

LFC Requestor: SANCHEZ, Scott

2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: SB340

Type: Introduced

Date (of THIS analysis): 2/12/2025

Sponsor(s): Jay C. Block

Short Title: Declarations of Emergency Changes

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$	\$		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$	\$	\$		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$	\$	\$	\$		

### Section III: Relationship to other legislation

Duplicates:

Conflicts with:

Companion to:

Relates to:

Duplicates/Relates to an Appropriation in the General Appropriation Act:

### Section IV: Narrative

#### 1. BILL SUMMARY

##### a) Synopsis

SB340 proposes to amend the All Hazard Emergency Response Act, at NMSA 1978 Sections 12-10-4, to require that:

An order or a rule that restricts commerce, public assembly or a person's apparel, conduct or transport of personal items pursuant to the All Hazard Emergency Management Act shall terminate at the end of thirty days unless prior to the termination of the order or rule:

(1) the legislature extends the order or rule through legislation; or

(2) the governor extends the order or rule upon a determination in writing that the order or rule needs to be extended to address the underlying emergency; provided that the governor may only extend an order or rule two times for a period of up to thirty days for each extension.

The bill would also require that a declaration of a state of public emergency can only be extended by the Governor for up to a maximum of two thirty-day periods, unless extended by the Legislature.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

##### b) Significant Issues

If enacted, SB340 would greatly limit the ability of the Governor to extend declarations of emergencies under the All Hazard Emergency Management Act, NMSA 1978, § 12-10-1 through -10. The bill's proposed amendment of Section 12-10-5 NMSA would effectively mean that no declared emergency could ever last longer than sixty days unless the Legislature extended it by legislation. This would greatly restrict the ability of the state to

respond to an emergency and would impose an arbitrary limit of the length of a declared emergency, without regard to the nature of the emergency or its scope. This would present numerous complications for the state's efforts to respond to public health crises, natural disasters, and other emergency events. Federal funding for emergency and disaster relief will often depend in part upon a state's declaration of an emergency. Critical funding and distribution of resources for emergency response may be terminated or otherwise inhibited by the automatic termination of a declared state of emergency.

Having to call special legislative sessions, beginning prior to a *de facto* 60-day expiration of a declared emergency, raises the prospect of an unworkable emergency response. New Mexico's Legislature is made of volunteers and meets for no more than 30 or 60 days out a year. Convening what would likely become multiple special sessions of the Legislature in order to extend the declaration of an emergency would require something more akin to a full-time Legislature.

In order to appropriately respond to emergencies, the executive branch must have the autonomy to make independent, timely, scientifically based decisions that are not reliant upon the timelines and the politics of the legislative process. Under the separation of powers established by the New Mexico Constitution, the Governor is the chief executive of the state, and the Governor possesses the inherent power to preserve and protect the health and welfare of the state. SB340 would conflict with that constitutional framework, and would jeopardize the health and welfare of New Mexicans.

SB340 contains certain ambiguous expressions that would create ambiguities in its application. The bill would compel that any restriction on commerce, public assembly, "a person's apparel", or "transport of personal items" terminate at the end of thirty days unless extended by the Legislature or extended by the Governor for no more than two thirty-day periods. It is unclear what it means to "restrict apparel". Likewise, the bill refers to restricting the transport of "personal items", but does not define that expression.

Virtually every order that imposes restrictions as part of an emergency response can be interpreted as restricting conduct or commerce; and thus, this bill would also have far-reaching impacts on the state's emergency response.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes  No

The Department of Health's ability to respond to emergencies could be negatively impacted by SB340. The bill raises the likelihood that declared emergencies would expire prior to being extended by the Legislature, which could in turn impact the availability of federal funding to respond to emergencies.

- Is this proposal related to the NMDOH Strategic Plan?  Yes  No

**Goal 1:** We expand equitable access to services for all New Mexicans

**Goal 2:** We ensure safety in New Mexico healthcare environments

**Goal 3:** We improve health status for all New Mexicans

**Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

### 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

SB340 raises the likelihood that declared emergencies would expire prior to being extended, which could in turn impact the availability of federal funding to respond to emergencies.

### 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

NMDOH's ability to respond to emergencies would likely be impacted by this bill.

### 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

### 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

SB340 includes an amendment to NMSA 12-10-4(A), to begin that paragraph with the statement, "Except as limited by Subsection C of this section". However, Subsection C of that section would not limit the powers described in Section 12-10-4(A). In other words: the fact that an order or rule might terminate after thirty days would not change the fact that the Governor has general direction and control over the Homeland Security and Emergency Management Department, etc. This proposed revision appears to have been made by mistake.

### 7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

SB340 raises the likelihood that declared emergencies would expire prior to being extended by the Legislature, which could in turn impact the availability of federal funding to respond to emergencies.

## **8. DISPARITIES ISSUES**

None.

## **9. HEALTH IMPACT(S)**

The Department of Health's ability to respond to emergencies could be negatively impacted by SB340, which would in turn negatively impact public health. The expiration of declarations of emergency could impact the availability of federal funding to respond to emergencies. It could also limit potential remedies of NMDOH and other state agencies in responding to an emergency.

## **10. ALTERNATIVES**

None.

## **11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

If SB340 is not enacted, the All Hazard Emergency Response Act will not be amended to restrict the ability of the Governor to extend declarations of emergency for more than a combined 60-day total period, and will not be amended to require that an order or rule issued pursuant to that Act that "restricts commerce, public assembly or a person's apparent, conduct or transport of personal items" terminate after 30 days.

## **12. AMENDMENTS**

None.