

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1128, restricting the use of weather modification technologies to declared emergencies.

Hearing Date: April 21, 2026

Time Opened: 10:52 a.m.

Time Closed: 11:19 a.m.

Members of the Committee Present: Senators Avard, Watters, Rosenwald and Pearl

Members of the Committee Absent : Senator McConkey

Bill Analysis: This bill specifies the circumstances and conditions under which cloud seeding may occur.

Sponsors:

Rep. Potenza

Rep. J. Aron

Rep. Bernardy

Rep. Cambrils

Rep. Ploszaj

Rep. Sabourin dit

Choiniere

Rep. Morse

Rep. DeRoy

Rep. Schneller

Rep. Bjelobrk

Who supports the bill: Representative Potenza (Straf. 19), Representative Aron (Sull. 4), Cory Stone, Angelique Hall

Who opposes the bill: Melanie Kasparian

Who is neutral on the bill: Michael Fitzgerald (DES)

Summary of testimony presented:

Representative Kelly Potenza, Strafford 19

- Representative Potenza introduced the legislation to address a narrowly tailored constitutional concern and to establish clear guardrails around weather modification activities.
- It repeals a statute dating back to 1985 that permitted weather modification experimentation in New Hampshire without explicit public consent. The bill creates a modern framework that requires transparency and consent, ensuring that any weather modification activity aligns with constitutional principles.

- She said that under current law, experimentation affecting the environment could be authorized without a defined mechanism for public awareness or consent. She said that this raised fundamental questions about the principle that government authority is derived from the consent of the governed.
- The proposed legislation corrects this by requiring affirmative consent and limiting any authorized activity to true emergency situations, with appropriate safeguards in place.
- She said that section 12F, as structured, is insufficient and in need of repeal or substantial revision. The updated language that was developed with input from DES adds necessary protections and clarifies that no known cloud seeding activities have ever been conducted under the department's oversight and should not be conducted without public input.
- She explained that the bill ensures that any future weather modification efforts are tightly controlled, constitutionally sound, and only permissible in emergency circumstances with clear public accountability.

Senator Watters raised concerns about the scope of the original statute, noting that it was not limited to cloud seeding and could apply to other forms of weather experimentation. He pointed out that repealing it might eliminate state authority over a broad category of activities, some of which could otherwise go unregulated.

Representative Potenza acknowledged that the statute could theoretically apply more broadly but explained that any entity seeking to conduct weather experimentation would still need to go through DES and Governor and Council Process. She added that if the federal government were involved, oversight would typically run through DES and executive departments.

Senator Watters clarified that his concern was not about federal activity, but about the possibility that repealing the statute could remove state-level authority to oversee and regulate future experimentation, particularly activities that might have unintended consequences. He questioned whether this would leave a regulatory gap.

Representative Potenza responded that such activities are not currently occurring at the state level and are instead handled federally. She also noted that no proposals have come before the State in the past, and referenced cloud seeding efforts in other states as context.

Senator Rosenwald asked whether, given that weather systems move across state lines, state-level action could meaningfully affect outcomes, especially if the federal government is already conducting weather modification.

Representative Potenza responded that cloud seeding is considered highly targeted by the companies that perform it, emphasizing that the bill simply creates a pathway requiring public consent if such actions were ever needed in New Hampshire. She reiterated that the legislation is largely aimed at ensuring oversight of potential federal involvement with weather modification.

Senator Rosenwald raised a procedural concern, that the bill does not appear to establish a clear timeline for DES to complete its review or findings, which could theoretically allow a project to proceed without a full evaluation.

Representative Potenza acknowledged the concern and deferred to DES for further clarification on how the review process and timelines would be handled.

Representative Aron, Sullivan 4

- Representative Aron explained that she initially proposed repealing the law in 2021, but legislators advised against it because doing so would eliminate any oversight or legal framework on the issue.
- She noted that the law dates back to the 1950s, when New Hampshire conducted cloud seeding and similar experiments on Mount Washington to address drought and support the ski industry.
- She consulted with multiple state agencies and found no evidence that any have participated in recent weather modification or atmospheric experiments.
- She emphasized that the only confirmed activity of this kind in the state occurred decades ago during those earlier experiments.
- She acknowledged that some members of the public have reported observing unusual activity in the sky, but explained that such reports are difficult to verify or investigate due to a lack of identifiable information.
- She added that rather than eliminating the law, she revised it to include a public notification requirement if the state engages in atmospheric experimentation in coordination with federal or other entities.
- She suggested that limiting allowable activities to cloud seeding could help address drought conditions, while recognizing that such a limitation might also restrict potentially beneficial future research.

Michael Fitzgerald, DES

- Mr. Fitzgerald said the department was not taking a position on the bill.

Senator Pearl said that looking at lines 10 through 11, the department would be tasked to determine whether a proposed activity could result in the harm of the environment or public health. He then asked what determination criteria would be used to fill that duty?

Mr. Fitzgerald explained that the department would have to rely only on the limited language in the statute, since the bill does not give them rulemaking authority or specific criteria. He noted that the department does not have expertise in weather modification or cloud seeding. He described how the bill had been scaled back from earlier versions. Instead of requiring the department to conduct its own environmental review, the responsibility would fall on the applicant, who would submit their findings to the department for consideration. He clarified that the department's role would be fairly limited, it would not formally approve projects but could reject them if concerns

were identified. Any submitted materials would be reviewed by the department's public health team, who would flag any significant risks. Mr. Fitzgerald also emphasized that the department did not have additional funding or staff to take on this work, and that existing public health personnel were already focused on other priorities like PFAS and emerging environmental issues.

Senator Pearl questioned whether the bill should include clearer definitions or guidelines to better direct the department's decision-making.

Mr. Fitzgerald acknowledged that concern, noting that typically a responsibility like this would come with rulemaking authority and resources. However, he also pointed out that cloud seeding has not taken place in New Hampshire since the 1950s, and no activity has occurred under the existing law, making it unlikely the department would need to act on it anytime soon. He said that if a proposal were submitted, the department would do its best to review it and assess any potential health impacts, despite the lack of formal guidance or specialized expertise.

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Date Hearing Report completed: April 27, 2026