

LFC Requestor: KLUNDT, Kelly

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House
Number: HB535

Category: Bill
Type: Introduced

Date (of THIS analysis): 2/21/2025
Sponsor(s): Stefani Lord and John Block
Short Title: Termination of States of Emergency

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		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

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	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: HB353, SB340

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

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 535 proposes to enact amendments to the All Hazard Emergency Management Act, NMSA 1978, § 12-10-1 through -10, and the Public Health Emergency Response Act, NMSA 1978 § 12-10a-1 through -19, which would cause a declaration of a state of emergency to terminate automatically after 90 days unless the Governor called the Legislature into a special session “to address the circumstances of the state of emergency.”

The bill would authorize the Legislature to “restrict, suspend or terminate” a declaration of a state of emergency by a joint resolution. Barring such a restriction by the Legislature, the Governor would be authorized to extend a declaration of a state of emergency for no more than sixty days after the adjournment of the special session. A declaration of a state of emergency could be extended by no more than 60 days, whether by the Governor or by the Legislature. To further extend a declaration of a state of emergency, the Governor would once again be required to call a special session of the Legislature. This process would have to be repeated continually for the declaration of a state of emergency to remain in effect.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

House Bill 535 proposes to greatly limit the ability of the Governor to extend declarations of emergencies under the All Hazard Emergency Management Act (“AHEMA”), NMSA 1978, § 12-10-1 through -10, and the Public Health Emergency Response Act (“PHERA”), NMSA 1978 § 12-10a-1 through -19. Currently, under the AHEMA, no termination date for the declaration of an emergency is specified. Under PHERA, a declaration of a state of public health emergency terminates automatically after thirty days unless renewed by the Governor after consultation with the Cabinet Secretary of the Department of Health. NMSA 1978, § 12-10a-5(D).

HB535 would require that emergency declarations be renewed by the Legislature in a special session after 90 days, or renewed by the Governor for no more than 60 days if a special session concludes with no action taken by the Legislature. It is unclear whether an emergency declaration by the Governor would be automatically extended upon the Legislature convening for the special session.

The bill would require that a declaration of emergency not be extended for more than 60 days, by either the Legislature or the Governor. After a declaration of emergency was extended for 60 days, the Legislature would be required to convene for yet another special session, in order for another extension of up to 60 days to occur. HB535 proposes to greatly restrict 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. If, for example, a declaration of a public health emergency was to automatically terminate after 150 days, this could have severe implications for the ability of the State of New Mexico to respond to an emergency. 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.

Calling recurring special legislative sessions 90 days after the initial declaration of an emergency by the Governor, and every 60 days thereafter, likewise presents 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 during a year. Continually convening and reconvening special sessions of the Legislature to revisit the declaration of an emergency would require something more akin to a full-time Legislature.

To appropriately respond to emergencies, the Executive Branch must have the autonomy to make independent, timely, scientifically based decisions. 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. HB535 would conflict with that constitutional framework, and would jeopardize the health and welfare of New Mexicans in the process.

2. PERFORMANCE IMPLICATIONS

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

Yes No

See "Significant Issues" above.

- 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

4. ADMINISTRATIVE IMPLICATIONS

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

See “Significant Issues” above.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB535 is related to HB436, which also proposes to amend the All Hazard Emergency Management Act, the Public Health Emergency Response Act; and SB340, which proposes to amend the All Hazard Emergency Response Act.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

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

It is possible that HB535 could create conflicts with federal grant requirements. Again: if enacted, HB535 would automatically terminate a declaration of an emergency, and this could in turn impact the ability of state agencies to continue receiving funding and resources that are dependent upon such declarations.

8. DISPARITIES ISSUES

None.

9. HEALTH IMPACT(S)

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.

10. ALTERNATIVES

None.

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

If HB535 is not enacted, the All Hazard Emergency Management Act and the Public Health Emergency Response Act will not be amended to require that declarations of emergencies by the Governor automatically expire unless renewed by the Legislature, and those statutes will not be amended to impose arbitrary expiration dates upon declared emergencies.

12. AMENDMENTS

None.