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New Deal Between Sununu, Legislature on Exec Power Could Push Budget Over Top

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Legislative leaders and Gov. Chris Sununu have reached an agreement on additional reforms to emergency executive order powers, NHJournal has learned. According to House Majority Leader Jason Osborne, the deal will give House Republicans “the reform they’ve been fighting for all year.”

While the legislation won’t move forward until the fall, the agreement has the potential to impact Thursday’s House vote on the state budget, where its fate is expected to come down to a handful of GOP votes.

Some libertarian-leaning members of the House, supported by organizations like ReOpenNH, say they will vote against the budget because of objections over the executive powers language. While the budget puts new restrictions on the use of executive power in the future — including giving the legislature the authority to end specific executive orders without ending the overall state of emergency — some members of the Freedom Caucus insist it’s still not enough.

They want to require the governor to seek approval for a state of emergency to continue, rather than requiring a vote of both chambers to bring it to an end.

“The reality is the amendment further dilutes existing statute by extending the state of emergency length from 21 days to 45 days and, contrary to comments by the Senate, the language does not correct the issue at hand,” the House Freedom Caucus said in a statement. “The language would require a vote to end the State of Emergency, not to continue it.”

In a [podcast interview with NHJournal \(https://nhjournal.com/podcast-speaker-packard-leader-osborne-talk-most-conservative-budget-in-50-years/\)](https://nhjournal.com/podcast-speaker-packard-leader-osborne-talk-most-conservative-budget-in-50-years/), Osborne acknowledged the budget deal didn’t do as much as he wanted to balance power between the governor and legislature. “I don’t think we accomplished everything our members wanted,” Osborne said, but he added that the legislative process to add more reforms would continue after the budget vote.

Apparently, it’s underway right now.

In a [June 22 letter to Osborne \(https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:8167d092-c8c3-4fc7-8f09-cc7f6792fcb\)](https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:8167d092-c8c3-4fc7-8f09-cc7f6792fcb), Sununu noted negotiations had “moved our conversation well beyond my original position” regarding boundaries on executive authority during a state of emergency.

“Once we have enacted these initial reforms in the budget, I am committed to working with you to strengthen the process even further and address some of the remaining concerns of the legislature. Once the budget is passed, I am confident we will build on these successful initial steps and find a path forward with your ideas that pass constitutional muster.”

While the letter is vague, Osborne says that “path forward” leads to legislation under which a state of emergency declared by a governor “shall terminate automatically 21 days after its declaration,” and the governor can “renew a declaration of a state of emergency no more than three times.”

In other words, the governor’s state of emergency would come to an end, at which time a new state of emergency would have to be declared by the legislature if needed.

“This is the reform the House has been fighting for all year,” Osborne said. “We have finally figured out how to solve the constitutional problem that has been presented to us. And once we were able to solve the legal problem, the governor was happy to be on board with further reforming this process.”

The constitutional problem raised by the Sununu administration was the need for the legislature to act as a whole, rather than allowing one body to effectively have a veto over state action.

“The governor wanted the legislature to act as a whole or refuse as a whole,” a source familiar with the negotiations told NHJournal.

According to Osborne, he has a retained bill in committee where the language can be added, allowing the legislature to take up the issue in the fall. The governor could sign it in January.

This agreement is the latest sign that, after weeks of contentious, intra-party debate and lingering animosity between the Freedom Caucus and Sununu, Republicans may pass what former House Speaker Bill O’Brien calls a “transformative budget.” Rep. Michael Yakubovich (R-Hooksett) is a Freedom Caucus member who’s made the decision to support the budget.

“When the Committee of Conference [report] came out, some of the people were ready to burn it down. And I was one of them,” Yakubovich told NHJournal.

“But then I thought, why would we burn down a budget that cuts taxes and cuts spending and brings forward school choice, the Education Freedom Accounts. I ran on school choice. So I set my emotions aside and came to the side of reason,” Yakubovich said.

On Wednesday morning, Andrew J. Manuse of ReOpenNH sent an email to Republican legislators that appeared to back support for the budget. “My current hope is that you will work out a deal with leadership on superior language that can pass before the end of the month, and pass this budget, too.”

Also on Wednesday, the conservative 603 Alliance [released a statement \(https://603alliance.org/2021/06/603-alliance-urges-passage-of-hb2/\)](https://603alliance.org/2021/06/603-alliance-urges-passage-of-hb2/) urging the budget’s passage.

“The question before us is whether or not our lack of satisfaction with regard to emergency orders ought to prevent us from accepting historic wins for life, education choice, lower taxes, and the prevention of indoctrination in our schools,” the Alliance’s statement read. “We ought not to let the perfect be the enemy of the good.”

About the Author



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