



# State of New Hampshire

## Department of Labor

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**James W. Craig**  
Commissioner of Labor

**Kathryn J. Barger**  
Deputy Labor  
Commissioner

November 25, 2014

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

### Requested Action

Pursuant to RSA 281-A: 32-a, the Department of Labor, Office of the Commissioner, requests authorization to disburse to Officer Daniel Doherty, of Manchester, NH, as compensation for permanent loss of use of internal organs at less than 100%, in the amount of \$125,000.00 as a result of Officer Doherty's gunshot injuries incurred in the line of duty on March 21, 2012. Effective upon Governor and Council approval. Funding source: 100% General Funds.

### Explanation

This request is to fund and disburse additional worker's compensation benefits to Officer Daniel Doherty as authorized by RSA 281-A: 32-a. On March 21, 2012, while on duty as a Manchester Police Patrolman, Daniel Doherty suffered multiple bullet wounds to his torso and to his left leg. Officer Doherty was paid Worker's Compensation benefits consistent with RSA 281-A, but under the then existing statute he could not be compensated for his internal injuries.

The legislature amended RSA 281-A:32 by passing Chapter 242, Laws of 2014 which added the First Responder's Critical Injury Fund, RSA 281-A:32-a. RSA 281-A:32-a provides for additional compensation for critical internal injuries incurred by any Group II Retirement System member, of which Officer Doherty is a member. The statute states: "in addition to other payments made under RSA 281-A, a group II retirement system member may request additional compensation under this section. If the impairment to a group II retirement system member resulting from an injury is partial, with a determination by the department of labor that the employee has reached maximum medical improvement and that such maximum medical improvement is less than 100 percent, the governor may draw a warrant, with approval by the executive council, from funds not otherwise appropriated for



payments in addition to benefits payable under this chapter for an award to be paid to such employees in amounts provided by RSA 281-A:28 for the number of weeks set forth in this section for permanent bodily loss or impairment”.

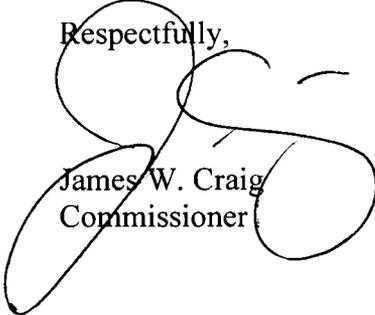
The statute also prescribes the appropriate weeks of compensation for permanent loss or impairment of : (a) heart, lung or brain; (b) other internal organs or; (c) speech, touch, taste, or smell.

While the new statute provides for compensation for the permanent loss or impairment of internal organs, total compensation shall not exceed \$125,000 per claimant. On September 23, 2014, Attorney Mark Morrissette, legal counsel for Officer Doherty, submitted an official petition seeking additional compensation under RSA 81-A:32-a. The Department of Labor reviewed the petition and found that Officer Doherty sustained critical internal injuries to his bladder and his colon – internal organs covered under the statute. After reviewing pertinent medical evidence, the Department of Labor determined that Officer Doherty has reached maximum medical improvement for those injuries and that such maximum medical improvement is less than 100 percent. Given that finding, under RSA 281-A: 32-a, Officer Doherty is entitled to the sum of \$92,870.00 for each internal organ or a total of \$185,740.00 which would be capped at the statutory maximum of \$125,000.00.

Therefore, we request the Governor to issue a warrant, with approval of the Executive Council, from funds not otherwise appropriated for payment in the sum of \$125,000.00 to Officer Daniel Doherty for the permanent internal injuries he sustained in the line of duty.

Respectfully,

James W. Craig  
Commissioner





## CHAPTER 242

## SB 204-FN – FINAL VERSION

03/13/14 0867s

03/27/14 1117s

23Apr2014... 1427h

## 2014 SESSION

14-2599

01/10

SENATE BILL *204-FN*

AN ACT relative to a benefit for certain medical conditions covered by workers' compensation and establishing a commission to study soft tissue injuries under workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

SPONSORS: Sen. D'Allesandro, Dist 20; Sen. Soucy, Dist 18; Sen. Boutin, Dist 16; Sen. Cataldo, Dist 6; Sen. Fuller Clark, Dist 21; Sen. Gilmour, Dist 12; Sen. Lasky, Dist 13; Sen. Reagan, Dist 17; Sen. Watters, Dist 4; Rep. Goley, Hills 8; Rep. D. Sullivan, Hills 42; Rep. Long, Hills 42

COMMITTEE: Commerce

## AMENDED ANALYSIS

This bill establishes the first responders critical injury benefit to make awards of additional workers' compensation upon warrant by the governor with approval by the executive council for group II retirement system members who suffer certain medical conditions. This bill also establishes a commission to study soft tissue injuries for purposes of workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

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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.

03/13/14 0867s

03/27/14 1117s

23Apr2014... 1427h

14-2599

01/10

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT relative to a benefit for certain medical conditions covered by workers' compensation and establishing a commission to study soft tissue injuries under workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

242:1 New Sections; First Responder's Critical Injury Fund; Commission. Amend RSA 281-A by inserting after section 32 the following new sections:

281-A:32-a First Responder's Critical Injury Benefit.

I. In addition to other payments made under RSA 281-A, a group II retirement system member may request additional compensation under this section. If the impairment to a group II retirement system member resulting from an injury is partial, with a determination by the department of labor that the employee has reached maximum medical improvement and that such maximum medical improvement is less than 100 percent, the governor may draw a warrant, with approval by the executive council, from funds not otherwise appropriated for payments in addition to benefits payable under this chapter for an award to be paid to such employees in amounts provided by RSA 281-A:28 for the number of weeks set forth in this section for permanent bodily loss or impairment:

- (a) Permanent loss or impairment of heart, lung, or brain 208
- (b) Permanent loss or impairment of other internal organs 104
- (c) Permanent loss or impairment of speech, touch, taste, or smell 104

II. Payments awarded under this section shall be subject to all other provisions of RSA 281-A. Total compensation payments for all additional compensation claims paid under this section shall not exceed \$125,000 per claimant. No payments shall be made after July 1, 2016. Benefits paid under this section for all claimants shall not exceed \$500,000.

281-A:32-b Commission Established; Membership; Duties.

I. There is established a commission to study soft tissue injuries for purposes of workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

(a) The members of the commission shall be as follows:

(1) Two members of the senate, appointed by the president of the senate.

(2) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(3) The commissioner of the department of employment security, or designee.

(4) The commissioner of the department of labor, or designee.

(5) The commissioner of the department of insurance, or designee.

(6) A representative of a self-funded insurer, appointed by the governor.

(7) Two public members representing business interests, appointed by the governor.

(8) Two public members representing labor interests, appointed by the governor.

(9) A medical professional possessing extensive knowledge of soft tissue injuries, appointed by the governor.

(b) Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

II.(a) The commission shall study soft tissue injuries for purposes of workers' compensation. The commission shall also study the feasibility of developing a first responder's critical injury fund.

(b) The commission shall solicit information and testimony from any person or entity the commission deems relevant to its study.

III. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

IV. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2014.

242:2 Repeals.

I. RSA 281-A:32-a, relative to a first responder's critical injury benefit.

II. RSA 281-A:32-b, relative to a commission to study soft tissue injuries under workers' compensation and to study the feasibility of developing a first responder's critical injury fund.

242:3 Applicability. RSA 281-A:32-a as inserted by section 1 of this act shall apply to injuries sustained on or after March 12, 2012.

242:4 Effective Date.

I. Paragraph I of section 2 of this act shall take effect June 30, 2016.

II. Paragraph II of section 2 of this act shall take effect November 1, 2014.

III. The remainder of this act shall take effect upon its passage.

Approved: July 21, 2014

Effective Date: I. Paragraph I of section 2 shall take effect June 30, 2016

II. Paragraph II of section 2 shall take effect November 1, 2014

III. Remainder shall take effect July 21, 2014