

SENATE BILL REPORT

SB 5434

As of February 12, 2025

Title: An act relating to establishing balanced legislative oversight of gubernatorial powers during a declared emergency.

Brief Description: Establishing balanced legislative oversight of gubernatorial powers during a declared emergency.

Sponsors: Senators Wagoner, Wilson, J., Chapman, Wellman, Christian, Short, Boehnke, Dozier, Muzzall, Dhingra, Braun, Warnick, King, Goehner, Gildon, Schoesler and Shewmake.

Brief History:

Committee Activity: State Government, Tribal Affairs & Elections: 2/14/25.

Brief Summary of Bill

- Authorizes the Legislature, if in session, to terminate a state of emergency through passage of a concurrent resolution.
- Authorizes the termination of a state of emergency by the majority and minority leaders of the Senate and the speaker and minority leader of the House of Representatives if the Legislature is not in session and it has been more than 90 days since the Governor declared the state of emergency.
- Stipulates that Governor-issued orders prohibiting activities during a state of emergency may not continue for longer than 30 days unless extended by the Legislature.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL AFFAIRS & ELECTIONS

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This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: State of Emergency. A state of emergency is proclaimed by the Governor after finding that a public disorder, disaster, energy emergency, or riot exists within the state or any part thereof which affects life, health, property, or the public peace. The Governor may proclaim a state of emergency in the area affected. The state of emergency is effective upon the Governor's signature and remains in effect until the Governor declares its termination. The Governor must terminate a state of emergency when order has been restored in the area effected.

Powers of the Governor. An emergency proclamation enables the Governor to issue orders prohibit specific activities during the state of emergency, such as public gatherings, transfer of combustible materials, and the use of public streets at any time. In a state of emergency, the Governor may also issue an order to prohibit other activities the Governor reasonably believes necessary to help preserve and maintain life, health, property, or the public peace. The Governor may impose the restrictions for such times, upon such conditions, with such exceptions and in such areas of the state deemed necessary.

During a state of emergency the Governor also has authority to waive or suspend statutory obligations or limitations for certain executive functions if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, unless:

- authority is expressly granted to another statewide elected official; or
- the waiver or exemption would conflict with federal requirements that are a prescribed condition to the allocations of federal funds to the state, or First Amendment rights of freedom of speech and of the people to peaceably assemble.

Orders concerning waivers or suspensions of statutory obligations or limitations issued by the Governor are limited to 30 days unless extended by the Legislature. If the Legislature is in session, it may extend the order by concurrent resolution. If the Legislature is not in session, the order may be extended in writing by leadership of the Senate and the House of Representatives.

Summary of Bill: State of Emergency. If the Legislature is in session, it may terminate a state of emergency through passage of a concurrent resolution. If the Legislature is not in session and it has been more than 90 days since the Governor declared the state of emergency, it may be terminated in writing by the majority and minority leaders of the Senate and the speaker and minority leader of the House of Representatives.

Powers of the Governor. If the Legislature is in session, it may extend Governor-issued order or orders prohibiting activities during a state of emergency by concurrent resolution. If the Legislature is not in session, the order or orders may be extended in writing by the majority and minority leaders of the Senate and the speaker and minority leader of the House of Representatives until the Legislature can extend the order or orders by concurrent resolution.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.