

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Lord/Block LAST UPDATED _____
ORIGINAL DATE 02/21/2025
BILL
SHORT TITLE Termination of States of Emergency BILL NUMBER House Bill 535
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Legislative Branch	At least \$211.9	At least \$211.9	At least \$211.9	Up to \$635.7	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Related to House Bill 436, Senate Bill 340, and House Joint Resolutions 17 and 21.

Sources of Information

LFC Files

Agency Analysis Received From
Department of Health (DOH)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of House Bill 535

House Bill 535 (HB535) adds a section to the All Hazard Emergency Management Act (Section 12-10 NMSA 1978) to address declarations of emergency by the governor, terminating the emergency unless the governor calls the legislature into special session within 90 days of declaration. The Legislature could then issue a joint declaration to terminate, restrict or suspend the state of emergency; if the Legislature does not do so, the governor may extend the declaration for 60 additional days. In order to call additional extensions, the governor must call a special session of the Legislature for each extension. A declaration of emergency ends once terminated by the governor or the Legislature or automatically if the governor fails to call a special session. Only one state of emergency can be declared for any one event.

Regarding public health emergencies, Section 2 of this bill would enact a new section of the Public Health Emergency Act (Section 12-10A) making the same changes as indicated above. Section 3 of the bill amends Section 12-10A-5, restating the provisions in Section 2 of the bill.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 535. If the Legislature were called back into session to deal with a gubernatorial declaration of emergency (either public health or all hazards), a cost to the general fund would be incurred for travel, per diem and miscellaneous expenses. The last special session of the Legislature, in July 2024, cost \$211.9 thousand for that one-day session, exclusive of special appropriations for wildfire relief and outpatient treatment. This analysis assumes the passage of HB535 would result in at least one additional special session of a length of at least one day; additional and longer special sessions would increase the cost proportionally.

SIGNIFICANT ISSUES

As noted by the New Mexico Attorney General:

HB535 could limit the executive branch's ability to execute emergency orders and powers during a prolonged emergency. The New Mexico Supreme Court has held that the executive branch has the ability through the inherent constitutional police powers to issue emergency orders subject to review. See, e.g., *Grisham v. Romero*, 2021-NMSC-009 (holding in part that the governor is empowered by law to issue business restrictions and the public health orders were neither arbitrary nor capricious); *Grisham v. Reeb*, 2021-NMSC-006 (holding in part that DOH emergency orders were authorized by law); *State v. Wilson*, 2021-NMSC-022 (holding in part that public health orders issued by DOH are a reasonable exercise of the State's police power to protect public health).

Had the provisions of this bill been in place during the recent COVID emergency, which was declared on March 11, 2020 and terminated on March 3, 2023, the Legislature would have been required to meet 17 times to renew the emergency declaration at a cost to Legislature members of lost time from work and of approximately \$3.6 million for special session expenses.

As noted by the Department of Health:

HB535 would have the effect of automatically terminating a declared public health emergency under PHERA, without regard to whether the threatening conditions that necessitated the declaration in the first instance continue to exist. The automatic expiration of a declaration of public health emergency could greatly impair the State's ability to appropriately respond to such emergencies.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB535 is related to HB436, which would also amend the All Hazard Emergency Management Act and the Public Health Emergency Response Act; and SB340, which proposes to amend the All Hazard Emergency Response Act. House Joint Resolutions 17 and 21, which are identical, would make similar changes to the state constitution if approved by the electorate.