

HB 275 - AS INTRODUCED

2021 SESSION

21-0749

05/10

HOUSE BILL **275**

AN ACT relative to the governor's power to initiate a state of emergency and various emergency powers.

SPONSORS: Rep. Binford, Graf. 15; Rep. Verville, Rock. 2; Rep. Hough, Belk. 3; Rep. Yokela, Rock. 33; Rep. Aldrich, Belk. 2; Rep. Abramson, Rock. 37; Rep. Seaworth, Merr. 20; Rep. Harley, Rock. 20; Rep. Greeson, Graf. 16; Rep. Testerman, Merr. 2

COMMITTEE: Executive Departments and Administration

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ANALYSIS

This bill revises the governor's emergency management powers and requires the legislature or executive council to renew a state of emergency.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT                    relative to the governor's power to initiate a state of emergency and various emergency powers.

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

1            1 Powers of the Governor and Council in Certain Cases; State of Emergency Declaration.

2 Amend RSA 4:45 to read as follows:

3            4:45 State of Emergency Declaration; Powers.

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

11            (a) Nature of the emergency;

12            (b) Political subdivisions or geographic areas subject to the declaration;

13            (c) Conditions that have brought about the emergency; ~~and~~

14            (d) Duration of the state of emergency, if less than 21 days[-] ; **and**

15            **(e) Conditions necessary to extend the state of emergency.**

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

20            **(b) In order for the state of emergency to continue for more than 21 days, the**  
21 **general court shall, by a majority vote of both chambers, approve a 21-day extension**  
22 **subject to the conditions set forth in subparagraph I(e). If the general court finds that the**  
23 **conditions for renewal continue to be met, the general court may extend the state of**  
24 **emergency for additional 21-day periods by a supermajority vote of both chambers.**

25            **(c) If the general court cannot meet under subparagraph (b) with the required**  
26 **minimum number of members, the governor shall present a case to extend the state of**  
27 **emergency to the executive council, and only upon the unanimous consent of the executive**  
28 **council members present during a noticed meeting shall declare a state of emergency to be**  
29 **extended for subsequent 21-day periods.**

1           ***(d) If the executive council extends the state of emergency for a second 21 days,***  
2 ***neither the department of revenue nor any municipality shall collect taxes due from any***  
3 ***party until the state of emergency expires or the legislature convenes in order to continue***  
4 ***such state of emergency.***

5           ~~[(b)]~~ ***(e)*** If the governor finds that maintaining the state of emergency is no longer  
6 justified, the governor shall issue an executive order terminating the state of emergency.

7           ~~[(e)]~~ ***(f)*** The legislature may terminate a state of emergency by concurrent resolution  
8 adopted by a majority vote of each chamber. The ~~[governor's power to renew a declaration of a state~~  
9 ~~of emergency shall terminate upon the]~~ adoption of a concurrent resolution under this  
10 subparagraph~~[- provided, however, that such resolution]~~ shall not preclude the governor from  
11 declaring a new emergency for different circumstances under paragraph I of this section.

12           ***(g) If it is in the best interest of the state to continue a state of emergency***  
13 ***declaration for financial reasons such as federal funding eligibility, the legislature may***  
14 ***vote to create a nominal state of emergency, but such a nominal state of emergency shall***  
15 ***not extend any emergency powers to any official. A nominal state of emergency may be***  
16 ***renewed by a majority vote of both chambers of the general court.***

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

20           (a) To enforce all laws, rules, and regulations relating to emergency management and to  
21 assume control of any or all emergency management forces and helpers in the state ***within the***  
22 ***limits of the governor's constitutional and statutory authority; the governor shall not***  
23 ***suspend existing laws or create rules by emergency order that have the force and effect of***  
24 ***law during a state of emergency.***

25           (b) To sell, lend, lease, give, transfer, receive, or deliver materials or perform services for  
26 emergency management purposes on such terms and conditions as the governor shall prescribe ~~[and~~  
27 ~~without regard to the limitations of any existing law]~~ ***under the laws, rules, and regulations***  
28 ***relating to emergency management***, and to account to the state treasurer for any funds received  
29 for such property.

30           (c) To provide for and ~~[compel]~~ ***recommend*** the evacuation of all or part of the  
31 population from any stricken or threatened area or areas within the state and to take such steps as  
32 are necessary for the receipt and care of such evacuees. ***Any person who does not evacuate such***  
33 ***an area upon the recommendation of the governor shall not receive any additional***  
34 ***accommodation or aid at the expense of the state.***

35           (d) Subject to the provisions of the state constitution, to remove from office any public  
36 officer having administrative responsibilities under RSA 21-P:34 through 21-P:48 ***for violation of***  
37 ***the public officer's constitutional, statutory, or administrative authority.*** Such removal shall

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1 be upon charges after service upon such person of a copy of such charges and after giving him or her  
2 an opportunity to be heard in his or her defense. Pending the preparation and disposition of charges,  
3 the governor may suspend such person for a period not exceeding 30 days. A vacancy resulting from  
4 removal or suspension pursuant to this section shall be filled by the governor until it is filled as  
5 otherwise provided by law.

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

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

15 2 Effective Date. This act shall take effect 60 days after its passage.