

HB 389 - AS INTRODUCED

2021 SESSION

21-0497

05/04

HOUSE BILL

**389**

AN ACT                   relative to the establishment of a joint legislative emergency executive order oversight committee during a declared state of emergency.

SPONSORS:           Rep. Lang, Belk. 4; Rep. Pearl, Merr. 26; Rep. Moffett, Merr. 9; Rep. Marsh, Carr. 8; Rep. Bordes, Belk. 3; Rep. Hobson, Rock. 35; Rep. Aron, Sull. 7; Rep. Edwards, Rock. 4; Rep. Alexander Jr., Hills. 6

COMMITTEE:       Legislative Administration

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ANALYSIS

This bill provides for establishment of a joint legislative emergency executive order oversight committee upon declaration of a state of emergency. Emergency executive orders issued by the governor during a state of emergency shall expire after 21 days unless their renewal is approved by the committee or a special session of the legislature.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 establishment of a joint legislative emergency executive order oversight committee during a declared state 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 to read as follows:

2            4:45 State of Emergency Declaration; Powers.

3            I.(a) The governor shall have the power to declare a state of emergency, as defined in RSA  
4            21-P:35, VIII, by **emergency** executive order if the governor finds that a natural, technological, or  
5            man-made disaster of major proportions is imminent or has occurred within this state, and that the  
6            safety and welfare of the inhabitants of this state require an invocation of the provisions of this  
7            section. The general court shall have the same power to declare a state of emergency by concurrent  
8            resolution of the house and senate. ***The duration of an emergency executive order shall not***  
9            ***exceed 21 days.*** An **emergency** executive order or concurrent resolution declaring a state of  
10           emergency shall specify the:

11                [~~a~~] (1) Nature of the emergency;

12                [~~b~~] (2) Political subdivisions or geographic areas subject to the declaration;

13                [~~c~~] (3) Conditions that have brought about the emergency; and

14                [~~d~~] (4) Duration of the state of emergency, if less than 21 days.

15                (b) ***There is hereby established a joint legislative emergency executive order***  
16                ***oversight committee (LEEEOC), the purpose of which shall be to approve or deny the***  
17                ***renewal of emergency executive orders issued under subparagraph (a).***

18                (1) ***The LEEEOC shall be composed of 10 members of the general court, who***  
19                ***shall be appointed for 2-year terms ending on the first Wednesday in December of even-***  
20                ***numbered years, as follows:***

21                        (A) ***Four members of the senate, 2 of whom shall be from the majority***  
22                        ***party and 2 of whom shall be from the largest minority party, appointed by the senate***  
23                        ***president.***

24                        (B) ***Six members of the house of representatives, 3 of whom shall be from***  
25                        ***the majority party and 3 of whom shall be from the largest minority party, appointed by the***  
26                        ***speaker of the house of representatives.***

27                (2) ***Members shall be appointed for their term of office. All members shall be***  
28                ***eligible for reappointment so long as they are qualified under this section. Members shall***  
29                ***be appointed no later than December 30 of the year of their election to the general court,***  
30                ***except that vacancies shall be filled for an unexpired term within 30 days of the creation of***

1 *such vacancy. The committee shall convene within 5 days of a state of emergency declared*  
2 *under this section.*

3 *(3) A majority or tie vote of the LEEOOC shall be required to renew an*  
4 *emergency executive order. If an emergency executive order is not approved for renewal by*  
5 *the committee, the emergency executive order shall expire at the end of its 21-day period.*

6 *(c) As an alternative to renewal by the LEEOOC, emergency executive orders*  
7 *may be renewed by a special session of the general court, called pursuant to the procedure*  
8 *in RSA 16. The petition for special session shall state the reason or reasons why the public*  
9 *welfare requires a special session, and shall identify the emergency executive orders to be*  
10 *considered by the body.*

11 *(1) Upon receipt of the petition, the secretary of state shall ensure secure*  
12 *delivery of a copy thereof to each member of the general court together with a ballot upon*  
13 *which shall be stated the following question: "Are you of the opinion that the general court*  
14 *should meet in emergency session to vote upon the stated reason for the session in the*  
15 *attached petition?"*

16 *(2) If within 10 days after the date of sending to all members of said ballot by*  
17 *the secretary of state a majority of the members of the house and a majority of the members*  
18 *of the senate shall return said ballot marked in the affirmative, the general court shall be*  
19 *called in emergency session.*

20 *(3) Upon receipt of the affirmative votes required under subparagraph*  
21 *(c)(2), the secretary of state shall set a day for the convening of the general court which day*  
22 *shall not be more than 7 days thereafter and notice thereof shall be sent by the secretary of*  
23 *state to each member of both houses.*

24 *(4) In the event that the general court convenes itself in emergency session in*  
25 *the manner provided by this section and RSA 16, the officers and members shall receive for*  
26 *attendance compensation of \$3 per day for a period not exceeding 15 days and the usual*  
27 *mileage. The attaches of the general court shall receive for attendance compensation at*  
28 *the rate of the next previous session, and the usual mileage.*

29 *(5) The emergency session convened under this section shall vote only on the*  
30 *emergency executive orders outlined in the petition for the emergency session.*

31 *II.(a) A state of emergency shall terminate automatically 21 days after its declaration unless*  
32 *it is renewed under the [same] procedures set forth in [paragraph I] **paragraphs I(b) or I(c)** of this*  
33 *section. The governor may, by **emergency** executive order, renew a declaration of a state of*  
34 *emergency as many times as the governor finds is necessary to protect the safety and welfare of the*  
35 *inhabitants of this state, **provided that any order for renewal is also approved by the***  
36 *legislature under **paragraph I.***

(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) **By emergency executive order**, 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) **By emergency executive order**, 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) **By emergency executive order**, 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.

1           ***IV. A declaration of a state of emergency, or emergency executive order that has***  
2           ***been rescinded by the LEEEOC under subparagraph I(b) or the general court under***  
3           ***subparagraph I(c) shall not be reissued unless substantially different than the original***  
4           ***rescinded emergency executive order, except by an affirmative vote of the LEEEOC.***

5           2 Effective Date. This act shall take effect January 1, 2023.