

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 2/12/25
Bill No: SB 340

Sponsor: Jay C. Block
Declarations of Emergency
Short Changes
Title: _____

Agency Name and Code GOV-356
Number: _____
Person Writing Lizbeth Carrasco-Gallardo
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Phone: 505-476-2210 :

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	NFI	NFI	NFI
NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
NFI	NFI	NFI	NFI	NFI
NFI	NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 340 (“SB 340”) proposes amendments to the All Hazards Emergency Response Act (“AHEMA”), NMSA 1978, §§ 12-10-1 to -10 (2007), and the Public Health Emergency Response Act (“PHERA”), NMSA 1978, §§ 12-10A-1 to -19 (2007) regarding the termination of a state emergency. SB 340 proposes a new section to AHEMA and PHERA requiring legislative oversight over emergency declarations. The new section states that a declaration of a state of emergency shall terminate after thirty (30) days unless the legislature extends the order or rule through legislation, or the governor extends the order or rule in writing, twice for a period of 30 days each time.

SB 340 also seeks to amend NMSA 1978, Section 12-10A-5(D)(2)(2007) of PHERA regarding the termination of a declared public health emergency to reflect the proposed amendment that a declaration of a state of public health emergency shall be terminated automatically after thirty days unless, prior to the termination, the legislature enacts legislation to address the emergency or the governor, after consulting with the secretary of health, extends the emergency determination provided that the governor only extends a declaration of a state public health emergency twice, for thirty (30) days each time.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

SB 340 seeks to limit the governor’s ability to declare and respond to emergencies pursuant to AHEMA and PHERA. The overall purpose of AHEMA and PHERA is to establish an effective plan to manage and respond to emergencies that may arise in the state. *See* NMSA 1978, § 12-10-2; NMSA 1978, § 12-10A-2. However, the authority and plans provided in each Act cannot be initiated or continue absent a declaration of a state of emergency. Neither AHEMA nor PHERA confer any role to the legislature regarding the response to a public health emergency or any other emergency. *See* §§ 12-10-1 to -10; §§ 12-10A-1 to -19. This is because the response to an emergency must occur quickly and cannot wait on 112 people with different opinions to deliberate before decisions can be carried out. The response to emergency situations also requires rapid flexibility due to changes in circumstances. AHEMA and PHERA therefore authorize the governor to declare, extend, and terminate a state of emergency, as this is the most efficient way to mobilize the emergency plans enumerated in each Act. The efficiency of the governor’s role in addressing emergencies is further demonstrated by AHEMA’s requirement that all political

subdivisions of the State must “comply with and enforce all executive orders and rules made by the governor or under the governor’s authority pursuant to law.” NMSA 1978, § 12-10-10(A) (2007). Thus SB 340 would only delay the process to respond to emergency situations by requiring the legislature deliberate and vote to extend declared state of emergency.

Furthermore, SB 340 dangerously assumes that legislators would be able to assemble during any type of emergency. This may not always be the case, as events such as natural disasters, terrorist attacks, or pandemics may prevent travel and disrupt communication systems for uncertain periods of time. If such an emergency took place, the State would be left in limbo as the state of emergency could not be renewed, thereby halting any action taken in response. This is yet another advantage of placing the authority in the governor to manage a declaration of an emergency. Requiring only one person to decide whether to extend a state of emergency maintains continuity during a crisis.

It is the essential role of the governor in our government to execute the laws. This role is even more vital during an emergency situation when decisions need to be made quickly in order to protect the lives and property of New Mexicans. Therefore, the authority to declare, extend, or terminate a state of emergency pursuant to AHEMA and PHERA should not be removed from the governor.

Finally, it is worth noting that this law is entirely unnecessary. Should the Legislature disapprove of a continued state of emergency, it has the authority to call a special session to pass legislation to specifically address the situation. *See* N.M. Const. Art. IV., Sec. 6. Accordingly, the Legislature has always had the power to provide oversight of the Governor’s emergency powers under AHEMA and PHERA. Passing this legislation would simply remove the Legislature’s discretion to continue to allow the Governor to handle a state of emergency without continually convening special sessions.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

If the legislature determines whether to extend or terminate a declared state of emergency this will significantly impede the State’s ability to timely respond to crises.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The State will continue to respond to emergency situations quickly and efficiently as the decision to declare and extend states of emergency is retained by the governor, and the Legislature will continue to have the ability and discretion to convene and to pass legislation addressing each specific continuing emergency.

AMENDMENTS