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SENATE BILL 4

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2021

INTRODUCED BY

Gregory A. Baca

AN ACT

RELATING TO PUBLIC HEALTH; ENACTING A NEW SECTION OF THE
EMERGENCY POWERS CODE; AMENDING THE PUBLIC HEALTH EMERGENCY
RESPONSE ACT; ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT;
PROVIDING FOR AUTOMATIC TERMINATION OF A PUBLIC HEALTH
EMERGENCY ORDER OR A PUBLIC HEALTH ORDER THAT CLOSES PUBLIC
PLACES OR LIMITS GATHERINGS; PROVIDING FOR RENEWAL OR AMENDMENT
OF A PUBLIC HEALTH EMERGENCY ORDER OR A PUBLIC HEALTH ORDER BY
THE LEGISLATURE OR BY VOTE OF THE NEW MEXICO LEGISLATIVE
COUNCIL IN CERTAIN CIRCUMSTANCES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Emergency Powers Code is
enacted to read:

"[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
GATHERINGS--TERMINATION AND RENEWAL.--

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
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1 A. Upon issuing a public health order pursuant to
2 the Emergency Powers Code that is of general applicability
3 throughout the state or a portion of the state that closes any
4 public place or forbids or limits gatherings of people, the
5 governor shall transmit copies of the order to the president
6 pro tempore and the minority floor leader of the senate and the
7 speaker and the minority floor leader of the house of
8 representatives.

9 B. A public health order subject to the
10 requirements of Subsection A of this section shall
11 automatically terminate forty-five days after being issued and
12 shall not be renewed or amended nor shall a new order be issued
13 for the same subject matter except by joint resolution of the
14 legislature or, if the legislature is not in session at the
15 time of the termination of an order, by a vote of the majority
16 of the members of the New Mexico legislative council that is
17 transmitted to the governor."

18 SECTION 2. Section 12-10A-5 NMSA 1978 (being Laws 2003,
19 Chapter 218, Section 5) is amended to read:

20 "12-10A-5. DECLARING A STATE OF PUBLIC HEALTH
21 EMERGENCY--TERMINATING THE EMERGENCY--NOTICE TO LEGISLATURE AND
22 LEGISLATIVE APPROVAL FOR CERTAIN PUBLIC HEALTH EMERGENCIES.--

23 A. A state of public health emergency may be
24 declared by the governor upon the occurrence of a public health
25 emergency. Prior to a declaration of a state of public health

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1 emergency, the governor shall consult with the secretary of
2 health. The governor shall authorize the secretary of health,
3 the secretary of public safety and the director to coordinate a
4 response to the public health emergency.

5 B. A state of public health emergency shall be
6 declared in an executive order that specifies:

7 (1) the nature of the public health emergency;

8 (2) the political subdivisions or geographic
9 areas affected by the public health emergency;

10 (3) the conditions that caused the public
11 health emergency;

12 (4) whether the expected duration of the
13 public health emergency ~~[if]~~ is greater than fourteen days for
14 an emergency that is used as the basis for an executive order
15 of general applicability throughout the state or a portion of
16 the state and closes any public place or forbids or limits
17 gatherings of people;

18 (5) whether the expected duration of the
19 public health emergency is less than thirty days for public
20 health emergencies not subject to Paragraph (4) of this
21 subsection;

22 ~~[(5)]~~ (6) the public health officials needed
23 to assist in the coordination of a public health emergency
24 response; and

25 ~~[(6)]~~ (7) any other provisions necessary to

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underscored material = new
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1 implement the executive order.

2 C. Upon issuing an executive order, based on a
3 declaration of a state of public health emergency that is of
4 general applicability throughout the state or a portion of the
5 state that closes any public place or forbids or limits
6 gatherings of people, the governor shall transmit copies of the
7 declaration to the president pro tempore of the senate, the
8 minority floor leader of the senate, the speaker of the house
9 of representatives and the minority floor leader of the house
10 of representatives.

11 [~~E.~~] D. A declaration of a state of public health
12 emergency shall not abrogate any disease-reporting requirements
13 set forth in the Public Health Act.

14 [~~D.~~] E. A declaration of a state of public health
15 emergency shall be terminated:

16 (1) by the governor, after consultation with
17 the secretary of health, upon determining that there is no
18 longer a public health emergency; or

19 (2) automatically after:

20 (a) forty-five days for an emergency
21 that is used as the basis for an order of general applicability
22 throughout the state or a portion of the state that closes any
23 public place or forbids or limits gatherings of people;
24 provided that the public health emergency shall only be renewed
25 or amended and a new public health emergency on the same

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1 subject matter shall only be declared by a joint resolution of
2 the legislature or, if the legislature is not in session at the
3 time the original declaration terminates for a period of time
4 until the legislature meets in session, by a vote of the
5 majority of the members of the New Mexico legislative council
6 that is transmitted to the governor; or

7 (b) thirty days for a public health
8 emergency not subject to Subparagraph (a) of this paragraph,
9 unless renewed by the governor after consultation with the
10 secretary of health.

11 [~~E.~~] F. Upon the termination of a state of public
12 health emergency, the secretary of health shall consult with
13 the secretary of public safety and the director to ensure
14 public safety during termination procedures."

15 SECTION 3. A new section of the Public Health Act is
16 enacted to read:

17 "[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
18 GATHERINGS--TERMINATION AND RENEWAL.--

19 A. Upon issuing a public health order that is of
20 general applicability throughout the state or a portion of the
21 state that closes any public place or forbids or limits
22 gatherings of people, the secretary shall transmit copies of
23 the order to the president pro tempore of the senate, the
24 minority floor leader of the senate, the speaker of the house
25 of representatives and the minority floor leader of the house

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underscoring material = new
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1 of representatives.

2 B. A public health order that is of general
3 applicability throughout the state or a portion of the state
4 that closes any public place or forbids or limits gatherings of
5 people shall automatically terminate forty-five days after
6 being declared and shall only be renewed, amended or reissued
7 by a joint resolution of the legislature or, if the legislature
8 is not in session for a period of time until the legislature
9 meets in session, by a vote of the majority of the members of
10 the New Mexico legislative council that is transmitted to the
11 governor."

12 SECTION 4. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.