

**NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.**

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR: Vaughn DATE TYPED: 02/09/03 HB 253

SHORT TITLE: Allow Governor Authority to Order Evacuations SB \_\_\_\_\_

ANALYST: Fox-Young

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Unknown		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 364  
Relates to HB 231, HB 232, HB 254 and SB 194

### SOURCES OF INFORMATION

Responses Received From  
 Department of Public Safety (DPS)  
 Department of Military Affairs (DMA)  
 Association of District Attorneys (AODA)  
 Administrative Office of the Courts (AOC)  
 Attorney General (AG)  
 Department of Health (DOH)  
 State Highway and Transportation Department (SHTD)

### SUMMARY

#### Synopsis of Bill

House Bill 253 amends Section 30-20-6, expanding the list of restrictions the governor may proclaim during a state of emergency. The bill adds the following language to the Act:

“The governor may, by proclamation, prohibit all or part of the population from remaining in any designated area within the state if the governor deems such action necessary for the preservation of life or necessary to aid an emergency response, recovery or mitigation.”

“In order to facilitate an evacuation, the governor may prescribe travel routes, transportation modes and assigned destinations and may provide for the availabil-

ity and use of temporary, emergency housing for evacuees.”

The bill also makes technical adjustments to existing language.

### Significant Issues

DPS notes that the New Mexico Riot Control Act provides that, upon the request of a political subdivision of the state, the governor may make an emergency declaration.

The Department of Military Affairs (DMA) notes that the New Mexico Constitution endows the governor with the power to take any necessary action to protect the public health, safety and welfare. N.M. Constitution Art. V Section 4 reads as follows:

“The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed. He shall be commander in chief of the military forces of the state, except when they are called into the service of the United States. He shall have power to call out the militia to preserve the public peace, execute the laws, suppress insurrection and repel invasion.”

Department of Public Safety (DPS), Department of Health (DOH) and AG note that there is currently no statutory authority to allow local, county or state government the specific ability to evacuate citizens from a natural or man-made disaster. DOH indicates that the proposed language is based on that of evacuation statutes from the southeastern part of the country, where hurricanes are prevalent.

The bill was endorsed by three interim legislative committees: the Corrections Oversight and Justice Committee, the Information Technology and Oversight Committee, and the Legislative Health and Human Services Committee.

### **FISCAL IMPLICATIONS**

Section 30-20-8 of the Riot Control Act provides that any person who, during a state of emergency, fails to comply with restrictions imposed by proclamation of the governor is guilty of a misdemeanor, and upon conviction of a second or subsequent offense under this section, is guilty of a fourth degree felony.

The Administrative Office of the Courts (AOC) notes that, depending upon whether the Act generates or avoids a significant amount of litigation, there may be fiscal implications for the judiciary.

### **RELATIONSHIP**

Relates to HB 231, HB 232, HB 254 and SB 194

JCF/yr