, 28; 257:44. 2005, 149:5. 2008, 361:6. 2011, 169:2, eff. Jan. 1, 2012; 224:274, III, eff. July 1, 2011. 2012, 265:5, eff. June 18, 2012. 2015, 176:3, 4, eff. June 26, 2015. 2017, 156:14, I, 64, eff. July 1, 2017. 2018, 251:1, 2, eff. Aug. 11, 2018.

Emergency Services and Communications

21-P:48-a Division of Emergency Services and Communications. –

I. There is hereby created a division of emergency services and communications within the department of safety under the supervision of the director of emergency services and communications and reporting to the assistant commissioner. The commissioner shall nominate a director of the division of emergency services and communications for appointment by the governor, with the consent of the council, who shall serve a term of 4 years until a successor has been appointed. The director shall be responsible to carry out such duties as are specifically enumerated in this subdivision and as may be assigned by the office of the commissioner. The director shall be academically and technically qualified to hold the position and shall receive the salary specified in RSA 94:1-a for the director of emergency services and communications.

II. With the approval of the commissioner, the director may employ such necessary technical, clerical, stenographic, and other personnel, and may make such expenditures from state or federal funds as are or may be made available for purposes of emergency services and communications. The director and other personnel of the division shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With general oversight by the assistant commissioner, the director shall coordinate the activities of all organizations for emergency 911 telecommunications within the state, state and local, county, and private, and shall maintain liaison with and cooperate with police, fire, emergency medical, and sheriff's departments and emergency telecommunications organizations of other states and of the federal government. The director shall have such additional duties, responsibilities, and authority authorized by applicable laws as may be prescribed by the commissioner.

Source. 2008, 361:7. 2011, 224:335, eff. July 1, 2011. 2016, 147:3, eff. July 1, 2016.

Statewide Incident Command System

21-P:52 Incident Command System Adopted. – There shall be a statewide incident command system based on the incident command system of the National Interagency Incident Management System. The commissioner of safety shall adopt rules pursuant to RSA 541-A to implement the statewide incident command system. The statewide incident command system shall be used in responding to any natural or man-made cause that requires emergency management by multiple agencies or departments within state and local government.

Source. 2004, 106:1, eff. July 16, 2004.

Statewide Threat Notification System for Schools

21-P:52-a Statewide Threat Notification System for Schools. –

- I. The department of safety, in conjunction with the United States Department of Homeland Security, shall commence a process of due diligence in anticipation of future deployment of a statewide, real-time threat notification system for schools, the purpose of which shall be to link school personnel directly to law enforcement in the event of a direct threat against the school community or a general emergency situation in which law enforcement would respond.
- II. The department of safety shall solicit requests for information (RFI) for a statewide, real-time threat notification system based on the following criteria:
 - (a) The system would be activated by authorized school personnel using classroom desktop computers, laptop computers, mobile phones, fobs, and other suitable devices.
 - (b) Upon activation, the system would determine the location of the nearest law enforcement officers, regardless of jurisdiction, and directly notifies them of the activation.
 - (c) The system would notify the following state and local agencies of the activation:
 - (1) The bureau of emergency communications, or state 911 center.
 - (2) The New Hampshire state police.
 - (3) The New Hampshire information and analysis center.
 - (4) The department of safety, division of homeland security and emergency management.
 - (5) The appropriate local or regional dispatch center for the school.
 - (d) The system would provide electronic school floor plans and related documents to responding officers.
 - € The system would provide a communication method for responding officers to communicate with school personnel.
- III. The threat notification system for schools shall be a state-funded program, available to all school districts and law enforcement agencies in the state. However, participation in the program by local school districts and local law enforcement agencies shall be voluntary.
- IV. No state funds are appropriated for the due diligence process.
- V. Deployment of a statewide real-time threat alert system is contingent on an appropriation of funds from surplus revenues received by the state during the 2020-2021 biennium.
- VI. The commissioner of the department of safety shall adopt rules, under RSA 541-A, relative to implementation and operation of the real-time threat notification system for schools.

Source. 2019, 346:396, eff. July 1, 2019.

Public Health Emergency Management Powers

See Emergency Order #30 (NH LEGIS E.O. 2020-30-Emerg. (2020, 2030:1.)), issued pursuant to Executive Order 2020-04 (NH LEGIS E.O. 2020-04 (2020, 1004:1.)) as extended by Executive Orders 2020-05 (NH LEGIS E.O. 2020-05 (2020, 1005:1.)); 2020-08 (NH LEGIS E.O. 2020-08 (2020, 1008:1.)); 2020-09 (NH LEGIS E.O. 2020-09 (2020, 1009:1.)); 2020-010 (NH LEGIS E.O. 2020-010 (2020, 1010:1.)); 2020-014 (NH LEGIS E.O. 2020-014 (2020, 1014:1.)); 2020-015 (NH LEGIS E.O. 2020-015 (2020, 1015:1.)); 2020-016 (NH LEGIS E.O. 2020-016 (2020, 1016:1.)); 2020-017 (NH LEGIS E.O. 2020-017 (2020, 1017:1.)), related to the COVID-19 State of Emergency, for potential impact on the terms of this section.

21-P:53 Public Health Powers and Duties. –

During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

I. The commissioner shall have the responsibility and authority to carry out all public health activities within the state in cooperation and collaboration with the division of homeland security and emergency management.

II. The commissioner may, without the approval of the governor's council or the legislative fiscal committee, and notwithstanding the provisions of RSA 4:45, 9:13-d, and 9:19, and any other law to the contrary, purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents that the commissioner deems to be in the interest of public health.

III. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, the commissioner may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such products as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner shall determine high risk or critical need groups that shall receive priority for such products.

IV. The commissioner may investigate any incident or imminent threat of any disease or health condition that may be caused by a natural disaster, radiation or chemical exposure, or the release of any microorganism, infectious substance, or naturally occurring or manufactured biological product, that poses a risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such investigations may include requiring information from any health care provider or other person affected by, or having information related to, the incident or threat, inspections of buildings and conveyances and their contents, laboratory analysis of samples collected during the course of such inspections, and requiring a physical examination and the provision of specimens of body secretions, excretions, fluids, and discharges for laboratory examination of any person having a disease or health condition that necessitates an investigation under this paragraph.

V. The commissioner may order a person to undergo such medical care as may be necessary to

treat or prevent an incident or threat of disease or other health condition prompting an investigation pursuant to paragraph IV. Such care may include immunization of individuals as necessary to prevent the spread of contagious disease, except that an individual may refuse treatment or immunization pursuant to the provisions of RSA 141-C:15, VI.

VI. Any order compelling an investigation, physical examination, the provision of specimens, medical treatment or care, or immunization, and any other order of the commissioner under this chapter, shall be subject to the due process requirements of RSA 141-C:14-a.

VII. The department of health and human services shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this section. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other microorganisms therein. Personally identifiable information shall not be acquired or retained unless necessary for the department to carry out its responsibilities under this section, RSA 141-C, or any other provision of law. Such information shall not be retained beyond the duration of the state of emergency without the approval of the governor and executive council, which information shall be subject to the confidentiality provisions of RSA 141-C:10.

Source. 2008, 271:1, eff. June 26, 2008.

21-P:54 Safe Disposal of Corpses. –

I. During the existence of a state of emergency under this chapter, the commissioner of health and human services shall have the following powers and duties, subject to the direction and control of the governor, which are in addition to those set forth in RSA 141-C; provided that such powers and duties shall be limited to the specific nature of the emergency, its geographic limits, and the conditions that brought it about, as specified in the declaration of the state of emergency:

- (a) Adopt and enforce such measures to provide for the safe disposal of corpses as may be necessary for the health and welfare of the community;
- (b) Take possession and control of any corpse and direct the embalming, burial, cremation, interment, disinterment, transportation, and disposal of corpses;
- (c) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to accept any corpse or provide the use of its business or facility if such actions are necessary for emergency response;
- (d) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to clearly label any corpse with all available information necessary to identify the decedent and the apparent cause of death;
- (e) Compel any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the laws of this state having custody of a corpse of a person known or believed to have had an infectious disease to clearly label the corpse with a tag indicating that the corpse is so infected and indicating, if known, the infectious disease; and
- (f) Compel every person in charge of disposing of any corpse to maintain a written record of each corpse and all available information to identify the decedent.

II. In carrying out the foregoing actions, the department, to the extent feasible under the circumstances, shall adhere to the religious practices and preferences of the decedents where known.

III. The costs of embalming, cremation, burial, or other disposal of a corpse pursuant to this

section shall be a cost to the estate of the decedent and shall be a necessary expense of the funeral and burial of the decedent pursuant to RSA 554:19, I(b).

IV. Any taking of real or personal property in this section shall be subject to the provisions of RSA 4:46.

Source. 2008, 271:1. 2010, 189:1, eff. Jan. 1, 2011.

Title X Public Health

RSA 141-C Communicable Disease

141-C:1 Policy. – The outbreak and spread of communicable disease cause unnecessary risks to health and life, interfere with the orderly workings of business, industry, government, and the process of education, and disrupt the day-to-day affairs of communities and citizens. Because the control of communicable disease may be attained by personal actions, the timely intervention of medical practices, and cooperation among health care providers, federal, state, and municipal officials, and other groups and agencies, it is hereby declared to be the policy of this state that communicable diseases be prevented, and that such occurrences be identified, controlled, and, when possible, eradicated at the earliest possible time by application of appropriate public health measures and medical practices.

Source. 1986, 198:21, eff. Aug. 2, 1986.

141-C:2 Definitions. –

In this chapter:

I. "Agent" means any individual authorized by the commissioner to assist in carrying out the provisions of this chapter.

II. "Baggage" means the personal belongings of travelers. Such personal belongings need not be in the personal possession of the traveler.

III. "Care" means the furnishing of necessary services to a person infected with a communicable disease. The term includes provisions for shelter, food, and such other services that the person is unable to provide for himself due to his infection or its physical effects.

IV-a. "Child" means any person between birth and 18 years of age.

IV-b. "Child care agency" means "child day care agency" as defined in RSA 170-E:2, IV and "child care agency" as defined in RSA 170-E:25, II.

V. "Commodity" means any animal or animal product, plant or plant product, or inanimate material intended to be sold or distributed to the public.

VI. "Communicable disease" means illness due to a microorganism, virus, infectious substance, biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, which may be transmitted directly or indirectly to any person from an infected person, animal or arthropod (including insecta or arachnida) or through the vehicle of an intermediate host, vector, or inanimate environment.

VII. "Conveyance" means any vessel, aircraft, motor vehicle or other mode of transportation which is engaged in the transport of passengers, baggage, or cargo.

VIII. "Decontamination" means the act of rendering anything free from the causal agents of

communicable disease.

IX. "Commissioner" means the commissioner of department of health and human services, or his designee.

X. "Department" means the department of health and human services.

X-a. "Health care provider" means any person who or entity which provides health care services including, but not limited to, hospitals, medical clinics and offices, clinical laboratories, physicians, naturopaths, chiropractors, pharmacists, dentists, registered and other nurses, and nurse practitioners, paramedics, and emergency medical technicians.

XI. "Health officer" means any individual appointed under RSA 128:1 or employed under RSA 47:12.

XI-a. "Immunization" means inoculation with a specific antigen to promote antibody formation in the body.

XI-b. "Immunizing agent" means a vaccine, antitoxin, or other substance used to increase a person's immunity to a disease.

XII. "Isolation" means the separation, for the period of communicability, of infected persons from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

XII-a. "Protected health information" means any information, whether in oral, written, electronic visual, or any other form, that relates to an individual's physical or mental health status, condition, treatment, service, products purchased, or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

XIII. "Quarantine" means the restriction of activities of well persons who have been exposed to a case of communicable disease, during its period of communicability, to prevent disease transmission during the incubation period if infection should occur. It also means the detention of a conveyance, commodity, baggage, or cargo in a separate place for such time as may be necessary and during which decontamination may be carried out.

XIII-a. "School" means any facility which provides primary or secondary education.

XIV. "Treatment" means the provision of medical services to prevent, control, or eliminate the infection of a person by a communicable disease.

Source. 1986, 198:21. 1987, 193:1-3. 1990, 257:1. 1994, 208:1. 1995, 310:93, 183. 2002, 258:6-8, eff. July 1, 2002.

141-C:3 Duties of Department. –

The department shall:

I. Identify, investigate, and test for communicable diseases posing a threat to the citizens of the state and its visitors.

II. Educate the general public, persons who provide health services to the public, and those persons responsible for the health and well-being of other persons relative to measures that will prevent the contraction of communicable disease, minimize its effects, and impede its spread.

III. Coordinate such medical, municipal, and other services as may be necessary to control, and, when possible, eradicate communicable diseases when they occur.

Source. 1986, 198:21. 1995, 310:175, eff. Nov. 1, 1995.

141-C:4 Duties of Commissioner. –

The commissioner shall:

- I. Identify communicable diseases to be reported to the department under RSA 141-C:8.
- II. Investigate outbreaks of communicable diseases under RSA 141-C:9.
- III. Establish, maintain, and suspend isolation and quarantine to prevent the spread of communicable diseases under RSA 141-C:11.
- IV. Order persons who pose a threat to the life and health of the public to receive such treatment and care as necessary to eliminate the threat under RSA 141-C:15.
- V. Purchase and distribute such pharmaceutical agents as may be deemed necessary to prevent the acquisition and spread of communicable disease under RSA 141-C:17.
- VI. Provide laboratory services to support the detection and control of communicable disease under RSA 141-C:19.
- VII. Educate the public relative to the cause, prevention and treatment of communicable disease and relative to the provisions of this chapter and its rules regarding reporting, investigations, examinations, treatment and care.
- VIII. Regulate, in public places, conveyances, and buildings, the use of a common drinking cup under RSA 141-C:6.
- IX. Prohibit, in public places, conveyances, or buildings the use of a common towel.
- X. Authorize treatment, under the orders of a licensed physician, as may be necessary to carry out the provisions of this chapter.

Source. 1986, 198:21. 1990, 61:1. 1991, 3:1. 1995, 310:175, 183, eff. Nov. 1, 1995.

141-C:5 Duties of Health Officers. –

Health officers shall:

- I. Assist the commissioner, when requested to do so, in the establishment and maintenance of isolation and quarantine in their respective cities and towns, and enforce all rules adopted by the commissioner relative to isolation and quarantine.
- II. Attend meetings with the commissioner, when requested, for consultation on matters relating to public health, the restriction and prevention of communicable diseases, or the consideration of other important sanitary matters related to preventing or controlling the spread of communicable diseases.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:6 Rulemaking. –

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

- I. Identifying communicable diseases to be reported under RSA 141-C:8.
- II. The design and content of all forms required under this chapter including forms for reporting communicable diseases under RSA 141-C:8.
- III. Reporting required under RSA 141-C:7.
- IV. The conduct of investigations carried out under RSA 141-C:9, I.
- V. The procedure for disclosure of information under RSA 141-C:10.
- VI. Establishing, maintaining, and lifting the isolation and quarantine of cases, carriers, or

- suspected cases or carriers of communicable diseases under RSA 141-C:11.
- VII. Decontamination of commodities, conveyances, baggage, and cargo under RSA 141-C:11, IV.
- VIII. Issuing and carrying out orders for the treatment and care and for the restriction and control of diseases under RSA 141-C:15.
- IX. Distribution of pharmaceutical agents under RSA 141-C:17.
- X. Laboratory testing, fee schedules, and the waiving of fees under RSA 141-C:19.
- XI. Regulating use of the common cup under RSA 141-C:4, VIII.
- XII. The procedure for written orders under RSA 141-C:12.
- XIII. Other communicable diseases requiring immunization under RSA 141-C:20-a, I.
- XIV. The child's age for administration of a vaccine for immunization.
- XV. The number of doses necessary for each vaccine.
- XVI. The acceptable level of immunization necessary for a child to be enrolled in a school or child care agency under RSA 141-C:20-a, II(b).
- XVII. Procedures for keeping immunization records under RSA 141-C:20-b, II.
- XVIII. The immunization registry established under RSA 141-C:20-f.
- XIX. Identifying microbial isolates of reportable diseases and patient specimens to be retained or forwarded to the public health laboratories.
- XX. Establishing a registry of biological agents present in New Hampshire.
- XXI. Procedures relating to information, specimens, and samples as required under RSA 141-C:10, IV.
- XXII. Procedures for administration of and disbursement from the mosquito control fund, established in RSA 141-C:25.

Source. 1986, 198:21. 1987, 193:4. 1990, 61:2. 1995, 310:183. 1998, 183:2. 2002, 258:9, 10. 2006, 284:2, eff. July 1, 2006.

[RSA 141-C:6-a repealed by 2020, 9:3, effective November 1, 2021.]

141-C:6-a Commission Established. –

- I. There is hereby established a commission to study the use and limitations of serological diagnostic tests to determine the presence or absence of Lyme and other tick-borne diseases and the development of appropriate methods to educate physicians and the public with respect to the inconclusive nature of prevailing test methods.
- II. (a) The members of the commission shall be as follows:
- (1) Two members of the house health, human services and elderly affairs committee, one of whom shall be a physician and one of whom shall be a lay person, appointed by the speaker of the house of representatives.
 - (2) One member of the senate who shall be a member of the health and human services committee, appointed by the president of the senate.
 - (3) A representative of the New Hampshire Medical Society, appointed by the society.
 - (4) A physician licensed under RSA 329 who is certified to treat Lyme disease patients by the International Lyme and Associated Diseases Society (ILADS), appointed by the society.
 - (5) The state epidemiologist, or designee.
 - (6) Two members of the public who have been treated for chronic Lyme and/or other tick-borne

diseases, alternatively referred to as Post Treatment Lyme Disease Syndrome (PTLDS), one of whom shall have been a Lyme disease patient for at least 5 years, appointed by the governor.

(7) One mental health professional, appointed by the New Hampshire chapter of the National Alliance on Mental Illness (NAMI).

(8) A physician specializing in neurology, rheumatology, or later-stage tick-borne infection treatment specialist, appointed by the Infectious Disease Society of America (IDSA).

(9) A tick-borne disease expert, appointed by the SOLO Wilderness Medicine School.

(10) A nurse practitioner or a representative of the New Hampshire Nurse Practitioner Association, appointed by the association.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall:

(a) Consider expert studies and testimony on the role of clinical diagnosis, the limitations of serological diagnostic tests, and the complexities presented by co-infections relating to symptomology, diagnosis, and treatment in determining the presence or absence of Lyme and other tick-borne diseases, including at a minimum testing methods recommended respectively by IDSA, ILADS, the Center for Disease Control and Prevention (CDC), and the Tick-Borne Disease Working Group (TBDWG) established under the 21st Century Cures Act of 2016.

(b) Consider and make recommendations relative to appropriate methods to educate the medical profession and the public on the inconclusive nature of currently prevailing methods of diagnosing Lyme and other tick-borne diseases.

(c) Consider the newly proposed recommendations on tick-borne illness by the Centers for Disease Control and Prevention.

(d) Recommend legislation that the commission deems appropriate to address the rising incidence of chronic Lyme and other tick-borne diseases in New Hampshire.

IV. The first meeting of the commission shall be called by the first-named house member, who shall serve as chairperson of the commission. The first meeting of the commission shall be held within 45 days of the effective date of this section. The commission shall meet as often as necessary, but no less often than monthly, and shall hear testimony from patients treated for chronic Lyme and other tick-borne diseases, medical practitioners licensed in New Hampshire or other states who diagnose and treat chronic Lyme and other tick-borne diseases, and academic and professional experts experienced in the diagnosis and treatment of such diseases. Six members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2021.

Source. 2020, 9:2, eff. July 14, 2020.

141-C:7 Reporting of Communicable Disease. –

I. Upon becoming aware of any communicable disease or communicable disease syndrome listed under RSA 141-C:8, any health care provider, clinical laboratory director, the superintendent or other person in charge of any hospital, or other health care facility, or any other person having under his or her care or observation a person afflicted with a communicable disease or communicable disease syndrome, or who has reason to believe that a person was or might have been afflicted with a communicable disease at the time of death, shall report to the commissioner

the communicable disease or communicable disease syndrome and shall provide social security numbers, if persons were given the option at the original point of collection to provide social security numbers voluntarily, and such additional information and periodic reports as required under RSA 141-C:9, I.

II. Any veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person engaged in the care of animals shall report animals having or suspected of having any disease that may cause a communicable disease in humans.

III. Any clinical laboratory director shall forward to the department's public health laboratory isolates of reportable infectious microorganisms as specified by the commissioner. In addition, any clinical laboratory director performing any testing for reportable diseases shall retain the original patient specimens for 7 days after issuing a final test result for diseases specified by the commissioner and shall submit such specimens to the public health laboratories upon request.

IV. In addition to the foregoing requirements for health care providers, a pharmacist shall report, if required under rulemaking procedures by the commissioner, any unusual or increased types of prescriptions, or unusual trends in pharmacy visits that may be caused by a communicable disease. Prescription-related events that require a report may include, but are not limited to:

(a) An unusual increase in the number of prescriptions to treat fever, respiratory, or gastrointestinal complaints.

(b) An unusual increase in the number of prescriptions for antibiotics.

(c) An unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory, or gastrointestinal complaints.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:11. 2003, 309:6, eff. Sept. 19, 2003.

141-C:8 List of Diseases; Report Forms. – The commissioner shall compile a list of reportable communicable diseases necessary to protect the citizenry. The commissioner shall develop and provide a form for the reporting of communicable diseases under this section. The form shall include, at a minimum, the name, age, address, occupation, and place of occupation of the person. Reportable information shall not include psychiatric, psychological, or other mental health records or information.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:12, eff. July 1, 2002.

141-C:9 Investigations; Examinations. –

I. The commissioner or designee may investigate incidents of communicable diseases. Such investigations shall include, but not be limited to, requiring additional information and periodic reports from the reporting official, interviews with reporting officials, their patients, and other persons affected by or having information pertaining to the communicable disease, surveys of such individuals, inspections of buildings and conveyances and their contents, and laboratory analysis of samples collected during the course of such inspections. The commissioner shall adopt such rules as are necessary to carry out investigations with due regard for the rights of person and property. The commissioner may call upon health officers, as authorized by RSA 141-C:5, I, to assist in such investigations.

II. Any person having or suspected of having a communicable disease, any person who is a communicable disease carrier or contact or any person who is suspected of being a communicable disease carrier or contact shall, when requested by the commissioner or designee,

submit to a physical examination for the purpose of determining the existence of a communicable disease. Such persons shall submit specimens of body secretions, excretions, body fluids, and discharges for laboratory examinations when so requested by the commissioner or designee.

Source. 1986, 198:21. 1994, 208:2. 1995, 310:183, eff. Nov. 1, 1995.

141-C:10 Disclosure; Confidentiality. –

I. Any protected health information provided to or acquired by the department under this chapter shall be released only with the informed, written consent of the individual or to those authorized persons having a legitimate need to acquire or use the information and then only so much of the information as is necessary for such persons to provide care and treatment to the individual who is the subject of the protected health information, investigate the causes of disease transmission in the particular case, or control the spread of the disease among the public. Any release of information under this section without the informed, written consent of the individual shall be conditioned upon the protected health information remaining confidential.

II. Analyses and compilations of data which do not disclose protected health information shall be available to the public under RSA 91-A.

III. The physician-patient privilege shall not apply to information required to be reported or provided to the commissioner under this chapter.

IV. The department shall acquire and retain only the minimum amount of information, specimens, and samples relating to individuals necessary to carry out its obligations under this chapter. The department shall adopt rules, pursuant to RSA 541-A, relative to the types of information, specimens, and samples to be acquired and the length of time such information, specimens, and samples shall be retained before being destroyed. Any genetic testing of specimens and samples shall be limited to the viruses, bacteria, fungi, or other micro-organisms therein.

Source. 1986, 198:21. 1994, 208:3. 1995, 310:183. 2002, 258:13, eff. July 1, 2002.

141-C:11 Isolation and Quarantine. –

I. Whenever it is necessary to prevent the introduction or spread of communicable diseases within this state or from another state, or to restrict such diseases if introduced, and when such communicable diseases pose a substantial threat to the health and life of the citizenry, the commissioner shall establish isolation or quarantine for persons who are cases or carriers, or suspected cases or carriers of communicable diseases, and establish quarantine for commodities, conveyances, baggage and cargo that are carriers or suspected carriers of the communicable diseases by written order prepared in accordance with RSA 141-C:12. Such isolation or quarantine shall be by the least restrictive means necessary to protect the citizenry which, in the case of an individual, shall be at a place of his or her choosing unless the commissioner determines such place to be impractical or unlikely to adequately protect the public health. The commissioner shall adopt such rules regarding the establishment, maintenance and lifting of isolation and quarantine as the commissioner may deem best for protecting the health of the public.

II. When a conveyance, operator, crew, passenger, baggage, cargo or commodity is placed in isolation or quarantine, the owners, consignees, assignees and operators shall submit to such

investigations as authorized by RSA 141-C:9, I, regarding any circumstance or event concerning the health of the operator, crew, passengers and the sanitary condition of the conveyance, baggage, cargo or commodity. The operator, crew and passengers shall submit to such examinations, as authorized by RSA 141-C:9, II, as the commissioner may determine appropriate.

III. The commissioner may, in ordering isolation or quarantine of persons, require that treatment be obtained in accordance with rules adopted under RSA 141-C:15.

IV. The order of quarantine for commodities, conveyances, baggage and cargo may require, as a condition for lifting the quarantine, that decontamination be performed. The commissioner shall adopt such rules pursuant to RSA 541-A as are necessary for the performance of decontamination.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:20, eff. July 1, 2002.

141-C:12 Orders. –

I. The commissioner, in imposing isolation and quarantine under RSA 141-C:11, in requiring treatment under RSA 141-C:15, or in excluding children under RSA 141-C:20-d, shall do so by written order. The order shall include, as appropriate, the following information:

- (a) The cause of the quarantine or isolation.
- (b) The location of quarantine or isolation.
- (c) When appropriate, that decontamination be performed on commodities, conveyances, baggage and cargo.
- (d) When treatment is required as part of the order, where such treatment is available and, if applicable, what effect the receipt of treatment may have on the conditions of isolation and quarantine.
- (e) The period of duration of isolation or quarantine.
- (f) The commissioner's signature.
- (g) The reason and length of time for the exclusion of children from schools and child care facilities.

II. Orders issued under this section shall be complied with immediately.

III. When an individual subject to an order for isolation or quarantine refuses to cooperate with such order, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing isolation or quarantine and the place or facility where the individual shall be isolated or quarantined. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the individual is to be isolated or quarantined.

Source. 1986, 198:21. 1987, 193:5, 6. 1995, 310:94, 183. 2002, 258:14, eff. July 1, 2002.

141-C:13 Evading Quarantine; Breaking Quarantine. –

I. If, after an order is issued under RSA 141-C:12, any commodity, conveyance, cargo or baggage is not removed to the place of quarantine or is not decontaminated or is brought near any dwelling house, facility, or housing providing services to people, or near any place of business or manufacture without the permission of the commissioner or his designee, the commissioner shall petition the superior court to review the order.

II. If any person ordered to undergo isolation or quarantine leaves such place of quarantine, a place designated by the commissioner for the decontamination of commodities, conveyances, baggage and cargo under quarantine, or a place of treatment and care of persons under isolation or quarantine without the permission of the commissioner or his designee, the commissioner shall petition the superior court for review of the order.

III. When an individual subject to an order for isolation or quarantine refuses to cooperate with such order, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing isolation or quarantine and the place or facility where the individual shall be isolated or quarantined. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the individual is to be isolated or quarantined.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:15, eff. July 1, 2002.

141-C:14 Invading Isolation; Quarantine. – If any person shall, without permission of the commissioner, his designee, or a health officer acting on the request of the commissioner, enter a place of isolation or quarantine, board a conveyance under quarantine, enter the limits of a place designated for the decontamination of cargo or baggage under quarantine, or enter a place designated for the treatment of persons placed under isolation or quarantine and such person is not an employee or agent of the facility providing such treatment, he shall be considered infected and ordered to undergo isolation or quarantine under RSA 141-C:11. He shall remain there at his own expense until the commissioner determines that there is no threat to the citizenry by virtue of the exposure to the cause of isolation or quarantine.

Source. 1986, 195:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:14-a Due Process. –

I. Any person subject to an order for submission of a specimen, or for examination, immunization, treatment, isolation, quarantine, provision of information, inspection of a building or conveyance, or any other order of the commissioner under this chapter or RSA 21-P:53, may request a hearing in the superior court to contest such order. The commissioner shall provide, or cause to be provided, to the person both oral and written notice of the right to contest the order and the form for making the request, which form shall require no more than the person's name, address, and signature and the time and date of the signature.

II. Submission of the completed form to the law enforcement officer or other individual serving the order shall be considered a filing with the superior court and such officer or other individual shall promptly deliver the form to the superior court.

III. The superior court shall schedule a hearing and render a decision upon the request within 48 hours of the time the request was made. If the court determines that exigencies related to protection of the health of the public preclude a hearing and decision within the 48-hour period, the hearing and decision may take place within a suitable time as determined by the court, but in no event later than 120 hours after the time the request was made.

IV. No examination, specimen, immunization, treatment, or other action shall be required against the will of a person who has filed a request for a hearing. A person may be held in isolation or quarantine pending the outcome of the court hearing, but may no longer be held if the court fails

to render its decision within the time period required under paragraph III.

V. At the hearing the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the person poses a threat to public health, or that the information to be produced or inspection of a building or conveyance is necessary to protect against a serious threat to the public health, and the order issued by the commissioner is thereby warranted to alleviate such threat.

VI. All orders issued under this chapter shall be in writing and a copy shall be provided to the person subject to the order at the time it is served. Every person who contests an order of the commissioner under this chapter shall be given a copy of the executed form contesting such order.

VII. Nothing in this chapter shall be construed to require the medical examination, medical treatment, or immunization of a person who objects, and no criminal penalties shall be imposed as a result. Notwithstanding this paragraph, such a person may be subject to isolation or quarantine for the minimum period necessary to protect the public health, as determined by the court in its decision following the hearing pursuant to this section.

Source. 2002, 258:16. 2008, 271:2, 3, eff. June 26, 2008.

141-C:15 Treatment, Care of Sick; Costs. –

I. Any person infected with a communicable disease, or reasonably suspected of being infected with a communicable disease, and whose continued presence among the citizenry poses a significant threat to health and life, shall be ordered by the commissioner under RSA 141-C:11, to report to a health care provider or health care facility to undergo such treatment and care as the commissioner may deem necessary to eliminate the threat. The commissioner shall adopt rules, pursuant to RSA 541-A, necessary to issue and carry out such orders for treatment and to restrict and control communicable disease through treatment.

II. If the person subject to the order cannot be removed to a health care provider or to a health care facility for treatment without danger to his life or to the citizenry, the commissioner shall impose isolation or quarantine under RSA 141-C:11 and shall arrange for treatment and care as necessary to mitigate the threat.

III. The commissioner shall assist indigent persons who are infected with tuberculosis and supply them with anti-tuberculosis drugs for treatment and preventative therapy, chest x-rays, and such physical examinations as necessary to monitor the course of treatment and therapy.

IV. The cost of treatment and care, except treatment provided under RSA 141-C:15, III, and physical examinations under RSA 141-C:9 and RSA 141-C:18, shall be a cost to the person, or his parent or guardian, or, if such person is indigent, from such public funds available for such purposes. Costs of physical examinations and treatment and care provided to the operator, passengers and crew of conveyances who are, or might have been, infected by means of the conveyance, shall be a cost to the owner, consignee or assignee of the conveyance.

V. The cost for maintenance of quarantine for commodities, conveyances, cargo and baggage, and for the decontamination of commodities, conveyances, cargos and baggage, shall be a cost to the owner, consignee or assignee of the commodity or conveyance.

VI. When an individual subject to an order for treatment by the commissioner refuses to undergo such ordered treatment, the commissioner may issue a complaint, which shall be sworn to before a justice of the peace. Such complaint shall set forth the reasons for the order imposing treatment, the nature of the treatment to be provided, and the place or facility where the treatment

shall be provided. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the treatment is to be provided.

Source. 1986, 198:21. 1995, 310:183. 2002, 258:17, eff. July 1, 2002.

141-C:15-a Administration of Certain Prescription Medication for Treatment or Prevention of a Communicable Disease. –

I. Notwithstanding the provisions of RSA 326-B:2, I-a, and RSA 329:1-c, a health care professional authorized to prescribe prescription medication for the treatment or prevention of a communicable disease may prescribe, dispense, or distribute directly or by standing order, drugs and testing to a patient he or she did not evaluate and with whom there is no established health care provider-patient relationship to empirically treat for, or provide an agent or prophylaxis to prevent, a communicable disease that poses a threat to public health. Any such prescription shall be regarded as being issued for a legitimate medical purpose and in accordance with established clinical practice guidelines, when available.

II. Communicable diseases that pose a threat to public health for the purposes of paragraph I shall be limited to the following:

(a) *Bordetella pertussis*, *Chlamydia trachomatis*, *Neisseria gonorrhoea*, and *Neisseria meningitidis*;
or

(b) Diseases that constitute an immediate threat to public health and for which the commissioner, or designee, declares a public health incident under RSA 508:17-a or issues clinical guidance that requests providers to consider prescribing, dispensing, or distributing immunizing agents or drugs under paragraph I in order to control a disease outbreak.

III. No health care professional who, acting in good faith and with reasonable care, prescribes, dispenses, or distributes an agent or drug and testing for the treatment or prevention of a communicable disease as described in paragraph I, shall be subject to any criminal or civil liability, or any professional disciplinary action, for any action authorized by this section or any outcome resulting from an action authorized by this section.

Source. 2017, 42:2, eff. May 9, 2017. 2020, 39:2, eff. July 29, 2020.

141-C:16 Mode of Treatment and Care. – Nothing in this chapter shall be construed to authorize the commissioner to restrict in any manner a person's right to select the mode of treatment of his choice, or to refuse treatment, when treatment is ordered by the commissioner under RSA 141-C:15, I, or to request any physical examination or treatment of a person who in good faith relies upon spiritual means or prayer for healing. Such reliance or treatment or refusal of treatment shall not be considered a danger or menace to others under any provisions of this chapter; provided, however, that there is compliance with the sanitary, isolation and quarantine laws and rules adopted under this chapter. This section shall not be construed to prevent a parent or guardian from exercising his legal responsibilities.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:16-a Closure; Decontamination. –

I. The commissioner, with the written approval of the governor, may close, direct, and compel

the evacuation and decontamination of any building located within the state that is accessible to the public, such as businesses, primary and secondary schools, and universities, regardless of whether publicly or privately owned, when there is reasonable cause to believe the building may present an imminent danger to the public health. The commissioner may also cause any material located within or on the grounds of a building to be decontaminated or destroyed when there is reasonable cause to believe that the material may present imminent danger to the public health. Destruction of any material under this chapter shall be considered a taking of private property and shall be subject to the compensation provisions of RSA 4:46.

II. Notice shall be made by posting notice on all means of ingress or egress of the building and, within 24 hours of posting, mailing the notice, return receipt requested, to the owner of record. The notice shall state the reason for the action and its anticipated duration.

III. Orders issued pursuant to this section shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that the action taken is reasonably necessary to protect the health of the public.

IV. Orders issued under this section shall be subject to the due process provisions of RSA 141-C:14-a.

Source. 2002, 258:22. 2008, 336:1, eff. July 7, 2008.

141-C:16-b Cancellation of Events. – The commissioner, with the written approval of the governor, may order the cancellation of public gatherings and events within the state, or in specific geographic areas of the state, as is deemed necessary to prevent an imminent danger to the public health. Notice of any order canceling a public gathering or event shall be made in writing, shall specify the reason for the cancellation, and shall be delivered to the organizer of the event or owner of the venue where the event was to occur in a manner that will give as much notice prior to the cancellation as is reasonably possible. Notice shall also be given to the public in a manner that is reasonably likely to be available to the members of the public affected by the order. Such order shall be effective immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. Any person who is aggrieved by an order pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden of proof shall be on the commissioner to prove by clear and convincing evidence that cancellation of the public gathering or event is reasonably necessary to protect the health of the public.

Source. 2008, 336:2, eff. July 7, 2008.

141-C:17 Purchase; Distribution. – The commissioner may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents which the commissioner deems advisable to prevent, prepare for, or respond to an outbreak of

communicable disease or other serious threat to the public health. Any medications distributed in the event of a public health incident declared pursuant to RSA 508:17-a shall be exempt from labeling in accordance with RSA 318:47-b. State employees and other persons acting under the authority and direction of the commissioner may carry out the activities authorized under this section.

Source. 1986, 198:21. 1990, 61:3. 1994, 208:8. 1995, 310:183. 2008, 271:4, eff. June 26, 2008.

141-C:17-a Vaccine Purchase Fund. – There is hereby established a vaccine purchase fund for the purchase of antitoxins, serums, vaccines and immunizing agents, which are to be provided to the public at no cost except for the actual cost of administering such agents, under RSA 141-C:17. Any funds provided to the department for this purpose and deposited in the fund shall not be used for any other purpose. Moneys in the fund shall be continually appropriated to the commissioner of the department of health and human services.

Source. 1991, 280:1. 1995, 310:175, 182, eff. Nov. 1, 1995.

141-C:17-b Custody; Rationing. – If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, and such shortage poses a serious threat to the public health, the commissioner, with the written approval of the governor, may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such agents as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner may determine the preference and priority for distribution of such agents, such as giving preference to health care providers and emergency response personnel. The commissioner, with the written approval of the governor, shall have the discretion to take custody of all supplies of specific anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment, existing within the state to ensure that such agents are distributed and utilized appropriately. Notice of an order issued pursuant to this section shall be given in writing to the owner of the personal property, or, if the owner cannot be readily determined, to the person in charge of the location where the personal property is located. The notice shall specify the reason for the action and its expected duration. Such order shall be effectively immediately and shall remain in effect in accordance with this section unless the superior court issues a decision directing otherwise. The owner of any property subject to an order issued pursuant to this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing, unless a shorter period is required for review. At the hearing, the burden shall be on the commissioner to prove by clear and convincing evidence that the order is reasonably necessary to protect the health, safety, and welfare of the public. Multiple requests for hearings under this section may be consolidated into one hearing if the underlying facts are similar, the court deems such consolidation to be appropriate, and the court determines that such consolidation will adequately satisfy the due process rights of the persons who requested a hearing.

Source. 2008, 336:3, eff. July 7, 2008.

141-C:17-c Compensation and Expenditures. – Items taken by the commissioner pursuant to the provisions of this chapter shall be subject to the compensation provisions of RSA 4:46, but in no event shall the owner thereof be entitled to more than the Medicaid rate for the item that was in effect at the time of the taking. Notwithstanding the provisions of RSA 9:19-9:21, the commissioner may make such expenditures as necessary to carry out the provisions of this chapter; provided, that expenditures are made from funds appropriated to the department that the commissioner determines to be available for this purpose and information regarding the expenditures is promptly submitted to the fiscal committee of the general court and the governor and council.

Source. 2008, 336:3, eff. July 7, 2008.

141-C:18 Sexually Transmitted Disease. –

- I. The commissioner may request the examination, and order isolation, quarantine, and treatment of any person reasonably suspected of having been exposed to or of exposing another person or persons to a sexually transmitted disease. Any order of treatment issued under this paragraph shall be in accordance with RSA 141-C:11, RSA 141-C:12, and RSA 141-C:15.
- II. Any minor 14 years of age or older may voluntarily submit himself to medical diagnosis and treatment for a sexually transmitted disease and a licensed physician may diagnose, treat or prescribe for the treatment of a sexually transmitted disease in a minor 14 years of age or older, without the knowledge or consent of the parent or legal guardian of such minor.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:19 Laboratory Support Services; Rules. –

- I. The commissioner shall make available laboratory tests for the early detection and control of communicable diseases such as acquired immune deficiency syndrome, rubella, herpes virus, legionnaire's disease, eastern equine encephalitis, viral hepatitis, chlamydia, rabies, rotavirus, rubeola, influenza, salmonella, pertussis and toxoplasmosis.
- II. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to adding to the list of communicable diseases in paragraph I for which testing shall be available and establishing a fee schedule for all tests available under this section. The commissioner may waive such fees when it is in the best interest of the health of the public to do so.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20 Education. – The commissioner or his designee shall prepare and distribute such current public information materials relative to the cause, prevention, and treatment of the various communicable diseases and relative to rules adopted under this chapter as may best instruct health care providers and the public in methods of prevention and control of communicable diseases, including proper treatment methods.

Source. 1986, 198:21. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-a Immunization. –

- I. All parents or legal guardians shall have their children who are residing in this state

immunized against certain diseases. These diseases shall include, but not be limited to, diphtheria, mumps, pertussis, poliomyelitis, rubella, rubeola, and tetanus. The commissioner shall adopt rules under RSA 541-A relative to other diseases which require immunization.

II. No child shall be admitted or enrolled in any school or child care agency, public or private, unless the following is demonstrated:

(a) Immunization under paragraph I;

(b) Partial immunization relative to the age of the child as specified in rules adopted by the commissioner; or

(c) Exemption under RSA 141-C:20-c.

III. Nothing in this section shall require an immunization/vaccination requirement for diseases that are noncommunicable. Noncommunicable disease means a disease that is not infectious or transmissible from person-to-person.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995. 2017, 137:1, eff. Aug. 15, 2017.

141-C:20-b Records. –

I. Any person who immunizes a child shall complete a form to be supplied by the commissioner and shall give the completed form to the parent or legal guardian.

II. Schools and child care agencies shall keep immunization records for all enrolled children. Such records shall be available for inspection during reasonable hours upon request by the commissioner or his designee.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-c Exemptions. –

A child shall be exempt from immunization if:

I. A physician licensed under RSA 329, or a physician exempted under RSA 329:21, III, certifies that immunization against a particular disease may be detrimental to the child's health. The exemption shall exist only for the length of time, in the opinion of the physician, such immunization would be detrimental to the child. An exemption from immunization for one disease shall not affect other required immunizations.

II. A parent or legal guardian objects to immunization because of religious beliefs. The parent or legal guardian shall sign a notarized form stating that the child has not been immunized because of religious beliefs.

Source. 1987, 193:7. 2001, 18:1, eff. Jan. 1, 2002.

141-C:20-d Exclusion During Outbreak of Disease. – During an outbreak of a communicable disease for which immunization is required under RSA 141-C:20-a, children exempted under RSA 141-C:20-c shall not attend the school or child care agency threatened by the communicable disease. The commissioner shall prepare a written order as required under RSA 141-C:12, I.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-e Immunization Reports. – Schools and child care agencies, whether public or private, shall make an annual report to the commissioner relative to the status of immunization of all enrolled children.

Source. 1987, 193:7. 1995, 310:183, eff. Nov. 1, 1995.

141-C:20-f Immunization Registry. –

I. The department shall establish and maintain a state immunization registry. The registry shall be a single repository of accurate, complete and current immunization records to aid, coordinate, and promote effective and cost-efficient disease prevention and control efforts.

II. No patient, or the patient's parent or guardian if the patient is a minor, shall be required to participate in the immunization registry.

III. Physicians, nurses, and other health care providers may report an immunization to the immunization registry unless the patient, or the patient's parent or guardian if the patient is a minor, refuses to allow reporting of this information.

IV. Access to the information in the registry shall be limited to primary care physicians, nurses, other appropriate health care providers as determined by the commissioner, schools, child care agencies, and government health agencies or researchers demonstrating a legitimate need for such information as determined by the commissioner.

V. The information contained in the registry shall be used for the following purposes:

(a) To ensure that registrants receive all recommended immunizations in a timely manner by providing access to the registrant's immunization record.

(b) To improve immunization rates by facilitating notice to registrants of overdue or upcoming immunizations.

(c) To control communicable diseases by assisting in the identification of individuals who require immediate immunization in the event of a disease outbreak.

VI. The commissioner shall adopt rules under RSA 541-A concerning the following:

(a) The establishment and maintenance of the immunization registry.

(b) The methods for submitting and content of reports of immunizations.

(c) Procedures for the patient, or the patient's parent or guardian if the patient is a minor, to decline to participate in the registry.

(d) Procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to review and correct information contained in the registry.

(e) Procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to withdraw consent for participation at any time and to remove information from the registry.

(f) Limits on and methods of access to the registry by those authorized to gain access under paragraph IV of this section.

(g) Procedures for managed care organizations to obtain summary statistics of immunization information on managed care organization members from the immunization registry.

VII. Any person reporting, receiving, or disclosing information to or from the immunization registry as authorized by this section or by any rule adopted pursuant to this section shall not be liable for civil damages of any kind connected with such submission or disclosure of immunization information.

VIII. Nothing in this section is intended to affect the obligations of persons under RSA 141-C:20-a to have their children properly immunized.

IX. Nothing in this section shall preclude the right of the patient, or the patient's parent or

guardian if the patient is a minor, to claim exemption from immunization as defined in RSA 141-C:20-c; nor shall anything in this section require such patient to be included in the registry if the patient, or the patient's parent or guardian if the patient is a minor, objects thereto on any grounds, including but not limited to, that such registry conflicts with the religious beliefs of the patient, or the patient's parent or guardian if the patient is a minor.

X. No health care provider shall discriminate in any way against a person solely because that person elects not to participate in the immunization registry.

Source. 1998, 183:3, eff. Aug. 14, 1998.

141-C:21 Penalty. – Any person who shall violate, disobey, refuse, omit or neglect to comply with any of the provisions of RSA 141-C, or of the rules adopted pursuant to it, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

Source. 1986, 198:21, eff. Aug. 2, 1986.

141-C:22 Penalty for Sale or Use for Personal Gain. – Any natural person selling or disposing of any pharmaceutical agents purchased or distributed under RSA 141-C:17 for personal gain shall be guilty of a misdemeanor. Any other person shall be guilty of a felony.

Source. 1986, 198:21. 1990, 61:4, eff. June 5, 1990.

141-C:23 Injunction. – A civil action may be instituted in superior court on behalf of the department for injunctive relief to prevent the violation of the provisions of this chapter or rules adopted under this chapter. The court may proceed in the action in a summary manner or otherwise and may enjoin in all such cases any person in violation of any provisions of this chapter or its rules.

Source. 1994, 208:4. 1995, 310:175, eff. Nov. 1, 1995.

141-C:24 Mosquito Control Districts; Rulemaking. – Contiguous municipalities may establish mosquito control districts for the purposes of applying for moneys from the mosquito control fund established in RSA 141-C:25 and for the purposes of applying for spraying permits. The commissioner, in consultation with the commissioner of the department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to the establishment of such mosquito districts. A mosquito control district established pursuant to RSA 430:13 shall be considered a mosquito control district under this chapter.

Source. 2006, 284:1. 2007, 22:1, eff. July 1, 2007.

141-C:25 Mosquito Control Fund. –

I. There is hereby established a nonlapsing and continually appropriated mosquito control fund to assist cities, towns, and mosquito control districts by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. The purpose of the fund is to provide financial assistance, when needed, to cities, towns, and mosquito control districts engaging in mosquito control and

abatement activities in response to a declared threat to the public health. Any balance remaining in the mosquito control fund at the close of the fiscal year ending June 30, 2009 shall lapse to the general fund.

II. In order to be eligible to receive funding, a city, town, or mosquito control district shall have in place a comprehensive mosquito control plan approved by the commissioner. This plan shall include at a minimum:

- (a) A list of the pesticides (active ingredient) and methods by which these pesticides will be applied to ensure that the application is done in a safe and proper manner.
- (b) Safeguards that will be taken to protect the health of the public, wildlife, and resources within the state including provisions for the measuring and monitoring of residual pesticides in the water and soil.
- (c) A comprehensive public awareness campaign geared toward prevention and designed to educate the public about the health risks associated with mosquitoes.
- (d) Appropriate abatement measures.

III. (a) The commissioner, in consultation with the Centers for Disease Control and Prevention, and with the concurrence of the governor, may determine that a threat to the public health exists that warrants expedited mosquito control and abatement activities within a city, town, or mosquito control district. Such determination shall be based on local factors which may include:

- (1) Historical and current climatic conditions.
- (2) Historical and current mosquito population indices.
- (3) Historical and current mosquito, veterinary, and human arboviral disease surveillance.
- (b) An expedited approval process shall be established for the implementation of mosquito control and abatement activities, including the application of pesticides. The commissioner of the department of agriculture, markets, and food may authorize expedited mosquito control and abatement activities pursuant to this paragraph.

IV. A city, town, or mosquito control district shall be eligible to receive funds if the commissioner determines that:

- (a) The city, town, or mosquito control district has a comprehensive mosquito control plan approved by the commissioner in accordance with paragraph II;
- (b) The city, town, or mosquito control district has engaged or plans to engage in mosquito control and abatement activities pursuant to paragraph III;
- (c) The commissioner, after consultation with the Centers for Disease Control and Prevention, has determined that mosquito control and abatement activities are appropriate to mitigate the public health threat; and
- (d) A threat to public health has been determined in accordance with paragraph III.

IV-a. Following a determination of eligibility under paragraph IV, the city, town, or mosquito control district shall be eligible for funding for mosquito control and abatement activities occurring during the same calendar year prior to or after a determination of a public health threat under paragraph III.

V. A city, town, or mosquito control district's receipt of funds, as well as the amount of funding, shall be at the discretion of the commissioner. In exercising his or her discretion, the commissioner shall consider the following criteria:

- (a) The nature and degree of the declared threat to the public health.
- (b) The nature and degree of the city, town, or mosquito control district's mosquito control and abatement activities in response to the declared threat to the public health.
- (c) The city, town, or mosquito control district shall show cause why funding assistance from the

mosquito control fund is necessary.

(d) Funding from the mosquito control fund shall not exceed 25 percent of the cost of mosquito control and abatement activities pursuant to the declared threat to the public health.

(e) Funding is available.

Source. 2006, 284:1. 2008, 73:1, eff. July 20, 2008.

141-C:26 Acute Care Centers. – The commissioner, with the written approval of the governor, may establish, operate, or authorize the operation of temporary acute care centers for the purpose of the delivery of acute medical services to persons who would normally require admission to an acute care hospital, when there is a public health incident as defined in RSA 508:17-a, II(c) and when the acute care hospitals in the area do not have the physical and human resources necessary to meet the demand or anticipated demand for medical care. Any such facility so established or designated shall be exempt from the provisions of RSA 151. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding the facility and staffing requirements, screening and admission criteria, payment and reimbursements, clinical standards, recordkeeping, and discharge criteria for acute care centers. In adopting such rules, the commissioner shall take into consideration, to the extent feasible, the rights and responsibilities of patients set forth in RSA 151:21. For purposes of immunity, actions taken pursuant to this section shall be considered an emergency management function under RSA 21-P:41, I.

Source. 2008, 271:5. 2012, 282:7, eff. June 30, 2015.

141-C:27 Ethics Committee. –

I. There is hereby established an ethics committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease that threaten to become epidemic or pandemic.

II. The committee shall consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; issues relative to information sharing and confidentiality; and the provisions for due process for orders issued pursuant to this chapter.

III. The members of the committee shall be as follows:

(a) The director of the division of public health services.

(b) The state epidemiologist.

(c) The attorney general, or designee.

(d) A representative of a public health network, appointed by the commissioner.

(e) A representative from a college or university public health program, appointed by the commissioner.

(f) A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.

(g) A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.

(h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.

- (i) The commissioner of the department of safety, or designee.
 - (j) A member of a fire department with a minimum of EMT-B certification, appointed by the Professional Firefighters of New Hampshire.
 - (k) A representative of a hospital, appointed by the New Hampshire Hospital Association.
 - (l) A county representative, appointed by the New Hampshire Association of Counties.
- IV. The commissioner shall appoint a member of the committee to act as chairperson. The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.
- V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues.
- VI. The committee shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner.

Source. 2008, 336:4, eff. July 7, 2008.

141-C:28 No Conflict With Emergency Management Powers. – Nothing in this chapter shall be construed to limit or restrict the exercise of the governor's emergency management powers under RSA 4:45-RSA 4:47.

Source. 2008, 336:4, eff. July 7, 2008.



State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

To: House Committee on Executive Departments and Administration
House Committee on Legislative Administration

From: Paul Smith, House Clerk
Jim Cianci, House Counsel

Date: March 3, 2021

Re: Governor's emergency power bills

Your committee is currently in possession of certain bills related to the governor's emergency power authority. In reviewing this legislation, we have noted individual provisions which give cause for concern and may require closer examination. While we do not take any position on the policy of these bills, we wish to indicate specific procedural, parliamentary, and legal issues for the committee's consideration.

The first issue involves the powers of the General Court. Legislative authority may only be exercised by a quorum of both bodies of the legislature, not by the House or Senate alone, and cannot be delegated to a committee. *See Opinion of the Justices*, 121 N.H. 552, 559-560 (1981); *see also* MASON'S MANUAL OF LEGISLATIVE PROCEDURE (2020) § 48 (1) ("A legislative body cannot delegate its powers, duties or responsibilities to any other person or group, including a committee of its own members, in as much as those powers, duties and responsibilities are delegated to the legislature by the people through the constitution.")

Furthermore, the full extent of legislative authority cannot be exercised by simple resolution. Pursuant to House Rules, "[a] simple resolution is one that is considered by the legislative body in which it is introduced and is of interest to only that body. **Neither house nor senate resolutions have the effect of law.** They are written to show appreciation to some individual or group, to ask the supreme court for an advisory opinion on a bill originating in that body, to express sympathy for an individual's death or illness, or, in a lighter vein, to commemorate an event affecting one of the members." (emphasis added)

To the extent that HB's 277, 325, 389 (Leg. Ad.) and HB 417 (ED&A) provide that legislative authority may be exercised by any method other than the full House and Senate or by any method other than one having the full effect of law, those provisions warrant close scrutiny.

The second issue involves the reference to RSA Chapter 16 (Special Legislative Sessions) contained in HB's 277 and 389 (Leg. Ad.). Based upon advice from former House Counsel Chuck Douglas in 2017, the majority vote provision contained in RSA 16:4 conflicts with the 2/3 vote provision contained in Part 2, Article 15 of the New Hampshire Constitution. He advised that a constitutional requirement cannot be contradicted by statute and any statute which conflicts with the constitution is unconstitutional; therefore, while the procedures contained in RSA Chapter 16 may be followed, the constitutional requirement in Part 2, Article 15 must also be met. We continue to agree with the opinion of Attorney Douglas and wish to inform the committee of his guidance on this matter.

We appreciate the opportunity to provide this information to aid your committee in its consideration of this legislation.

Bill as
Introduced

HB 433 - AS INTRODUCED

2021 SESSION

21-0597

05/10

HOUSE BILL **433**

AN ACT limiting renewal of states of emergency.

SPONSORS: Rep. Prout, Hills. 37; Rep. L. Ober, Hills. 37

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill permits the governor to renew a state of emergency only once, after which time, with limited exception, it must be renewed by a concurrent resolution passed by the legislature.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
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 Twenty One

AN ACT limiting renewal of states of emergency.

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

1 1 State of Emergency Declaration. Amend RSA 4:45, II(a) to read as follows:

2 (a) A state of emergency shall terminate automatically 21 days after its declaration
3 unless it is renewed under the same procedures set forth in paragraph I of this section. The
4 governor may, by executive order, renew a declaration of a state of emergency ***only once, unless the***
5 ***clerk of either chamber of the legislature, or the assistant clerk pursuant to RSA 14:4, has***
6 ***certified within the past 7 days that to the best of their knowledge half of the membership***
7 ***of the chamber is incapacitated or missing in which case the governor may renew a***
8 ***declaration of a state of emergency*** as many times as the governor finds is necessary to protect
9 the safety and welfare of the inhabitants of this state. ***The general court may, by concurrent***
10 ***resolution, renew a declaration of a state of emergency as many times as it finds is***
11 ***necessary to protect the safety and welfare of the inhabitants of this state.***

12 2 Effective Date. This act shall take effect January 1, 2022.