

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/19/2025

Check all that apply:

Bill Number: HB436

Original Correction
Amendment Substitute

Sponsor: Rep. Rod Montoya; Rep.
Elaine Sena Cotez.

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Exemptions for Emergency
Closures

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: House Bill 436 requires that any government orders issued under emergency management laws—such as public health emergencies, riot control, or energy crises—that mandate business or facility closures while allowing exemptions for certain entities must also extend the same exemptions to religious organizations operating as tax-exempt places of worship. The bill also provides a legal avenue for individuals or entities to seek damages if they experience harm due to violations of this provision, including punitive damages for malicious enforcement.

Section 1: Amends the short title to be consistent with HB436.

Section 2: Amends the All Hazard Emergency Management Act (AHEMA) to be limited by the exceptions located in Section 4 of this bill.

Section 3: Limits the provisions of AHEMA with the exceptions located in Section 4 of this bill. It also updates the title of the Secretary of Homeland Security.

Section 4: Creates a new NMSA 1978, Section 12-10-10.1. Under the new section, any order under AHEMA which closes or limits businesses or facilities but provides exceptions for some businesses or facilities must extend that exception to places of worship. This section would repeal the existing Section 12-10-10.1, which was a short title section for the Emergency Licensing Act. Finally, Section 4 would permit a party harmed by a violation of Section 12-10-10.1 to sue and obtain an injunction and damages, including punitive damages in case of a malicious violation.

Section 5: Moves the Emergency Licensing Act short title section to NMSA 1978, Section 12-10-13.1.

Section 6: Amends the Riot Control Act also to, as in the case of Section 4, require that any exceptions to emergency declarations extend to places of worship and provide a cause of action for any violations of that requirement.

Section 7: Amends the Public Health Emergency Response Act to, as in the case of Section 4, require that any exceptions to emergency public health rules extend to places of worship and provide a cause of action for any violations of that requirement.

Section 8: Amends the Emergency Powers Act to, as in the case of Section 4, require that any exceptions to energy supply alert declarations extend to places of worship and provide a cause of action for any violations of that requirement. Section 8 also removes gendered language and makes grammatical changes to the statute.

Section 9: The effective date is July 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HB 535, which limits the governor's authority to declare emergencies.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.