

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/11/2025

Check all that apply:

Bill Number: SB 340

Original

Correction

Amendment

Substitute

Sponsor: Sen. Jay C. Block

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: DECLARATIONS OF
EMERGENCY CHANGES

Analysis: AAG Tyler Sciara

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Original: NMSA 1978, § 12-10-4 (a provision of the All Hazard Emergency Management Act) provides the Governor the responsibility to carry out the provisions of the Act by directing and controlling state resources in the event of disaster or widespread harm. NMSA 1978, § 12-10A-5 (a provision of the Public Health Emergency Response Act) provides the Governor with the authority to declare a public health emergency upon consultation with the secretary of health.

SB 340 proposes to amend the All Hazard Emergency Management Act to limit the Governor’s authority under the Act to issue an order or rule that would restrict commerce, public assembly, or a person’s apparel, conduct, or transportation of personal items.

If the Governor issues such an order or rule, SB 340 would have it automatically terminate after 30 days unless (a) the Legislature extends it through legislation, or (b) the Governor makes a written determination that the order or rule needs to be extended for 30 days to address the underlying emergency. The Governor may only extend such an order or rule two times.

SB 340 also proposes to amend the Public Health Emergency Response Act to automatically terminate any declaration of a state of public health emergency after 30 days, unless either of the same conditions noted above occur.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

This measure would limit the Governor’s ability to execute emergency powers during a prolonged emergency. The executive has survived several judicial challenges brought by members of the Legislature and the public. *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).

SB 340 does not itself define what constitutes a restriction on commerce. The categories established by SB 340 are rather broad and have the potential to encompass virtually any meaningful action taken by the Governor under the Acts.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HR 2, which aims to issue articles of impeachment against Governor Grisham for declaring a public health emergency due to gun violence and restricting the possession of firearms outside of private property in 2023.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A