LFC Requester:	

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:

Original X **Amendment** ___
Correction ___ **Substitute** ___

Date 2/6/26
Bill No: SB 161

Sponsor: Sen. Woods, Rep. Dixon
Short Title: Wildfire Mitigation & Liability Act

Agency Name and Code Number: EMNRD 521
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY27	FY28		
$10,000.0	0	Nonrecurring	General Fund
$750.0	0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY27	FY28	FY29		
0	**0**	**0**		
0	0	0		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$625.0	$625.0	$1,250.00	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: *HB 267 (House Duplicate), SB 171 (Wildfire Fund Act)*
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

Synopsis: SB 161 authorizes electric utilities to develop voluntary wildfire mitigation plans for review and approval by the Public Regulation Commission (PRC). Upon PRC approval of initial mitigation plans, utilities must file annual compliance reports demonstrating compliance and identifying updates to the mitigation plan to receive a certificate of compliance.

The PRC must approve or deny mitigation plans within 180 days and can request an updated mitigation plan once every five years. The PRC will post approved plans, annual compliance reports, and certificates.

The bill also establishes procedures for utility access to private, state, and local government lands when necessary to implement an approved plan and provides limited liability protections for utilities performing work in accordance with that plan. SB 161 also creates a liability framework for "qualified wildfire civil actions," including limitations on damages and a rebuttable presumption of reasonableness for utilities that substantially comply with a PRC-approved plan.

Finally, the bill appropriates $10 million to EMNRD's Forestry Division to administer a new wildfire mitigation grant program for rural electric cooperatives. An additional $750,000 is appropriated to the Forestry Division to purchase equipment and contract for associated services in FY27.

FISCAL IMPLICATIONS

SB 161 does not make an administrative appropriation to EMNRD or the Forestry Division while creating new compliance evaluation and certification responsibilities and promulgating rules for, and issuing, "wildfire mitigation grants" to cooperatives. Carrying out the provisions of this act will require at least 5 FTE. The FTE positions include a grant manager, senior forester and three foresters. These staff will provide both planning support and grants management for each of the six Forestry districts in the state

SB 161 includes two one-time appropriations to the Forestry Division: 1) $10 million to provide grants to Rural Electric Cooperatives in FY27; and 2) $750,000 to purchase equipment and contract for services to carry out the division's duties pursuant to the Act in FY27.

The one-time appropriation for equipment and contracting services is insufficient for EMNRD to fulfill its responsibilities of annually supporting the PRC to determine utility compliance with approved wildfire mitigation plans. Furthermore, it is unclear how the Forestry Division will issue grants to Rural Electric Cooperatives without any additional funding for staffing or FTE balances.

SIGNIFICANT ISSUES

The bill provides liability relief to electric utilities for damages resulting from compliance with an approved wildfire mitigation plan, unless the utility intentionally or maliciously causes substantial damage. However, this protection does not extend to utility-hired contractors performing vegetation management or other mitigation work. This discrepancy creates difficulties for utilities to hire qualified contractors, particularly for high-risk vegetation management activities.

The bill should specify EMNRD involvement, rather than just the Forestry Division, to allow the

PRC to utilize the expertise of multiple relevant divisions. The Forestry Division expertise is vegetation management and wildfire risk reduction, while ECAM has expertise in grid hardening and operations, as well as housing the Office of Regulatory Affairs, which is the mechanism by which the Department intervenes at the PRC. The grant program in Section 11 will require expertise of multiple divisions in the Department.

The bill requires utilities to describe “the procedures and standards” they will use for vegetation management but does not specify the use of nationally recognized standards (e.g., ANSI A300, ISA BMPs) or require consultation with the State Forester. Incorporating nationally-accepted best practices and New Mexico-specific guidance would improve consistency, ecological appropriateness, and safety across utility service territories.

Section 2 (L) defines “wildfire” but does not include “electrical lines” or other utility infrastructure as potential ignition sources within the definition. Furthermore, the definition includes “or” a prescribed fire that is declared a wildfire. Including prescribed fire as a part of the wildfire definition would render the jurisdictional agency of the wildfire to be liable for the wildfire, including associated costs and potential damages.

Section 3(C) requires the PRC to approve or deny mitigation plans within 180 days or plans are deemed approved. However, the PRC should be able to establish timelines by rule that prioritize thorough mitigation plan review and implementation in time for peak fire season. The 180-day review window does not consider the administrative duties of the PRC, nor the challenges of wildfire mitigation and management.

The bill also does not require a public safety power shutoff plan. Such a plan should be a requirement, not an option, in any mitigation plan.

Section 7 addresses a critical need for electric utilities, by providing access to property with hazardous vegetation that needs to be removed to prevent a wildfire ignition. These provisions address a recurring problem of property owners threatening or denying access to utility employees and contractors who are trying to remove hazard vegetation. Currently, landowners who deny access are not liable if the tree or vegetation the utility wanted to access to remove falls on the powerline and starts a wildfire.

Section 9(H) prohibits bringing a qualified wildfire civil action more than one year after ignition. Wildfire origin-and-cause investigations, particularly those involving utility infrastructure, can take longer than one year to complete due to the complexity of evidence collection, multi-agency coordination, and post-fire access constraints. The one-year limit may prevent complete investigation and attribution.

PERFORMANCE IMPLICATIONS
None for EMNRD.

ADMINISTRATIVE IMPLICATIONS
None for EMNRD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB 161 is not enacted, electric utilities will lack a standardized framework for developing state-certified wildfire mitigation plans and continue to vary assessment and mitigation of wildfire risk.

Current statutes without a mechanism to link liability protections to demonstrated compliance with mitigation activities will remain The State will not fund co-ops with $10 million in wildfire-mitigation grants for vegetation management and grid-hardening projects identified in electric cooperative mitigation plans.

AMENDMENTS