

# CRS Report for Congress

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## **New Mexico Emergency Management and Homeland Security Authorities Summarized**

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### **Summary**

New Mexico statutes provide for the continuity of government through the designation of state and local government lines of succession and the relocation of the state capital should the need arise. The statutes also provide for hazardous material incident management. The governor, through the Emergency Planning and Coordination Bureau, plans and prepares for emergencies and is authorized to coordinate activities with the federal government and with other states. Appropriations for disaster relief occur each time the governor issues an emergency declaration.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

### **Entities with Key Responsibilities**

*Governor:* The governor is directed to carry out the Civil Emergency Preparedness Act, specifically to: cooperate with the federal government and with other states on issues related to emergency preparedness; issue, amend, or rescind orders, procedures, and regulations to carry out emergency preparedness; enter into mutual aid agreements with other states; coordinate mutual aid agreements between local governments; prepare a

comprehensive plan and program for emergency preparedness and integrate the plan with the federal government and other states; coordinate the preparation of plans and programs by local governments; procure supplies and equipment; and institute a training program (N.M. Stat. Ann. §12-10-4). The governor is also authorized to call out the militia during a manmade or natural emergency (N.M. Stat. Ann. §20-2-3).

*Governor's office of policy and planning:* The governor's office is to consider emergency preparedness needs in conjunction with the Office of Military Affairs and must provide staff to coordinate needs (N.M. Stat. Ann. §9-14-3 H).

*Emergency Planning and Coordination Bureau:* The bureau, established within the Department of Public Safety, is responsible for civil emergency preparedness. The chief of the bureau directs and coordinates the activities of all state departments, agencies, and political subdivisions, and serves as the liaison with other states and federal emergency agencies (N.M. Stat. Ann. §12-10-3).

*Emergency Management Task Force:* The task force is authorized to plan for assessing the scope and nature of hazardous materials incidents; establish procedures for assembling an emergency management team and a command post; developing training; identifying medical resources; and serving as liaison with the trucking and railroad industries, as well as other private sector entities (N.M. Stat. Ann. §74-4B-6).

*Local governments:* Units of local government are responsible for emergency preparedness in their jurisdictions and are authorized to establish local offices of emergency preparedness. Officials are authorized to make appropriations to pay for emergency preparedness (N.M. Stat. Ann. §12-10-5, 12-10-7). Local governments and emergency preparedness officers have the duty to comply with and enforce all executive orders and regulations made by the governor and to meet state and federal requirements (N.M. Stat. Ann. §12-10-10).

*Militia:* The militia may provide lodging, health care, food, and transportation to protect public health, safety and welfare during an emergency (N.M. Stat. Ann. §20-2-3 D.).

*Youth Conservation Corps:* Members of the corps are authorized to assist in emergency operations, including fires, floods, and the rescue of lost or injured persons (N.M. Stat. Ann. §9-5B-1 *et seq.*, 5B-4.D).

*Information Management Technology Commission:* The commission provides oversight of agencies' plans for risk management and disaster recovery practices (N.M. Stat. Ann. §15-1C-7 B (7)).

*Secretary of Public Safety:* The secretary, along with other officials and specified entities, administers the Emergency Management Act regarding hazardous materials incidents (N.M. Stat. Ann. §74-4B-4 to 8).

*State Emergency Response Commission:* The commission exercises authority for hazardous materials incidents (N.M. Stat. Ann. §74-4B-3).

## Preparedness

The Civil Emergency Preparedness Act created the emergency planning and coordination bureau within the Department of Public Safety. The statute gives the governor and governing bodies emergency preparedness powers; provides for the preparation of a civil emergency preparedness plan for acts of war, sabotage, or natural disasters; authorizes the rendering of aid in the emergency restoration of facilities, utilities, other essential installations; and authorizes the provision of assistance to disaster victims and the use of services, equipment, supplies, facilities of other state departments, offices, and agencies (N.M. Stat. Ann. §12-10-1 *et seq.*).

The statute calls for formulation of a comprehensive hazardous materials emergency management plan (N.M. Stat. Ann. §74-4B-2).

The state is authorized to make emergency procurements during emergency conditions and is to use competitive procedures as deemed practical. This authority does not include the purchase or lease of heavy road equipment (N.M. Stat. Ann. §13-1-127).

## Declaration Procedures

The governor is authorized to declare a state of public health emergency after consultation with the secretary of health (N.M. Stat. Ann. §12-10A-5).

Upon declaration of a disaster emergency, the governor must call a special session of the legislature to remain in continuous session during the emergency. The legislature may recess from time to time for no more than three days (N.M. Stat. Ann. Art. IV, §2).

The legislature declared a disaster in areas of the national forests that suffered severe fire damage due to federal inaction, and called for the exercise of police power by the state to end the disaster (N.M. Stat. Ann. 4-36-11).

## Types of Assistance

State officials may accept federal assistance (services, equipment, supplies, materials, funds) as gifts, grants or loans, and also may accept private assistance (N.M. Stat. Ann. §12-10-7).

See also “Funding.”

## Mutual Aid

The *Emergency Management Assistance Compact* is codified (N.M. Stat. Ann. §11-15-1 *et seq.*).

Each political subdivision is authorized to enter into mutual aid agreements (N.M. Stat. Ann. §12-10-6).

State officials may enter into agreements with the federal government, local governments, Indian tribes, and states bordering New Mexico for the management of hazardous material incidents (N.M. Stat. Ann. §74-4B-4).

## **Funding**

Each time the governor declares an emergency, \$750,000 is appropriated (or a different amount, as is available from unappropriated surplus money) as emergency funds. The money is to be used for disaster relief for any disaster declared by governor that is beyond local control and requires state resources. Funds may be spent on state projects (resources and services to avoid or minimize economic or physical harm until the situation is stabilized and can be returned to local self support and control) or to secure matching federal funds. Examples of state projects include lodging, food, health care, and transportation (N.M. Stat. Ann. §6-7-1 *et seq.*).

## **Hazard Mitigation**

Pursuant to the finding that the U.S. Forest Service has failed to address the risk of forest fires, local boards of commissioners are authorized to thin undergrowth and remove fire-damaged trees within a disaster area (N.M. Stat. Ann. §4-36-11).

## **Continuity of Government Operations**

*Disaster Succession Act:* The statute provides that should the state be under enemy attack and a large number of state, local executive, or judicial officers are unable to serve, a procedure is established to ensure the naming of temporary officers to fill vacancies. Successors (in order) for governor include the attorney general, state auditor, commissioner of public lands and state treasurer. The governor is authorized to designate three disaster successors for each state executive office and the order of succession. Local government officers must designate three successors. The governor is to designate three potential successors for supreme and district court judges (N.M. Stat. Ann. §12-11-1 *et seq.*).

*Legislative Disaster Succession Act:* The statute provides that each county commission must designate five successors for legislators, provides for the order of succession, and authorizes the commissions to change designations at will. One-third of the members constitute a quorum requirement during a disaster emergency. An exemption is provided from constitutional requirements during an emergency, and successors serve throughout the span of an emergency (N.M. Stat. Ann. §12-11-11 *et seq.*).

If an emergency does not allow the state government to conduct business in Santa Fe, the governor may declare a temporary disaster location for state government inside or outside of the state. The governor is to issue orders for the orderly transition of affairs. The legislature can establish a new location or declare the disaster over and return the government to Santa Fe (N.M. Stat. Ann. §12-11-21).

Local governments are authorized to meet at any place at the call of the presiding officer or two or more members of the governing body. The alternative location is to be designated by ordinance. When the legislature declares that a disaster is over, the seat returns to its normal location (N.M. Stat. Ann. §12-11-22).

## Other

The types of public records exempt from the public inspection allowance include state or local tactical response plans or procedures that may reveal vulnerabilities that could facilitate a terrorist attack (N.M. Stat. Ann. §14-2-1)

Person providing shelter during an enemy attack or disaster are not liable for injury or death of persons or losses or damages to a person's property. The shelter must have been approved by emergency preparedness authorities prior to its use (N.M. Stat. Ann. §12-10-8).

A homeowner's casualty insurance policy shall not be canceled or denied renewal due to a damage claim for a private residence as a result of a natural disaster (N.M. Stat. Ann. §59A-16-20.1).

## Key Terms

**Table 1. Key Emergency Management and Homeland Security Terms Defined in New Mexico Statutes, with Citations**

Terms	Citations
Attack	N.M. Stat. Ann. §§12-11-3 A.; 12-11-13 A.; 12-11-20 A.
Disaster	N.M. Stat. Ann. §§12-11-3 B.; 12-11-13 B.; 12-11-20 B.
Disaster emergency	N.M. Stat. Ann. Art. 4 §2
Disaster successor	N.M. Stat. Ann. §§12/11-3 E; 12-11-13 D.
Emergency management	N.M. Stat. Ann. §74-4B-3 G.
First responder	N.M. Stat. Ann. §74-4B-3 H.
State project	N.M. Stat. Ann. §6-7-3
Unavailable	N.M. Stat. Ann. §§12-11-3 C.; 12-11-13 C.

## For Further Research

The citations noted above and other elements of the state code for New Mexico may be searched at: [<http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=newmexico:statutes>].