

HOUSE BILL 171

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO ELECTRIC UTILITIES; ENACTING THE WILDFIRE FUND ACT; PROVIDING FOR THE COLLECTION OF SURCHARGES ON ELECTRIC SERVICE; ESTABLISHING THE WILDFIRE FUND; REQUIRING NOTICES OF INTEREST; PROVIDING ELIGIBILITY REQUIREMENTS, INCLUDING WILDFIRE MITIGATION PLANS; CREATING THE POSITION OF SERVICE INFRASTRUCTURE SAFETY ENGINEER IN THE PUBLIC REGULATION COMMISSION; CREATING THE SERVICE INFRASTRUCTURE SAFETY BUREAU IN THE PUBLIC REGULATION COMMISSION; REQUIRING REPORTS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Wildfire Fund Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Wildfire Fund Act:

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- 1 A. "administrator" means the administrator of the
2 fund;
- 3 B. "commission" means the public regulation
4 commission;
- 5 C. "covered wildfire" means a wildfire ignition
6 that is caused by a participating electric utility;
- 7 D. "electric utility" means a business that
8 operates service infrastructure to generate, transmit or
9 deliver electric power to a customer;
- 10 E. "eligible claims" means claims for damages
11 against a participating electric utility resulting from covered
12 wildfires;
- 13 F. "fund" means the wildfire fund;
- 14 G. "participating electric utility" means an
15 electric utility that is eligible for disbursements from the
16 fund;
- 17 H. "risk estimate" means the estimated average
18 annual financial liability risk for a participating electric
19 utility from covered wildfires;
- 20 I. "service infrastructure" means an electric
21 utility's combined electricity generation and transmission
22 infrastructure;
- 23 J. "surcharge" means a per-megawatt fee on electric
24 service collected by a participating electric utility for
25 deposit in the fund;

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1 K. "total risk estimate" means the combined risk
2 estimates for all participating electric utilities; and

3 L. "wildfire" means a fire originating from an
4 unplanned ignition such as lightning, geothermal eruption, an
5 unauthorized or accidental human-caused fire or a prescribed
6 fire that escapes the prescribed burn area and is declared a
7 wildfire by the federal, state or tribal agency that has
8 jurisdiction over the land where the fire occurs.

9 **SECTION 3. [NEW MATERIAL] WILDFIRE FUND--ESTABLISHMENT--**
10 **DETERMINATION OF SURCHARGE--DISBURSEMENT.--**

11 A. The commission shall establish a "wildfire fund"
12 to reimburse eligible claims paid by participating electric
13 utilities for damages resulting from covered wildfires.

14 B. The fund shall be financed by a surcharge on
15 electric power services and collected by participating electric
16 utilities. Money deposited in the fund is not public money,
17 and the administration of the fund is not subject to the
18 provisions of law regulating public funds.

19 C. In accordance with the Procurement Code, the
20 commission shall contract with a neutral third party who is not
21 an employee or a contractor for an electric utility in New
22 Mexico to be the administrator of the fund. The administrator
23 shall have a minimum of five years' experience in:

24 (1) the operation of service infrastructure;
25 (2) the development of wildfire mitigation

1 plans and public safety power shutoff policies for service
2 infrastructure; and

3 (3) risk assessment for service infrastructure
4 in the fire insurance industry.

5 D. Under the supervision of the commission, the
6 administrator shall:

7 (1) administer the fund; and
8 (2) review and approve requests from
9 participating electric utilities for disbursements from the
10 fund.

11 E. The administrator may be compensated from the
12 fund; provided that such compensation shall not exceed one
13 million five hundred thousand dollars (\$1,500,000) in a
14 calendar year.

15 SECTION 4. [NEW MATERIAL] ELIGIBILITY.--To be eligible
16 for a disbursement from the fund, an electric utility shall:

17 A. have a wildfire mitigation plan approved by the
18 administrator and be in substantial compliance with that plan;

19 B. agree to collect a surcharge determined by the
20 administrator to be sufficient to grow the fund by ten percent
21 of the average total risk estimate for the succeeding ten
22 calendar years; and

23 C. have been a participating electric utility for a
24 minimum of three consecutive years prior to the disbursement.

25 SECTION 5. [NEW MATERIAL] WILDFIRE MITIGATION PLANS--

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1 STANDARDS--NOTICE OF INTEREST--CALCULATION OF RISK ESTIMATES
2 AND SURCHARGES.--

3 A. On or before November 1, 2026, the commission
4 shall promulgate a rule setting the standards for wildfire
5 mitigation plans for service infrastructure. The rule shall
6 include standards for monitoring, notice and response
7 protocols, public safety power shutoffs, service infrastructure
8 integrity and vegetation management.

9 B. On or before December 1, 2026, and on or before
10 September 1 in each subsequent year, an electric utility may
11 submit a notice of interest to the administrator signifying the
12 electric utility's intent to participate in the fund in the
13 succeeding calendar year. Such notice shall include a map of
14 the electric utility's service infrastructure in New Mexico,
15 the history of the electric utility's wildfire liability
16 stemming from that infrastructure over the previous ten years,
17 the electric utility's proposed wildfire mitigation plan and
18 other information about the infrastructure required by the
19 administrator.

20 C. On January 1, 2027, and on or before January 1
21 of each subsequent year, based on the electric utilities that
22 have submitted a notice of interest in accordance with this
23 section, the administrator shall determine:

24 (1) a risk estimate for the succeeding ten
25 calendar years for each electric utility that has submitted a

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notice of interest and a total risk estimate for the electric utilities that have submitted a notice of interest based on:

(a) the wildfire liability histories submitted by those electric utilities; and

(b) the estimated reductions of risk created by the wildfire mitigation plans submitted by those electric utilities; and

(2) the surcharge for each participating electric utility as required so that the cumulative surcharges paid by all participating electric utilities will grow the fund by ten percent of the projected average yearly total risk estimate for the succeeding ten calendar years.

D. For the purposes of calculating the surcharges required by Subsection C of this section, the administrator shall create separate surcharge levels based on each fifteen percent increase in estimated risk represented by an electric utility above the average risk estimate for all participating electric utilities.

E. The administrator shall file a copy of the risk estimates and surcharges required by this section with the commission and send a hard copy by certified mail to each electric utility that has submitted a notice of interest regarding participation. Within fifteen days of receiving the risk estimates and surcharge requirements from the administrator, an electric utility wishing to be a

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1 participating electric utility shall submit a formal
2 declaration of agreement to participate to the administrator in
3 a format determined by the administrator.

4 **SECTION 6. [NEW MATERIAL] MITIGATION PLANS--**

5 **SUBMISSION--APPROVAL.--**

6 A. As a prerequisite to becoming a participating
7 electric utility, an electric utility shall submit a wildfire
8 mitigation plan for its service infrastructure to the
9 administrator for approval.

10 B. The administrator shall approve a wildfire
11 mitigation plan when the administrator determines that the plan
12 will achieve a reduction in wildfire risk that incorporates a
13 balance between the cost of mitigation and the expected
14 reduction of risk. The administrator may require modifications
15 to a plan as a condition of approval and shall approve or
16 reject a plan within ninety days.

17 **SECTION 7. [NEW MATERIAL] BALANCES AVAILABLE AND**
18 **DISBURSEMENTS FROM THE FUND.--**

19 A. No disbursements from the fund shall be made
20 prior to 2030.

21 B. Starting on January 1, 2030, and on January 1 of
22 each subsequent year, the administrator shall determine the
23 percentage of the total risk estimate for the succeeding
24 calendar year that is represented by the balance in the fund.

25 C. No disbursements shall be made from the fund in
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1 a calendar year for which the administrator determines that the
2 balance in the fund is less than thirty percent of the total
3 risk estimate for the succeeding calendar year.

4 D. When the administrator determines that the
5 balance in the fund is at least thirty percent but less than
6 one hundred percent of the total risk estimate for a calendar
7 year, the administrator shall determine the amount required to
8 remain in the fund to allow for a ten percent annual growth
9 based on the anticipated remittances into the fund for that
10 year. The remainder of the fund balance after providing for a
11 ten percent annual increase shall be available for disbursement
12 in that calendar year.

13 E. When the administrator determines that the
14 balance in the fund is one hundred percent or more of the total
15 risk estimate for a calendar year, seventy percent of the fund
16 shall be available for disbursement in that calendar year.

17 F. Only the administrator may make disbursements
18 from the fund. Disbursements from the fund shall be made
19 pursuant to invoices:

20 (1) signed by the administrator and approved
21 by the commission for payment of the administrator's contract;
22 and

23 (2) signed by the administrator for a request
24 approved by the administrator for distribution by a
25 participating electric utility.

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1 **SECTION 8. [NEW MATERIAL] SERVICE INFRASTRUCTURE SAFETY**
2 **ENGINEER AND STAFF.**--The commission shall appoint a
3 professional engineer who shall have at least five years'
4 actual experience in the design and implementation of wildfire
5 mitigation plans and public safety power shutoffs for electric
6 power transmission and generation facilities who shall be
7 designated the "service infrastructure safety engineer". The
8 commission shall retain such other personnel as may be
9 necessary to carry out the provisions of the Wildfire Fund Act.

10 **SECTION 9. [NEW MATERIAL] SERVICE INFRASTRUCTURE SAFETY**
11 **BUREAU.**--The service infrastructure safety bureau shall assist:

12 A. the commission in the development of standards
13 for wildfire mitigation plans submitted pursuant to the
14 Wildfire Fund Act and review of such plans;

15 B. the administrator in the development of wildfire
16 liability risk estimates and wildfire fund balance calculations
17 required by the Wildfire Fund Act; and

18 C. the administrator with review of wildfire
19 mitigation plans submitted by electric utilities.

20 **SECTION 10. [NEW MATERIAL] STATUS OF FUND--REPORTS.**--By
21 October 31, 2027, and by October 31 of each subsequent year,
22 the administrator shall provide a report to the commission and
23 to the legislative interim committee tasked with energy and
24 natural resource issues regarding:

25 A. the success of the Wildfire Fund Act in reducing

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1 financial risk to participating electric utilities and
2 increasing the safety of service infrastructure in relation to
3 wildfires in New Mexico;

4 B. the balances and the projected sustainability of
5 the fund; and

6 C. recommendations to amend the Wildfire Fund Act.

7 **SECTION 11.** Section 62-19-12 NMSA 1978 (being Laws 1998,
8 Chapter 108, Section 6, as amended) is amended to read:

9 "62-19-12. COMMISSION--ORGANIZATIONAL UNITS.--The
10 commission includes the following organizational units:

- 11 A. the administrative services division;
- 12 B. the consumer relations division;
- 13 C. the legal division;
- 14 D. the utility division; [and]
- 15 E. the pipeline safety bureau; and
- 16 F. the service infrastructure safety bureau."

17 **SECTION 12.** APPROPRIATION.--Two million five hundred
18 thousand dollars (\$2,500,000) is appropriated from the general
19 fund to the public regulation commission for expenditure in
20 fiscal year 2027 to hire a service infrastructure safety
21 engineer and staff. Any unexpended balance remaining at the
22 end of fiscal year 2027 shall revert to the general fund.

23 **SECTION 13.** EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2026.