

LFC Requester:

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/19/2025 *Check all that apply:*
Bill Number: S340-341 Original Correction
 Amendment Substitute

Sponsor: Sen. Block **Agency Name and Code** DFA-341
Short Title: DECLARATIONS OF EMERGENCY CHANGES **Number:** _____
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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)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 340 (SB340) seeks to address perceived management and termination of public emergency issues. SB 340 proposes a limiting approach to managing public emergencies, creating inefficient and onerous legislative processes and limiting the duration of emergency orders and declarations. SB340 proposes amendments to sections of Chapter 12 NMSA 1978, crippling the powers of the governor to declare and respond to state emergencies. Key provisions of the bill include:

- **Termination of Emergency Orders:**
 - Orders or rules restricting commerce, public assembly, or personal conduct will automatically terminate after 30 days unless extended.
 - The legislature can extend these orders through legislation.
 - The governor can extend these orders twice, each for up to 30 days, with a written determination of necessity for a total of 90 days.
- **Public Health Emergencies:**
 - A declaration of a public health emergency will terminate after 30 days unless extended by the legislature or the governor (after consulting with the secretary of health). The governor is allowed two extensions of up to 30 days each, for a total of 90 days.

FISCAL IMPLICATIONS

SB340 does not provide any direct appropriations or explicitly detail any of its fiscal implications. However, based on the content of SB340, potential fiscal implications could include:

- **Administrative Costs:**
 - Implementing and managing the processes for declaring, extending, and terminating states of emergency may incur additional administrative costs.
 - This includes coordination between the governor's office, the secretary of health, the legislature, and local and regional governmental entities and
- **Resource Allocation:**

- The provision and delivery of resources and services necessary to manage emergencies, such as lodging, sheltering, health care, food, and transportation, could incur significant disruptions and lead to additional costs due to the automatic expiration of public health and other emergencies without legislative approval.
- **Legislative Involvement:**
 - The requirement for legislative extensions of emergency orders may lead to additional administrative and reimbursement costs associated with convening special legislative sessions to address these extensions.

SIGNIFICANT ISSUES

- **Definition of “restricting commerce, public assembly, or personal conduct”:**
 - Currently, the Governor of New Mexico is allocated several constitutional and statutory powers to reissue executive orders and take necessary steps to protect the peace, health, safety, and welfare of the people of New Mexico during emergencies.
 - Under the All Hazard Emergency Management Act (AHEMA), the Governor is authorized to direct and control the state's response to any man-made or natural disaster causing widespread harm beyond local control, including exercising direction over state forces and resources engaged in emergency operations.
 - Under the Public Health Emergency Response Act (PHERA), the Governor can declare a public health emergency and take necessary actions to manage it. This includes issuing executive orders and rules to protect public health and safety.
 - Under the Energy Emergency Powers Act (EEPA), the Governor can declare an energy supply alert or emergency, issue executive orders to reduce energy consumption and allocate energy resources. These orders can include restrictions on nonessential energy use, changes in operation schedules, and regulation of energy sales.
 - Under the Commander and Chief powers, the Governor can call the National Guard to active duty for any military purpose without needing to proclaim an emergency.
 - SB340 essentially sets a 90-day limit on emergencies declared by the Governor that restrict commerce, public assembly, or personal conduct. However, the powers granted by AHEMA, PHERA, and EEPA will likely always colloquially involve restricting commerce, public assembly, or personal conduct.
 - Without a definition for restricting commerce, public assembly, or personal conduct, SB340 will create confusion and delays in implementing

actions necessary for the state to respond to declared emergencies.

- Additionally, without definitions for restricting commerce, public assembly, or personal conduct, SB340 will require and encourage litigation during active emergencies to determine whether legislative approval is required to extend emergencies beyond the 90-day limit, potentially delaying or discontinuing the valuable aid to affected communities.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

Overall, SB340 requires enhanced coordination, planning, and resource management from the governor's office with the legislature, including structured procedures for extending and terminating emergency declarations and orders while the legislature is out of session.

- **Legislative and Gubernatorial Extensions:**
 - Orders or rules restricting commerce, public assembly, or personal conduct will terminate after 30 days unless extended by the legislature or the governor.
 - The governor can extend these orders twice, each for up to 30 days, and each extension requires written justification.
 - Thereafter, unless the legislature is in session, the Governor will be required to convene a special session in accordance with N.M. Const. Art. IV, § 6., to extend any emergency declaration or orders.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

- **Provisional Appropriations (§ 12-11-24, NMSA 1978):**
 - Under § 12-11-24, when and if the governor declares an emergency, there is appropriated the sum of seven hundred fifty thousand dollars (\$750,000) for each eligible and qualified applicant or so much thereof as the governor may from time to time designate from the surplus unappropriated money in the general fund, if any, at the time of the declaration of such emergency or emergencies.
 - Under SB340, after the 90-day limit has passed, legislative approval is required to continue an emergency declaration or executive order restricting commerce, public assembly, or personal conduct.
 - However, SB340 does not identify how the expiration of an emergency declaration or corresponding executive orders under SB340's terms affect provisional appropriations associated with these functions.

- Additionally, SB340 does not identify what happens to provisionally appropriated funds that remain unexpended upon the expiration of a declared emergency through lack of legislative approval.
 - Without clarity in SB340 about whether provisional appropriations survive the expiration of emergency declarations or corresponding executive orders, the Department of Finance and Administration and executive agencies tasked with responding to declared emergencies may be required to disallow cost reimbursements or vouchers related to previously declared emergencies and response efforts.
- **Emergency Insurance Orders (§ 59A-2-8, NMSA 1978):**
 - During a state of emergency declared under AHEMA or PHERA, the Superintendent of Insurance can, under the Governor's order, take action to ensure access to insurance and the stability of insurance markets.
 - This includes issuing emergency rules related to insurance policies, such as grace periods for premium payments and temporary postponement of cancellations.
 - Under SB340, after the 90-day limit has passed, legislative approval is required to continue an emergency declaration or executive order restricting commerce, public assembly, or personal conduct.
 - If the emergency declaration is automatically terminated due to expiration, any emergency rules ensuring access to insurance and the stability of insurance markets during the declared emergency will lapse, potentially affecting insurance coverage and economic stability during ongoing crises.
 - Insurance claims and payouts often take longer than 90 days to effectuate. Allowing emergency provisions around access and stability to lapse after 90 days will create confusion for both insurance providers and consumers, with the potential for incentivizing insurance companies to wait out emergency provisions around access for consumers to avoid payouts.

TECHNICAL ISSUES

- **Mutual Aid Agreements:**
 - Due to SB340's limitation on the Governor's ability to extend emergency declarations, existing Mutual Aid agreements between the state, other states, and/or local jurisdictions will need to be reviewed and amended to accommodate the limitation on the Governor's authority.
 - Any financial, resource-sharing, or other commitments must be limited to 90 days unless otherwise approved by the legislature.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A.

AMENDMENTS

N/A.