



Testimony in Support of LD 1573:

“An Act to Require Legislative Approval for Certain Emergency Powers of the Governor”

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 submit testimony in support of LD 1573, “An Act to Require Legislative Approval for Certain Emergency Powers of the Governor.”

This bill addresses a pressing deficiency in Maine’s constitutional balance of powers: the lack of adequate legislative oversight on the reissuance or renewal of emergency declarations by the executive branch. LD 1573 would remedy this by requiring legislative approval before a governor can reissue or renew a substantially similar emergency proclamation that has expired or been terminated by the Legislature. In doing so, it strengthens the foundational principle of representative government — that the consent of the governed is exercised through the people’s elected legislature, even during emergencies.

An Overpowered Executive Branch

Maine’s current emergency powers statute, under Title 37-B, provides the governor broad unilateral authority to declare and extend emergencies without specific limits. As documented in our 2023 Emergency Powers Report Card, Maine ranks among the worst states in the nation for executive emergency power oversight, earning a failing grade due to the legislative branch's lack of meaningful checks on emergency declarations that can last indefinitely without approval from lawmakers.¹

The problem is not simply theoretical. While relations between Maine’s legislative and executive branches may be cordial today, it was less than a decade ago that the Legislature considered impeaching Governor LePage due to allegations of mental incompetence and abuse of power — serious concerns that underscore the importance of institutional safeguards when political tensions flare.²

If similar tensions were to resurface, an unchecked governor could repeatedly issue consecutive special session declarations in bad faith, effectively bypassing the Legislature and the will of the people. LD 1573 provides a vital safeguard against that scenario.

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

² <https://www.politico.com/story/2016/09/maine-paul-lepage-governor-227796>



Learning from the COVID-19 Pandemic

The COVID-19 pandemic laid bare the extent to which emergency powers can reshape civic life. Governors across the country issued mandates that closed schools and businesses, restricted travel, and delayed public services, often without input from the Legislature. In Maine, the executive branch exercised prolonged control under a state of emergency with little formal constraint. While swift action may be necessary in the early stages of a crisis, but ongoing emergency governance demands oversight, deliberation, and accountability.

Precedent and Principle

Other states have taken action. According to our research, more than 30 states have introduced bills that limit executive power to make emergency declarations.³ Maine should follow suit. It is not a question of partisanship or politics, but of principle: the principle that no one person, regardless of political affiliation, should have the power to rule by decree in perpetuity.

Conclusion

LD 1573 restores essential constitutional balance by ensuring that the Legislature — the body closest to the people — must approve the continued exercise of emergency powers. It reflects the lessons of recent history and anticipates the dangers of future overreach. For these reasons, Maine Policy Institute urges the committee to vote “Ought to Pass” on LD 1573. Thank you for your time and consideration.

³ <https://nemaweb.org/wp-content/uploads/2024/02/Addressing-State-Emergency-and-Disaster-Authorities-2021.pdf>