

Bill as Introduced

HB 417 - AS AMENDED BY THE HOUSE

8Apr2021... 0973h

2021 SESSION

21-0619
10/04

HOUSE BILL

417

AN ACT relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

SPONSORS: Rep. Roy, Rock. 32; Rep. Belanger, Rock. 9; Rep. Layon, Rock. 6; Rep. Avellani, Carr. 5; Rep. Vail, Hills. 30; Rep. Cushman, Hills. 2

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days and modifies the procedure for renewal. Any orders issued during the period of a renewal of the state of emergency shall be subject to prior approval by the legislature. This bill also requires executive council approval in the acceptance of services, equipment, supplies, materials, or funds from the federal government.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

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

1 1 Emergency Powers; Termination at 30 Days. Amend RSA RSA 4:45, I(d) and II to read as
2 follows:

3 (d) Duration of the state of emergency, if less than ~~[21]~~ **30** days.

4 II.(a) A state of emergency shall terminate automatically ~~[21]~~ **30** days after its declaration
5 unless it is renewed ~~[under the same procedures set forth in paragraph I of this section. The~~
6 ~~governor may, by executive order, renew a declaration of a state of emergency as many times as the~~
7 ~~governor finds is necessary to protect the safety and welfare of the inhabitants of this state.]~~ **by the**
8 **majority vote of each chamber of the legislature prior to termination. In the event that the**
9 **legislature is unable to convene prior to the termination date, the state of emergency and**
10 **orders issued pursuant thereto shall automatically extend in 14-day increments or until**
11 **the legislature can convene to vote on the renewal, whichever comes first.**

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

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

19 2 State of Emergency; Powers. Amend the introductory paragraph of RSA 4:45, III to read as
20 follows:

21 III. During the existence of ~~[a]~~ **an initial period of a** state of emergency, **prior to any**
22 **renewal**, and only for so long as such state of emergency shall exist, the governor shall have and
23 may exercise the following additional emergency powers:

24 3 New Paragraph; State of Emergency; Powers In Renewal; Procedure. Amend RSA 4:45 by
25 inserting after paragraph III the following new paragraph:

26 IV.(a) If a state of emergency is renewed, any orders issued by the governor shall be
27 approved by a majority of each chamber of the legislature, present and voting in such a manner as
28 required by rules of the legislature, prior to such orders going into effect. In the event that the
29 legislature is unable to convene within 3 calendar days of the renewal, the state of emergency and
30 orders issued pursuant thereto shall automatically extend in 14-day increments or until the

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1 legislature can convene to vote on the orders for the renewal, whichever comes first. All emergency
2 orders issued in the original 30-day state of emergency and any issued thereafter that were not
3 subject to a vote in the legislature shall be presented to the legislature for a vote to be continued or
4 terminated.

5 (b) The governor shall make every effort to assist members of the legislature in
6 convening to include transportation to and from the location for the seat of state government should
7 the circumstances of the emergency so require. Members of the legislature shall be exempt from any
8 emergency orders that would infringe on their ability to travel or otherwise conduct their business as
9 representatives of the people.

10 V. The acceptance of any federal, private, or other non-state gift, grant, or loan for purposes
11 of emergency powers of the state which exceed \$100,000, shall be required to be approved by the
12 fiscal committee of the general court according to RSA 14:30-a, VI.

13 4 Homeland Security; Executive Council Approval. Amend RSA 21-P:43 to read as follows:

14 21-P:43 Appropriations and Authority to Accept Services, Gifts, Grants, and Loans. Each
15 political subdivision may make appropriations in the manner provided by law for making
16 appropriations for the ordinary expenses of such political subdivision for the payment of expenses of
17 its local organization for emergency management. Whenever the federal government or any federal
18 agency or officer offers to the state, or through the state to any of its political subdivisions, services,
19 equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency
20 management the state, acting through the governor *and council*, commissioner, or such political
21 subdivision, acting with the consent of the governor *and council* and through its executive officer,
22 city council, or board of selectmen, may accept such offer, subject to the terms of the offer and the
23 rules and regulations, if any, of the agency making the offer. Whenever any person, firm or
24 corporation offers to the state or to any of its political subdivisions services, equipment, supplies,
25 materials, or funds by way of gift, grant, or loan for purposes of emergency management the state,
26 acting through the governor *and council*, or such political subdivision, acting through its executive
27 officer, city council, or board of selectmen, may accept such offer, subject to its terms.

28 5 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
29 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
30 to the secretary of state and the director legislative services by the office of the governor.

31 6 Effective Date. This act shall take effect as provided in section 5 of this act.

HB 417 - AS AMENDED BY THE SENATE

8Apr2021... 0973h
05/27/2021 1591s
05/27/2021 1661s

2021 SESSION

21-0619
10/04

HOUSE BILL **417**

AN ACT relative to the powers of the governor during a declared state of emergency.

SPONSORS: Rep. Roy, Rock. 32; Rep. Belanger, Rock. 9; Rep. Layon, Rock. 6; Rep. Avellani, Carr. 5; Rep. Vail, Hills. 30; Rep. Cushman, Hills. 2

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

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

HB 417 - AS AMENDED BY THE SENATE

8Apr2021... 0973h
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21-0619
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the powers of the governor during a declared state of emergency.

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

1 1 Emergency Powers; Notice; Termination at 30 Days. Amend RSA RSA 4:45, I and II to read as
2 follows:

3 I. The governor shall have the power to declare a state of emergency, as defined in RSA 21-
4 P:35, VIII, by executive order if the governor finds that a natural, technological, or man-made
5 disaster of major proportions is imminent or has occurred within this state, and that the safety and
6 welfare of the inhabitants of this state require an invocation of the provisions of this section. *When*
7 *practicable, the governor shall notify the speaker of the house of representatives and*
8 *senate president of the impending issuance of emergency orders under this section and*
9 *provide a description of such orders.* The general court shall have the same power to declare a
10 state of emergency by concurrent resolution of the house and senate. An executive order or
11 concurrent resolution declaring a state of emergency shall specify the:

- 12 (a) Nature of the emergency;
13 (b) Political subdivisions or geographic areas subject to the declaration;
14 (c) Conditions that have brought about the emergency; and
15 (d) Duration of the state of emergency, if less than ~~[21]~~ 30 days.

16 II.(a) A state of emergency shall terminate automatically ~~[21]~~ 30 days after its declaration
17 unless it is renewed under the same procedures set forth in paragraph I of this section. The
18 governor may, by executive order, renew a declaration of a state of emergency as many times as the
19 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

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

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

28 2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after
29 paragraph III the following new paragraphs:

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1 IV. Members of the legislature shall be exempt from any emergency orders that would
2 infringe on their ability to travel and conduct their business as representatives of the people.

3 V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or
4 loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which exceed \$100,000,
5 shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-

6 a. Notwithstanding any other provision of law, under circumstances requiring expedited action for
7 the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the
8 sole authority to accept and expend funds hereunder.

9 VI. Under this section, the governor shall submit an item to the chairperson of the fiscal
10 committee of the general court for consideration by the fiscal committee. If the fiscal committee of
11 the general court does not render a rejection or acceptance within 5 business days, the governor shall
12 be able to accept and expend the funds without further action by the fiscal committee.

13 3 New Section; Homeland Security; Governor Duty. Amend RSA 21-P by inserting after section
14 43 the following new section:

15 21-P:43-a Governor Duty. The governor shall provide a list of all expenditures pursuant to this
16 subdivision under a state of emergency to the executive council for informational purposes only, in
17 order to ensure transparency.

18 4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
19 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
20 to the secretary of state and the director of legislative services by the office of the governor.

21 5 Effective Date. This act shall take effect as provided in section 4 of this act.

Amendments

Amendment to HB 417

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the powers of the governor during a declared state of emergency.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Emergency Powers; Termination at 30 Days. Amend RSA RSA 4:45, I(d) and II to read as
8 follows:

9 (d) Duration of the state of emergency, if less than ~~[21]~~ 30 days.

10 II.(a) A state of emergency shall terminate automatically ~~[21]~~ 30 days after its declaration
11 unless it is renewed under the same procedures set forth in paragraph I of this section. The
12 governor may, by executive order, renew a declaration of a state of emergency as many times as the
13 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

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

16 (c) The legislature may terminate a state of emergency *or any emergency order issued*
17 *thereunder* by concurrent resolution adopted by a majority vote of each chamber. The governor's
18 power to renew a declaration of a state of emergency shall terminate upon the adoption of a
19 concurrent resolution under this subparagraph; Provided, however, that such resolution shall not
20 preclude the governor from declaring a new emergency for different circumstances under paragraph
21 I of this section.

22 2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after
23 paragraph III the following new paragraphs:

24 IV. Members of the legislature shall be exempt from any emergency orders that would
25 infringe on their ability to travel and conduct their business as representatives of the people.

26 V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or
27 loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which exceed \$100,000,
28 shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-
29 a. Notwithstanding any other provision of law, under circumstances requiring expedited action for
30 the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the
31 sole authority to accept and expend funds hereunder.

1 VI. Under this section, the governor shall submit an item to the chairperson of the fiscal
2 committee of then general court for consideration by the fiscal committee. If the fiscal committee of
3 the general court does not render a rejection or acceptance within 5 business days, the governor shall
4 be able to accept and expend the funds without further action by the fiscal committee.

5 3 New Section; Homeland Security; Governor Duty. Amend RSA 21-P:43 by inserting after it,
6 the following new paragraph:

7 21-P:43-a Governor Duty. The governor shall provide a list of all expenditures pursuant to this
8 subdivision under a state of emergency to the executive council for informational purposes only, in
9 order to ensure transparency.

10 4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
11 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
12 to the secretary of state and the director of legislative services by the office of the governor.

13 5 Effective Date. This act shall take effect as provided in section 4 of this act.

UNAPPROVED

2021-1544s

AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

UNAPPROVED

Sen. Bradley, Dist 3
Sen. Carson, Dist 14
May 18, 2021
2021-1565s
10/11

Amendment to HB 417

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the powers of the governor during a declared state of emergency.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Emergency Powers; Termination at 30 Days. Amend RSA RSA 4:45-1(d) and II to read as
8 follows:

9

(d) Duration of the state of emergency, if less than ~~[21]~~ 30 days.

10

II.(a) A state of emergency shall terminate automatically ~~[21]~~ 30 days after its declaration
11 unless it is renewed under the same procedures set forth in paragraph I of this section. The
12 governor may, by executive order, renew a declaration of a state of emergency as many times as the
13 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

14

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

16

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

22

2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after
23 paragraph III the following new paragraphs:

24

IV) Members of the legislature shall be exempt from any emergency orders that would
25 infringe on their ability to travel and conduct their business as representatives of the people.

26

V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or
27 loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which exceed \$100,000,
28 shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-
29 a. Notwithstanding any other provision of law, under circumstances requiring expedited action for
30 the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the
31 sole authority to accept and expend funds hereunder.

Amendment to HB 417

- Page 2 -

1 VI. Under this section, the governor shall submit an item to the chairperson of the fiscal
2 committee of the general court for consideration by the fiscal committee. If the fiscal committee of
3 the general court does not render a rejection or acceptance within 5 business days, the governor shall
4 be able to accept and expend the funds without further action by the fiscal committee.

5 3 New Section; Homeland Security; Governor Duty. Amend RSA 21-P:43 by inserting after it,
6 the following new paragraph:

7 21-P:43-a Governor Duty. The governor shall provide a list of all expenditures pursuant to this
8 subdivision under a state of emergency to the executive council for informational purposes only, in
9 order to ensure transparency.

10 4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
11 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
12 to the secretary of state and the director of legislative services by the office of the governor.

13 5 Effective Date. This act shall take effect as provided in section 4 of this act.

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2021-1565s

AMENDED ANALYSIS

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UNAPPROVED

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1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to the powers of the governor during a declared state of emergency.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Emergency Powers; Termination at 30 Days. Amend RSA RSA 4:45, I(d) and II to read as
8 follows:

9

(d) Duration of the state of emergency, if less than ~~[21]~~ **30** days.

10

II.(a) A state of emergency shall terminate automatically ~~[21]~~ **30** days after its declaration
11 unless it is renewed under the same procedures set forth in paragraph I of this section. The
12 governor may, by executive order, renew a declaration of a state of emergency as many times as the
13 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

14

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

16

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

22

2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after
23 paragraph III the following new paragraphs:

24

IV. Members of the legislature shall be exempt from any emergency orders that would
25 infringe on their ability to travel and conduct their business as representatives of the people.

26

V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or
27 loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which exceed \$100,000,
28 shall be required to be approved by the fiscal committee of the general court according to RSA 14:30-

29

a. Notwithstanding any other provision of law, under circumstances requiring expedited action for
30 the immediate health, safety and welfare of the citizens of New Hampshire, the governor has the
31 sole authority to accept and expend funds hereunder.

1 VI. Under this section, the governor shall submit an item to the chairperson of the fiscal
2 committee of the general court for consideration by the fiscal committee. If the fiscal committee of
3 the general court does not render a rejection or acceptance within 5 business days, the governor shall
4 be able to accept and expend the funds without further action by the fiscal committee.

5 3 New Section; Homeland Security; Governor Duty. Amend RSA 21-P by inserting after section
6 43 the following new section:

7 21-P:43-a Governor Duty. The governor shall provide a list of all expenditures pursuant to this
8 subdivision under a state of emergency to the executive council for informational purposes only, in
9 order to ensure transparency.

10 4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
11 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
12 to the secretary of state and the director of legislative services by the office of the governor.

13 5 Effective Date. This act shall take effect as provided in section 4 of this act.

2021-1591s

AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

Sen. Carson, Dist 14
Sen. Bradley, Dist 3
May 24, 2021
2021-1661s
10/04

Floor Amendment to HB 417

1 Amend the bill by replacing section 1 with the following:

2

3 1 Emergency Powers; Notice; Termination at 30 Days. Amend RSA RSA 4:45, I and II to read as
4 follows:

5 I. The governor shall have the power to declare a state of emergency, as defined in RSA 21-
6 P:35, VIII, by executive order if the governor finds that a natural, technological, or man-made
7 disaster of major proportions is imminent or has occurred within this state, and that the safety and
8 welfare of the inhabitants of this state require an invocation of the provisions of this section. *When*
9 *practicable, the governor shall notify the speaker of the house of representatives and*
10 *senate president of the impending issuance of emergency orders under this section and*
11 *provide a description of such orders.* The general court shall have the same power to declare a
12 state of emergency by concurrent resolution of the house and senate. An executive order or
13 concurrent resolution declaring a state of emergency shall specify the:

- 14 (a) Nature of the emergency;
15 (b) Political subdivisions or geographic areas subject to the declaration;
16 (c) Conditions that have brought about the emergency; and
17 (d) Duration of the state of emergency, if less than ~~[21]~~ 30 days.

18 II.(a) A state of emergency shall terminate automatically ~~[21]~~ 30 days after its declaration
19 unless it is renewed under the same procedures set forth in paragraph I of this section. The
20 governor may, by executive order, renew a declaration of a state of emergency as many times as the
21 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

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

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

Floor Amendment to HB 417

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to a state of emergency called by the governor.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Emergency Powers; Termination at 30 Days. Amend RSA 4:45, I(d) and II to read as follows:

8 (d) Duration of the state of emergency, if less than ~~[21]~~ 30 days.

9 II.(a) A state of emergency shall terminate automatically ~~[21]~~ 30 days after its declaration
10 unless it is renewed under the same procedures set forth in paragraph I of this section. The
11 governor may, by executive order, renew a declaration of a state of emergency as many times as the
12 governor finds is necessary to protect the safety and welfare of the inhabitants of this state.

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

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

21 2 New Paragraphs; State of Emergency; Procedure. Amend RSA 4:45 by inserting after
22 paragraph III the following new paragraphs:

23 IV. Members of the legislature shall be exempt from any emergency orders that would
24 infringe on their ability to travel and conduct their business as representatives of the people.

25 V. The acceptance and expenditure of any federal, private, or other non-state gift, grant, or
26 loan for purposes of emergency powers of the state pursuant to RSA 21-P:43 which, in total, equal or
27 exceed \$100,000, shall be required to be approved by the fiscal committee of the general court
28 according to RSA 14:30-a. Notwithstanding any other provision of law, under circumstances
29 requiring expedited action for the immediate health, safety and welfare of the citizens of New
30 Hampshire, the governor has the sole authority to accept and expend funds hereunder.

31 VI. Under this section, the governor shall submit an item to the chairperson of the fiscal
32 committee of the general court for consideration by the fiscal committee. If the fiscal committee of

Floor Amendment to HB 417

- Page 2 -

1 the general court does not render a rejection or acceptance within 5 business days, the governor shall
2 be able to accept and expend the funds without further action by the fiscal committee.

3 3 Budget and Appropriations; Civil Emergency. Amend RSA 9:13-d to read as follows:

4 9:13-d ~~[Civil]~~ **State of** Emergency. Should it be determined by the governor that a ~~[civil]~~ **state**
5 **of** emergency exists, the governor may, with the advice and consent of the fiscal committee,
6 authorize ~~[such]~~ expenditures, **which, in total, equal or exceed \$100,000**, by any department or
7 agency, as may be necessary to effectively deal with said ~~[civil]~~ emergency and may draw ~~[his]~~
8 warrants in payment for the same from any money in the treasury not otherwise appropriated. In
9 determining whether ~~[a-civil]~~ **an** emergency exists, the governor shall consider whether there is such
10 imminent peril to the public health, safety and welfare of the inhabitants of this state so as to
11 require immediate action to remedy the situation. This section shall not be construed to enlarge any
12 of the powers which the governor may possess under the constitution or other statutes.

13 4 Applicability of Act. The provisions of this act shall take effect upon the latter of either the
14 passage of this act or 30 days after the termination of the COVID-19 state of emergency, as certified
15 to the secretary of state and the director of legislative services by the office of the governor.

16 5 Effective Date. This act shall take effect as provided in section 4 of this act.

2021-1772s

AMENDED ANALYSIS

This bill terminates a state of emergency called by the governor after 30 days, modifies the emergency powers, and requires approvals by the fiscal committee of the general court in certain instances.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: April 15, 2021

HEARINGS

Wednesday	05/05/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m. HB 606	exempting services provided without renumeration from license requirements for barbering, cosmetology, and esthetics.	
9:15 a.m. HB 575	relative to licensure of applicants for cosmetology, esthetics, and manicuring through apprenticeship programs.	
9:30 a.m. HB 417	relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/91080335458>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +19292056099,,91080335458# or +13017158592,,91080335458#
4. Webinar ID: [910 8033 5458](https://www.zoom.us/j/91080335458)
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 606

Rep. McGuire

Sen. Ward

HB 575

Rep. Cordelli

HB 417

Rep. Roy

Rep. Vail

Rep. Wuelper

Rep. Rung

Rep. Spillane

Rep. Belanger

Rep. Cushman

Sen. Reagan

Rep. Baxter

Rep. Ammon

Rep. Layon

Rep. T. Lekas

Rep. Avellani

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

HB 417, relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

Hearing Date: May 5, 2021

Time Opened: 9:30 a.m.

Time Closed: 10:08 a.m.

Members of the Committee Present: Senators Ricciardi, Cavanaugh, Prentiss and Reagan

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill terminates a state of emergency called by the governor after 30 days and modifies the procedure for renewal. Any orders issued during the period of a renewal of the state of emergency shall be subject to prior approval by the legislature. This bill also requires executive council approval in the acceptance of services, equipment, supplies, materials, or funds from the federal government.

Sponsors:

Rep. Roy
Rep. Avellani

Rep. Belanger
Rep. Vail

Rep. Layon
Rep. Cushman

Who supports the bill: Andrew Manuse, Representative Melissa Blasek (Hillsborough – District 21), Representative Leah Cushman (Hillsborough – District 2), Representative Carol McGuire (Merrimack – District 29), Kimberly Owens, Dan Groves, Linda Darrow, Gerry Lesmerises, Robert Dutton, Mabel Dutton, Leah Weston, Janis Anthes, Gregory Anthes, Representative David Meuse (Rockingham – District 29), Cindy Kudlik, Jean Kimball, Michael Kimball, Representative Erica Layon (Rockingham – District 6), Representative Walter Stapleton (Sullivan – District 5), Dan McGuire, Eric Pauer, Ronald Garnett, Nicholas Thomas, and Elliot Axelman.

Who opposes the bill: Representative Peter Schmidt (Strafford – District 19), Janet Lucas, Beth Fenner-Lukaitis, David Bates, Glenda Johnson, Erin Pospychala, Sara Johnson, and Elissa Rasmussen.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Terry Roy

Rockingham – District 32

- Representative Roy said that during the COVID-19 pandemic, constituents have expressed concern over the executive branch wielding so much power. He said that the original emergency order bill never contemplated an emergency like the COVID-19 pandemic, or an emergency that has gone on as long.
- Rep. Roy said that for the last year constituents have been unrepresented, with one branch of government, the executive, making and enforcing laws.
- Rep. Roy said that HB 417 extends what is in statute to 30 days, which would cover any emergency situation that was contemplated, including storms and natural disasters.
- Rep. Roy said that any emergency beyond 30 days would need to go before the General Court so that Senators and Representatives can answer to their constituents as to why the emergency exists. He said that during the COVID-19 pandemic he learned of many executive and emergency orders through the media or constituents.
- Rep. Roy said that the state of emergency would automatically extend in the event that the General Court could not convene.
- Senator Prentiss asked if states of emergency would exist for 30 days and then be renewed by the General Court.
 - Rep. Roy said that that was correct.
- Senator Prentiss asked what would happen if the General Court could not get together in time.
 - Rep. Roy said that the state of emergency would automatically renew for 14 days.
- Senator Prentiss asked if the state of emergency would extend in 14-day increments.
 - Rep. Roy said that that was correct and added that the executive has to help the General Court get together, saying that the executive would need to send a plow to clear the roads if it was a snow-related emergency.
- Senator Prentiss said that she has a background in emergency services and is looking for clarity with respect to HB 417. She said that she has a concern that the General Court could not get in in a timely manner and get work done. She said that she has seen situations where the Senate has raced to pass a bill only for the House to not take it up swiftly.
 - Rep. Roy said that he understands the executive has to move swiftly and that is why HB 417 gives the executive 30 days instead of 21 before renewal. He said that if the General Court cannot meet, the state of emergency extends for 14 days, ensuring that the executive has flexibility until the General Court can get together. He said that if the General Court gets together and does not agree, then the General Court does not agree, but at least they will have had a seat at the table.
- Senator Prentiss asked if during a state of emergency, after 30 days, the General Court gets together and by a majority vote of both houses agrees, then the state of emergency would continue.
 - Rep. Roy said that that was correct.
- Senator Prentiss asked what would happen if one body does not agree with the other about a state of emergency or an emergency order.
 - Rep. Roy presented a hypothetical situation where a state of emergency has existed for four months and the Governor proposes a new emergency order. The General Court would get together and if the House passes the emergency order but the Senate does not, the emergency order fails. He said that the Governor could try again with the emergency order to educate the General Court on why it is needed or tweak the emergency order to meet the desire of the General Court. Rep. Roy said he viewed it the same as when the House and Senate cannot agree to pass a bill as written.
- Senator Prentiss said that there are times when the House and Senate do not agree on a bill

and there is a process to resolve that, through a Committee of Conference. She said that it would be different dealing with emergency powers. She asked if the Governor could reissue an emergency order or try to persuade the General Court to adopt it.

- Rep. Roy said that that was correct. He said that there is nothing in HB 417 to prohibit the Governor from reissuing, and attempting to lobby the General Court to support, an emergency order. He said that it should not be hard to get the General Court to support an emergency order if it is a good order.

Representative Carol McGuire

Merrimack – District 29

- Representative McGuire said that House Executive Departments and Administration amended HB 417 to ensure that it did not interfere with actual emergencies. She said that nearly all emergencies last 30 days or less. She said the House Committee also made sure that there would be no changes to the current emergency situation.
- Rep. McGuire said HB 417 addresses the issues that most people had. She said that there were concerns that the executive and emergency orders had not been reviewed by anyone and that the Governor could accept and spend money without advisement.
- Rep. McGuire said that HB 417 adds the Executive Council into the process of accepting and spending emergency funds. She said that putting all of the responsibility on the Governor was unnecessary and excessive.
- Rep. McGuire said that HB 417 passed the House with an overwhelming majority.
- Senator Cavanaugh asked if Rep. McGuire and the House Committee had found how often states of emergency were extended beyond 30 days.
 - Rep. McGuire said that they could not find any but they did not go back 100 years. She said that they did look in House journals from 1917, during the Spanish Flu pandemic, and did not find “influenza” appearing.

Representative Leah Cushman

Hillsborough – District 2

- Representative Cushman serves on House Health, Human Services, and Elderly Affairs.
- Rep. Cushman said that the separation of powers was based on the generally held principles that each branch of government performs unique functions and no one person can serve in more than one branch.
- Rep. Cushman said that the COVID-19 pandemic has shown the need to keep power decentralized. She said that HB 417 allows a reasonable amount of time for the Governor to act unilaterally but shifts the balance back.
- Rep. Cushman said that it is human nature to not want to give up control. She said that during the COVID-19 pandemic a parajudicial system was established within the executive branch, with the executive branch acting as the lawmaker, the enforcer, and the judge.
- Rep. Cushman said that the General Court can be called to act swiftly if it is needed. She said that HB 417 ensures that one person cannot have absolute rule forever and aligns statute with the Constitution and the intent of the founders.
- Rep. Cushman said that a future Governor may not have restraint in their emergency powers.

Representative Melissa Blasek

Hillsborough – District 21

- Representative Blasek said that she approves of HB 417 but believes there are a few elements to consider.
 - First, HB 417 does not compel the General Court to meet. She said that she doesn't agree with automatic renewal for 14 days. She encouraged the Committee to add language currently in HB 2 as passed by the House creating an exception if the General Court truly cannot meet;
 - Second, HB 417 allows the approval or rejection of individual emergency orders, avoiding issues where the Governor makes a single order that is objectionable but the entire state of emergency is approved;
 - Third, the acceptance of federal funds should be approved by the General Court;
 - Fourth, the Wisconsin Legislature voted to terminate their Governor's state of emergency but then the Governor issued a new state of emergency. She said that while current statute does not allow the Governor to issue a new state of emergency unless it is for a new emergency, the General Court cannot allow a future Governor to abuse that;
 - Fifth, she would like the Committee to create an amendment for a nominal state of emergency, so that the state could still receive federal funds that are dependent on being in a state of emergency; and
 - Sixth, she would like the Committee to add language requiring the Governor to make benchmarks during the initial state of emergency as to what will constitute the end of the emergency. She said that a similar law passed in Florida.
- Rep. Blasek encouraged the Committee to strengthen the checks and balances during a state of emergency.
- Senator Reagan asked what committee Rep. Blasek serves on.
 - Rep. Blasek serves on House Public Works and Highways.
- Senator Reagan asked if Rep. Blasek gave the same testimony when the House considered HB 417.
 - Rep. Blasek said that House Executive Departments and Administration heard many state of emergency bills and combined them into HB 417. She said that things had changed since the House hearing on HB 417.

Representative Mark Alliegro

Grafton – District 7

- Speaking as a member of House Executive Departments and Administration, Representative Alliegro said that HB 417 started as three or four bills that the committee pared down and crafted into a single, solid bill. He said that it was important that HB 417 be crafted to take out the politics and personalities.
- Rep. Alliegro said that once an emergency has proceeded, the issue becomes emergency management and is not a fast-moving issue.
- Speaking a citizen who went through Hurricane Katrina and its recovery efforts, Rep. Alliegro said that when things are fast-moving, if it is an emergency, the General Court is essential and must get together.

Andrew Menuse

- Mr. Menuse said that he prefers the language in HB 2's Sections 76 and 77 to HB 417.
- Mr. Menuse said that he agrees with Section 3, Part 5 and Section 4 of HB 417.
- Mr. Menuse said that the oversight of expenditures is very important and HB 417 is a good structure to work from.
- Mr. Menuse said that HB 2's language is more precise and is less likely for a future Governor to misconstrue towards an autocratic government.
- Mr. Menuse said that he supports ending the current state of emergency.
- Mr. Menuse said that there is not a need for a nominal state of emergency, as federal aid is currently still available to two states not currently in states of emergency.
- Mr. Menuse said that, in reading RSA 445, he would never have imagined an abuse of power like what has been seen. He said that the Governor has made and suspended laws and created an adjudication process outside of the judicial branch during the COVID-19 pandemic.
- Mr. Menuse said that the Governor is one of 425 individuals elected to represent the whole people. He said that checks need to come together on emergency issues and that the only emergency situation where the whole population would be at risk of death in a day or two is a nuclear issue.
- Mr. Menuse said that he is more terrified of one individual wielding so much authority than he is of any virus.
- Senator Prentiss asked for an example of how the General Court would manage an emergency, such as the hypothetical Rep. Roy presented.
 - Mr. Menuse said that there have been several things during the COVID-19 pandemic than that General Court could have managed. He said that violating a lawful emergency order is a misdemeanor and the Governor has created a parallel adjudication system with higher penalties and no courts. He said that people have a right to defend themselves in court.
- Senator Prentiss asked for an example of how the General Court would manage an emergency, such as the hypothetical Rep. Roy presented, when people like the Governor, local emergency managers, and agency staff are involved.
 - Mr. Menuse said that there are laws in place that allow emergencies to be managed by the executive. He said that the General Court has a duty to get together and change those laws so that emergencies can be managed directly.
- Senator Reagan asked if Mr. Menuse gave the same testimony when the House considered HB 417.
 - Mr. Menuse said that his testimony in the House was different but similar.

Summary of testimony presented in opposition:

Representative Peter Schmidt

Strafford – District 19

- Representative Schmidt said that he does not disagree with the attempt of HB 417 but said that it does not address the current situation.
- Rep. Schmidt said that in a typical emergency the provisions of HB 417 would be unnecessary and obstructive. He said that in the situation of a pandemic or a nuclear

emergency at the Seabrook Station Nuclear Power Plant, the idea of the General Court going in and micromanaging the Governor would cause chaos and be unworkable.

- Rep. Schmidt said that the fact that HB 417 does not take effect until after the current state of emergency ends means that there is time to examine the situation more fully with a blue-ribbon commission that can deliberate and call witnesses and get at the issue of whether or not the Governor's powers are excessive.
- Rep. Schmidt said that not all constituents complained during the COVID-19 pandemic and he received very few complaints from his constituents. He said that there was a lot of disinformation on a federal level that caused concern and many of the claims made by people were not merited.
- Speaking for a second time, Rep. Schmidt said that the House Committee considered a nominal state of emergency and decided that it would not qualify the state for federal aid.
- Senator Prentiss asked if it would be appropriate to have someone from the Governor's Office weigh in and provide feedback on HB 417. She said she would follow up with Senators Carson and Reagan.

Neutral Information Presented: None.

cml

Date Hearing Report completed: May 6, 2021

Speakers

Senate Remote Testify

Executive Departments and Administration Committee Testify List for Bill HB417 01
 Support: 24 Oppose: 8 Neutral: 0 Total to Testify: 5

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifin</u>
Manuse, Andrew	amanuse@gmail.com	603-703-8857	A Member of the Public	Myself	Support	Yes
Blasek, Melissa	melissa.blasek@leg.state.nh.us	Not Given	An Elected Official	Myself	Support	Yes
Cushman, Leah	leah.cushman@leg.state.nh.us	603.851.7890	An Elected Official	Myself	Support	Yes
Schmidt, Peter	peterbarrettschmidt@gmail.com	603.969.1043	An Elected Official	Myself	Oppose	Yes
McGuire, Carol	Not Given	Not Given	An Elected Official	Myself	Support	Yes
Darrow, Linda	lindard.1956@gmail.com	603.269.0807	A Member of the Public	Myself	Support	No
Lesmerises, Gerry	gerry.lesmerises@gmail.com	603.724.4863	A Member of the Public	Myself	Support	No
Mennella, Alexandra	am88@fastmail.com	646.610.9858	A Member of the Public	Myself	Support	No
Lucas, Janet	janluca1953@gmail.com	16037267614	A Member of the Public	Myself	Oppose	No
Dutton, Robert	bobdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No
Dutton, Mabel	bibbsdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No
Weston, Leah	crunchycon57@gmail.com	16033069556	A Member of the Public	Myself	Support	No
Anthes, Janis	j.antes@hotmail.com	603-859-1118	A Member of the Public	Myself	Support	No
Anthes, Gregory	gaantes@gmail.com	603-859-1118	A Member of the Public	Myself	Support	No
Meuse, David	David.Meuse@leg.state.nh.us	Not Given	An Elected Official	Rockingham 29	Support	No
Kudlik, Cindy	cindykudlik@protonmail.com	Not Given	An Elected Official	Myself	Support	No
Kimball, Jean	Not Given	Not Given	A Member of the Public	Myself	Support	No
Kimball, Michael	Not Given	Not Given	A Member of the Public	Myself	Support	No
Layon, Erica	erica.layon@leg.state.nh.us	603.479.9595	An Elected Official	Myself	Support	No
Stapleton, Walter	waltstapleton@comcast.net	603.995.1034	An Elected Official	Constituents	Support	No
Fenner-Lukaitis, Beth	glukaitis@mcttelecom.com	16034566268	A Member of the Public	Myself	Oppose	No
Bates, David	dcbates70@gmail.com	603.456.2578	A Member of the Public	Myself	Oppose	No

5/5/2021

Senate Remote Testify

McGuire, Dan	danmcguire@gmail.com	603-782-4918	A Member of the Public	Myself	Support	No
johnson, glenda	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Pospychala, Erin	erinmvp@gmail.com	603.526.7616	A Member of the Public	Myself	Oppose	No
Johnson, Sara	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Pauer, Eric	secretary@BrooklineGOP.org	603.732.8489	A Member of the Public	Myself	Support	No
McGuire, Daniel	danmcguire@gmail.com	603-782-4918	A Member of the Public	Myself	Support	No
Rasmussen, Elissa	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
garnett, ronald	soup31314@yahoo.com	603.236.1637	A Member of the Public	Myself	Support	No
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	Not Given	A Member of the Public	Myself	Support	No
Axelman, Elliot	alu.axelman@gmail.com	732.674.2355	A Member of the Public	Myself	Support	No

Testimony

Cameron Lapine

From: Andrew J. Manuse <amanuse@gmail.com>
Sent: Wednesday, May 5, 2021 9:30 AM
To: Cameron Lapine
Subject: Testimony for HB 417

Testimony for HB 417, AN ACT relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

Honorable Members of N.H. Senate Committee on Executive Departments and Administration. Today I present testimony in favor of HB 417, a bipartisan bill that passed the House with a veto-proof majority to amend the State of Emergency statutes and prohibit the governor from spending federal funds on his own. Importantly, I support the language in the budget (HB 2) from sections 76 and 77 instead of the language in sections 1, 2 and most of section 3 in HB 417. I would ask that you amend the language in this bill to coincide with the language in HB 2 instead of the language in sections 1, 2 and most of 3 in HB 417. However, the language in section 3, sub paragraph V, and section 4 should be passed into law. There is a good structure to work with here. In brief, I believe the language in HB 2 is more precise and therefore less likely to be misinterpreted by a governor who may want to repeat the autocratic form of government we've had since March of 2020, and should therefore replace the language in this bill. Ideally, section 3, sub paragraph V and section 4 of HB 417 could be added to the language in the budget to make sure that it becomes law.

To be clear, I also support the end of the current "State of Emergency," which should have been over more than a year ago. An "Emergency" is a short period of time, such as two weeks, not 14 plus months with the prospect of being continued past the end of this year. The idea that federal dollars are on the line if we end the State of Emergency is not accurate according to a clear reading of the federal law governing FEMA funds. I once believed this dystopian nightmare would be over in mid April of 2020, and I never would have imagined an abuse of power of this magnitude could be committed in our free Republic, or even under current law in RSA 4:45. This is why our current law needs to be clarified. As a distinction, it's important to point out that the expected end of several unlawful emergency orders this Friday by this governor does not fix the problem. The main problem is that any governor can assume the authority "to suspend law and the constitution," an authority that was never imagined by our founders and one that needs to be prohibited by this bill as well as the language in the budget.

Part 1, Article 29 of the state Constitution makes it clear that only the Legislature may suspend or enact laws in New Hampshire, and Part 2, Article 5 makes it clear that these same laws may not be "repugnant to the Constitution." Arguably, RSA 4:45 as written should align with these principles, and in section III(e), it should be clear that the governor's 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" does not give him or her authority to suspend law, make new law, or suspend the Constitution, but during this protracted nightmare, the governor has done all three things. In fact, when it comes to the institution of "emergency orders" written under the supposed authority of this section, the chief executive and his departments have written new policy, enforced the same policy, and created an adjudication process for the same policy—effectively giving the executive branch legislative, executive and judicial functions. This directly violates Part 1, Article 37 in the state Constitution, which states that the "Legislative, Executive, and Judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit." In other words, a State of Emergency does not erase or minimize the Legislative or Judicial branches, and yet, in practice, these other two branches have been largely missing in action.

Granted, the Legislature could at any time vote to end the State of Emergency under RSA 4:45, and I argue that it should have back in April 2020 and at any point since it was clear that there would be no catastrophic curve to flatten and we were simply dealing with a really bad virus that any free people could handle with commonly known hygiene techniques and a little "guidance," and I mean "guidance," from state Health officials.

However, the word “guidance” has morphed into “law” and the Legislature has been sidelined in doing its Constitutional duty, and so far has not taken back its power. I hope that changes now.

Importantly, one reason the Legislature has struggled to end the State of Emergency is precisely because the Executive Branch has set up a new government run by itself under the color of law, and ending the State of Emergency would unravel that new government. The language in HB 417 and HB 2 that I’ve mentioned would prevent this from ever happening again. The combination that I’ve mentioned—the language in the budget (HB 2) from sections 76 and 77 instead of the language in sections 1, 2 and most of section 3 in HB 417, plus the language in section 3, sub paragraph V, and section 4 of HB 417—firmly plants the authority for extending a State of Emergency into the hands of the Legislature, where it belongs, and it preserves autonomy in the hands of the people to govern themselves, even in the midst of chaos, because in America we believe the people know best how to manage their own lives and the lives of those around them.

The governor ought to have the right to declare a State of Emergency; after all, he or she is managing the day-to-day operations of the state and will have access to the most up-to-date information. However, the governor ought to be checked before extending a State of Emergency to prevent abuse of power. At no point may that same governor employ his or her State of Emergency to enact new laws or suspend them. We need the law to clarify that the governor may use current laws to suspend rules or regulations written by his or her departments to adjust to an emergency situation and potentially reallocate resources between departments as the law allows, but by no means may the executive make up new rules or regulations or suspend laws without going through the Legislative process, and he or she may NEVER suspend Constitutional rights. Not even the Legislature can do that.

We elect a Legislature of 400 men and women precisely because we disagree on how best to manage the state, and it is in that disagreement and compromise that we come up with sound policy that is suitable for the most people. Ideally, that policy creates a “rule of law” that governs everyone equally, so that even the minority is protected by it. As this process has been thwarted over the past year, we have seen one man and his team of executives craft policy that may or may not take everything into consideration, and whether the policy has been sound or not, it has not been properly vetted under the Constitutional system that we set up to make sure that it is. We have to stop this from continuing and we have to prevent this from happening again. Thus, the governor should not have the authority to extend a state of emergency—not even once. After 21 days, the Legislature, if not the whole state, should have the ability to get up to speed on what is actually happening and make an informed judgement as to whether the emergency persists.

The underlying idea behind the changes proposed by the House are that the People should always be in charge of their government, through their Legislature, and they also ought to keep autonomy over their own lives, property and businesses. I urge you to pass the language I’ve specified, though I acknowledge that HB 417 as is would still be a step in the right direction. I firmly believe that that language in HB 2 is essential for making sure the autocratic form of government we’ve been living under doesn’t happen again, and I urge you to amend HB 417 to include it here in this bill to align the solution. Ultimately, I believe passing HB 2 with this language is the best approach for ensuring we can restore and keep our Republic. We need to ensure emergency powers reform becomes law.

Thank you,
Hon. Andrew J. Manuse
603-703-8857
Derry, NH

Cameron Lapine

From: Grant Bosse
Sent: Tuesday, May 18, 2021 2:24 PM
To: Cameron Lapine
Cc: jebebrad@metrocast.net
Subject: Proposed Rule Change related to HB 417
Attachments: DRAFT Senate Rule- Emergency Declarations v2.docx

Cam,

Could you please distribute this to members of ED&A along with the Bradley-Carson amendment?

In reviewing the Governor's emergency authority, we found that it would be difficult for the Legislature to exercise its authority to terminate a state of emergency or emergency order through a continuing resolution. Various House and Senate rules and deadlines would require a 2/3 threshold.

The intent of the original legislation was for the Legislature to be able to curtail a Governor's emergency powers through a simple majority of each chamber. That is best handled through the House and Senate rules, not through statute.

The attached proposal would enable the Senate (and House if it adopted a similar rule) to take up and pass a continuing resolution concerning a state of emergency at any time. The Legislature could express its will through a majority vote of each chamber, and could do so immediately or after study.

Should HB 417 be signed into law, Sen. Bradley would suggest adopting this rule at the beginning of the 2022 session. This two-track approach would strengthen the Legislature's ability to check and balance the emergency authority of the executive. I will be available at tomorrow's Executive Session to answer any questions about the mechanics of the amendment and the proposed rule.

Thanks,
Grant

PROPOSED AMENDMENT TO SENATE RULES

Amend the Senate Rules by replacing Senate Rule 3-26 and insert Senate Rule 3-27, which is a new Senate Rule:

1. Amend Senate Rule 3-26 by replacing with the following:

3-26 Types of Resolutions Allowed - The only resolutions that may be introduced into the Senate are: resolutions seeking an advisory opinion of the supreme court under the New Hampshire Constitution; joint resolutions sponsored by the Joint Legislative Committee on Administrative Rules; resolutions ratifying amendments to the U.S. Constitution; resolutions proposing amendment of the New Hampshire Constitution; procedural and rules resolutions prepared by the Clerk; concurrent resolutions for the purpose of joint rules; joint resolutions for the purpose of continuing resolutions; **concurrent resolutions to declare a state of emergency, terminate a state of emergency, or terminate an emergency order declared by the Governor**; and concurrent resolutions to declare the office of Governor vacant by Pt. II, Art. 49-a. All other resolutions shall require a vote of two-thirds of members present and voting to be introduced for consideration by the body pursuant to Senate Rule 6-6. The vote on the question of whether to introduce the resolution for consideration by the body is non-debatable.

2. Amend Senate Rules by inserting after Senate Rule 3-26 with the following:

3-27 State of Emergency Concurrent Resolutions – Notwithstanding any other rule, a motion to introduce a Concurrent Resolution pursuant to RSA 4:45 II (c) shall require a majority vote.

- a) Such resolutions shall not contain subject matter unrelated to the declaration or termination of states of emergency or emergency orders.
- b) Such resolutions shall be adopted by majority vote, and shall not be subject to any deadlines otherwise contained in these rules.
- c) The Senate may meet in remote session at the call of the Senate President for consideration of Concurrent Resolutions pursuant to RSA 4:45.

Cameron Lapine

From: Sharon Carson
Sent: Wednesday, May 5, 2021 7:40 AM
To: Cameron Lapine
Subject: FW: My written testimony Rep. Peter B. Schmidt

From: Peter Schmidt <peterbarrettschmidt@gmail.com>
Sent: Tuesday, May 4, 2021 10:23 PM
To: Sharon Carson <Sharon.Carson@leg.state.nh.us>
Subject: My written testimony Rep. Peter B. Schmidt

Madam Chair, and Senate ED&A

On Wed, Mar 24, 2021 at 10:34 PM Peter Schmidt <peterbarrettschmidt@gmail.com> wrote:

HB 417 seeks to address widespread objections to a number of aspects of the Governor's emergency order regime, which is currently in effect in New Hampshire. The ED&A minority recognizes and shares many of the majority's concerns, and also supports review and revision of the existing emergency statute. Nevertheless, the ED&A minority opposes passage of HB 417 at this time for the following reasons. First, the bill is entirely prospective; it cures none of the actual or supposed abuses of the Governor's authority at this time. Hence, it has no urgency and should not be substituted for a truly deliberative investigation of the deficiencies of the existing statute, nor of any instances of gubernatorial overreach. Second, instead of this bill, a blue ribbon committee should be empaneled, not to assess blame, but to lay the basis for a wisely revised statute to more perfectly protect the state and its citizens in the future. Third, the bill mistakenly conflates every living NH citizen's experience and expectations of a state of emergency with the fundamentally different duration and reality of this pandemic, which is, in addition, by no means fully understood or resolved. Further, the bill creates a legislative oversight and control structure which the minority believes would likely be in its own way in a typical emergency, in other words, unnecessary, and very likely to hamstring effective emergency management in the case of a future pandemic, or nuclear emergency, in other words, unworkable and counterproductive. For these reasons, HB 417 should be ITL.

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2021 Session**

Bill # HB 417

Hearing date: 5-5-21

Executive Session date: 5-19-21

Motion of: 1565s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Carson

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Wednesday, May 19, 2021

THE COMMITTEE ON Executive Departments and Administration

to which was referred **HB 417**

AN ACT

relative to the powers of the governor during a
renewal of a declared state of emergency, and
relative to the acceptance of federal assistance.

Having considered the same, the committee recommends that the Bill

ought to pass with amendment

by a vote of: 5-0

Amendment # 1591s

Senator Sharon Carson
For the Committee

Cameron Lapine 271-2104

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 417, relative to the powers of the governor during a renewal of a declared state of emergency, and relative to the acceptance of federal assistance.

Ought to Pass with Amendment, Vote 5-0.

Senator Sharon Carson for the committee.

General Court of New Hampshire - Bill Status System

Docket of HB417

Docket Abbreviations

Bill Title: (Second New Title) relative to the powers of the governor during a declared state of emergency.**Official Docket of HB417.:**

Date	Body	Description
1/10/2021	H	Introduced (in recess of) 01/06/2021 and referred to Executive Departments and Administration HJ 2 P. 47
3/1/2021	H	Public Hearing: 03/01/2021 10:00 am Please click the link below to join the webinar: https://zoom.us/j/97946186413 Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/17/2021	H	Full Committee Work Session: 03/01/2021 01:30 pm Members of the public may attend using the following link: To join the webinar: https://zoom.us/j/97946186413 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened. *The full committee work session will start at the earlier of 1:30pm or 30 minutes following the close of public hearings.
3/31/2021	H	Majority Committee Report: Ought to Pass with Amendment #2021-0973h (Vote 16-2; RC) HC 18 P. 45
3/31/2021	H	Minority Committee Report: Inexpedient to Legislate
4/8/2021	H	Amendment #2021-0973h : AA VV 04/08/2021 HJ 6 P. 70
4/8/2021	H	Ought to Pass with Amendment 2021-0973h: MA DV 328-41 04/08/2021 HJ 6 P. 70
4/13/2021	S	Introduced 04/08/2021 and Referred to Executive Departments and Administration; SJ 12
4/15/2021	S	Remote Hearing : 05/05/2021, 09:30 am; Links to join the hearing can be found in the Senate Calendar; SC 20
5/19/2021	S	Committee Report: Ought to Pass with Amendment #2021-1591s , 05/27/2021; SC 25
5/27/2021	S	Committee Amendment #2021-1591s , AA, VV; 05/27/2021; SJ 17
5/27/2021	S	Sen. Carson Floor Amendment #2021-1661s , AA, VV; 05/27/2021; SJ 17
5/27/2021	S	Sen. Soucy Floor Amendment #2021-1772s , AF, VV; 05/27/2021; SJ 17
5/27/2021	S	Ought to Pass with Amendments 2021-1591s, and 2021-1661s, RC 24Y-0N, MA; OT3rdg; 05/27/2021; SJ 17
6/7/2021	H	House Non-Concurs with Senate Amendment 2021-1591s and 2021-1661s and Requests CofC (Reps. McGuire, Roy, T. Lekas, Goley): MA VV 06/04/2021
6/10/2021	S	Sen. Carson Accedes to House Request for Committee of Conference, MA, VV; 06/10/2021; SJ 19
6/10/2021	S	President Appoints: Senators Giuda, Carson, Prentiss; 06/10/2021; SJ 19
6/10/2021	H	==RECESSED== Conference Committee Meeting: 06/14/2021 11:00 am LOB 306-308
6/15/2021	H	==RECESSED== Conference Committee Meeting: 06/15/2021 01:00 pm LOB 301-303
6/16/2021	H	==CONTINUED== Conference Committee Meeting: 06/16/2021 12:00 pm LOB 306-308
6/23/2021	S	Conference Committee Report; Not Signed Off; SJ 20

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 417

Senate Committee: ED+A

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

2021 - amendment # 1544s 2021 - amendment # 1591s
2021 - amendment # 1565s _____ - amendment # _____

- Executive Session Sheet
- Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

α - amendment # 1661 _____ - amendment # _____
α - amendment # 1772 _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- Enrolled Bill Amendment(s)
- Governor's Veto Message

All available versions of the bill: (Clerk's Office)

as amended by the senate _____ as amended by the house
 final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Japine
 Committee Aide

7/20/21
 Date

Senate Clerk's Office AK