

**Department of Planning and Budget**  
**2020 Special Session I - Fiscal Impact Statement**

**1. Bill Number:** SB5039 E

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Marsden

**3. Committee:** General Laws and Technology

**4. Title:** Emergency Services and Disaster Law; powers and duties of Governor.

**5. Summary:** The engrossed bill provides, during a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared, to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. It requires the Governor, prior to making any purchase pursuant to this subdivision, to ensure that the cost will be reimbursed or otherwise funded by the federal government, a private entity, or a combination thereof. If part of the cost is to be funded by a private entity, the Governor must not make such purchase until such entity has entered into a contractual agreement to reimburse the Commonwealth. The terms of such agreement may include, in addition to the purchase price, fees for procurement, distribution, and any other costs the Governor determines to be appropriate.

Any purchase made by the Governor pursuant to this subdivision are exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 (Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned businesses and employment services organizations) when possible.

As used in this subdivision, "personal protective equipment (PPE)" means equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses, and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, or coveralls, vests, and full body suits.

**6. Budget Amendment Necessary:** Indeterminate.

**7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.

**8. Fiscal Implications:** Currently, in the case of a declaration of a state of emergency as defined in § 44-146.16, the Governor is authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient pursuant to Item 55, Chapter 1289 Acts of Assembly. A sum sufficient appropriation is additional spending authority provided by the Governor to reimburse state agencies and localities for eligible costs incurred in

preparing for, responding to, and recovering from a man-made or natural disaster (includes mitigation).

In the case of a presidentially declared disaster, the Federal Emergency Management Agency (FEMA) generally provides assistance under various programs to the Commonwealth, including FEMA's Public Assistance (PA) grant, which provides funding for emergency protective measures to respond to the disaster. However, only state, territorial, tribal, and local government entities and certain private, non-profit organizations are eligible to apply for assistance through FEMA's PA grant; other private entities are not eligible.

The engrossed bill allows the Governor to establish a program to purchase and distribute PPE to private, nongovernmental entities when a state of emergency has been declared for a communicable-disease public health threat. Further, the engrossed bill requires the Governor, prior to making any purchase pursuant to this subdivision, to ensure that the cost will be reimbursed or otherwise funded by the federal government, a private entity, or a combination thereof. If part of the cost is to be funded by a private entity, the Governor is prohibited from making such purchase until such entity has entered into a contractual agreement to reimburse the Commonwealth. The terms of such agreement may include, in addition to the purchase price, fees for procurement, distribution, and any other costs the Governor determines to be appropriate. It is not known at this time if federal funding will be available to establish the program in the future, or if a private entity will enter into a contractual agreement with the Commonwealth for purposes of purchasing PPE.

As the state agency responsible for coordinating emergency management and disaster preparedness programs, this bill may have an impact on the Virginia Department of Emergency Management (VDEM). To establish and manage a PPE program for private, non-governmental entities, VDEM believes it may need three additional positions - a program manager, a logistical position, and an accounting position. The first year cost for the three positions is estimated to be \$242,500 and the second year is estimated to be \$291,000. However, it is not known at this time if federal funding will be available or if a private entity would enter into a contract with the Commonwealth in the future.

**9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Emergency Management

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None