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HOUSE BILL 40

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Greg Nibert and Daymon Ely and Randall T. Pettigrew and
Stefani Lord and Rachel A. Black

AN ACT

RELATING TO EMERGENCY POWERS; PROVIDING THAT A DECLARATION OF A
STATE OF EMERGENCY PURSUANT TO THE ALL HAZARD EMERGENCY
MANAGEMENT ACT OR THE PUBLIC HEALTH EMERGENCY RESPONSE ACT
TERMINATES AFTER NINETY DAYS UNLESS THE GOVERNOR CALLS THE
LEGISLATURE INTO SPECIAL SESSION TO ADDRESS THE CIRCUMSTANCES
OF THE EMERGENCY; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the All Hazard Emergency
Management Act is enacted to read:

"[NEW MATERIAL] LEGISLATIVE OVERSIGHT--EMERGENCY
DECLARATIONS.--

A. A declaration of a state of emergency issued
pursuant to the All Hazard Emergency Management Act shall cease

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1 to be in effect after ninety days unless the governor calls the
2 legislature into special session to address the circumstances
3 of the state of emergency.

4 B. The special session called pursuant to
5 Subsection A of this section shall convene no later than the
6 ninetieth day after the initial declaration of the state of
7 emergency.

8 C. The legislature may restrict, suspend or
9 terminate a declaration of a state of emergency by joint
10 resolution. If the legislature does not act to restrict,
11 suspend or terminate a declaration of a state of emergency,
12 then the declaration may be extended by the governor for a
13 period not to exceed sixty days from the date of adjournment of
14 the special session.

15 D. A declaration of a state of emergency shall be
16 extended for no more than sixty days. The governor shall call
17 the legislature into special session before the expiration of
18 an extension to consider an additional extension, and this
19 procedure shall be repeated until the declaration of the state
20 of emergency is terminated by the governor or the legislature
21 or automatically upon expiration of the extension if the
22 governor fails to call the legislature into special session
23 pursuant to the provisions of this section.

24 E. The governor may only declare one state of
25 emergency for an event, and any effort to declare another state

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1 of emergency for the same event requires prior consent of the
2 legislature for the declaration to be effective."

3 SECTION 2. A new section of the Public Health Emergency
4 Response Act is enacted to read:

5 "[NEW MATERIAL] LEGISLATIVE OVERSIGHT--PUBLIC HEALTH
6 EMERGENCY DECLARATION.--

7 A. A declaration of a state of public health
8 emergency issued pursuant to the Public Health Emergency
9 Response Act shall cease to be in effect after ninety days
10 unless the governor calls the legislature into special session
11 to address the circumstances of the public health emergency.

12 B. The special session called pursuant to
13 Subsection A of this section shall convene no later than the
14 ninetieth day after the initial declaration of the state of
15 public health emergency.

16 C. The legislature may restrict, suspend or
17 terminate a declaration of a state of public health emergency
18 by joint resolution. If the legislature does not act to
19 restrict, suspend or terminate a declaration of a state of
20 public health emergency, then the declaration may be extended
21 by the governor for a period not to exceed sixty days from the
22 date of adjournment of the special session.

23 D. A declaration of a state of public health
24 emergency shall be extended for no more than sixty days. The
25 governor shall call the legislature into special session before

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1 the expiration of an extension to consider an additional
2 extension, and this procedure shall be repeated until the
3 declaration of the state of public health emergency is
4 terminated by the governor or the legislature or automatically
5 upon expiration of the extension if the governor fails to call
6 the legislature into special session pursuant to the provisions
7 of this section.

8 E. The governor may only declare one state of
9 public health emergency for an event, and any effort to declare
10 another state of public health emergency for the same event
11 requires prior consent of the legislature for the declaration
12 to be effective."

13 SECTION 3. Section 12-10A-5 NMSA 1978 (being Laws 2003,
14 Chapter 218, Section 5) is amended to read:

15 "12-10A-5. DECLARING A STATE OF PUBLIC HEALTH EMERGENCY--
16 TERMINATING THE EMERGENCY.--

17 A. A state of public health emergency may be
18 declared by the governor upon the occurrence of a public health
19 emergency. Prior to a declaration of a state of public health
20 emergency, the governor shall consult with the secretary of
21 health. The governor shall authorize the secretary of health,
22 the secretary of public safety and the director to coordinate a
23 response to the public health emergency.

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

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- 1 (1) the nature of the public health emergency;
- 2 (2) the political subdivisions or geographic
- 3 areas affected by the public health emergency;
- 4 (3) the conditions that caused the public
- 5 health emergency;
- 6 (4) the expected duration of the public health
- 7 emergency, if less than thirty days;
- 8 (5) the public health officials needed to
- 9 assist in the coordination of a public health emergency
- 10 response; and
- 11 (6) any other provisions necessary to
- 12 implement the executive order.

13 C. A declaration of a state of public health
14 emergency shall not abrogate any disease-reporting requirements
15 set forth in the Public Health Act.

16 D. A declaration of a state of public health
17 emergency shall be terminated:

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

21 (2) automatically after thirty days, unless
22 renewed by the governor after consultation with the secretary
23 of health; provided that pursuant to Section 2 of this 2022
24 act, a declaration of a state of public health emergency shall
25 cease to be in effect after ninety days unless the governor

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1 calls the legislature into special session to address the
2 circumstances of the public health emergency.

3 E. Upon the termination of a state of public health
4 emergency, the secretary of health shall consult with the
5 secretary of public safety and the director to ensure public
6 safety during termination procedures."

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

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