



### **Testimony in Support of LDs 551 & 789:**

**“An Act to Restore Balanced Emergency Powers” & “RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require Legislative Approval of Any State of Emergency Lasting Longer than 60 Days”**

Senator Baldacci, Representative Salisbury, and the distinguished members of the Committee on State and Local Government, my name is Harris Van Pate, and I serve as policy analyst for Maine Policy Institute. Maine Policy is a free market think tank, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to testify on this critical issue of governmental accountability and constitutional balance.

These bills are necessary reforms to ensure that emergency powers in Maine remain consistent with our democratic principles and constitutional framework. The COVID-19 pandemic exposed serious flaws in the state’s emergency governance structure, as prolonged emergency declarations consolidated executive power and largely sidelined the legislature from critical decision-making processes. While emergency powers are necessary in times of crisis, they must be limited, transparent, and subject to legislative oversight to prevent executive overreach.

### **The Problem: Unchecked Executive Authority**

Under current law, the Governor of Maine can unilaterally declare a state of emergency and extend it indefinitely, subject to minimal legislative checks.<sup>1</sup> The prolonged use of emergency powers during the COVID-19 pandemic resulted in policies that profoundly impacted Mainers’ lives, livelihoods, and liberties without sufficient legislative scrutiny or input from their elected representatives.

Emergency powers are intended to address immediate, short-term crises, not to serve as a mechanism for sustained unilateral governance. Without meaningful legislative oversight, executive authority risks becoming excessive, diminishing the legislature's fundamental role as a co-equal branch of government.

### **The Solution: Restoring Constitutional Balance**

LD 551 proposes several necessary reforms that would restore proper legislative oversight to emergency powers, including:

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<sup>1</sup> <https://mainepolicy.org/emergency-powers-2023-edition/>



1. **Time Limits on Emergency Declarations** – Ensuring that emergency powers are limited in duration, requiring legislative approval for extensions beyond an initial time period.
2. **Legislative Oversight and Renewal** – Requiring explicit legislative approval for extending emergency declarations beyond a reasonable timeframe, ensuring that prolonged crises are managed with input from the people's representatives.
3. **Transparency and Public Accountability** – Mandating transparent reporting and justification for emergency actions allows the public and the legislature to hold the executive branch accountable.

## Why This Matters for Maine

Maine is not alone in recognizing the need for emergency power reform. Over 30 states have enacted or considered legislative changes to ensure emergency powers remain temporary and accountable. States such as Michigan, North Carolina, and Pennsylvania have passed measures limiting independent executive action and increasing legislative oversight of emergency powers.<sup>2</sup>

LD 551 aligns with Maine's tradition of transparent, representative government by ensuring that emergency decision-making remains subject to the rule of law and democratic oversight. The bill does not hinder the government's ability to respond to emergencies, but rather ensures that crisis responses remain proportional, temporary, and accountable.

## LD 789's Approach

This proposal for a constitutional amendment constitutionally limits the Governor's power to unilaterally declare a state of emergency by limiting the length of a state of emergency declared by the Governor. Additionally, it would require legislative approval of additional state of emergency declarations, creating a reasonable checks and balances approach to the problem.

By requiring legislative approval of future state of emergency declarations, LD 789 returns the power over this process to Maine's integral citizen legislature. Furthermore, it increases the chances that a special session would occur for a state of emergency outside of the state's general session. This is beneficial not only due to the legislature's partial role in overseeing the executive branch's execution of state law, but also because of the importance of creating additional legislative policy tools to directly address the ongoing emergency.

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<sup>2</sup> <https://www.ncsl.org/about-state-legislatures/legislative-oversight-of-emergency-executive-powers>



## **Conclusion**

Maine Policy Institute strongly supports LDs 551 and 789 as vital safeguards against executive overreach, and as an essential measure to restore balanced governance. Emergency powers must remain a tool for addressing crises, not a means for bypassing legislative scrutiny. We urge this committee to pass LD 551 and 789 and reaffirm Maine's commitment to constitutional governance and individual liberty. Thank you for your time and consideration.