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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 171

SHORT TITLE: Wildfire Fund Act

SPONSOR: Reps. Serrato, Martinez, and Chandler/Sen. Wirth

LAST ORIGINAL
UPDATE: 2/03/2026 **DATE:** 1/28/2026 **ANALYST:** Rodriguez

APPROPRIATION* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
	\$2,500.0	Nonrecurring	General fund

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PRC Service Infrastructure Safety Bureau	No fiscal impact	No fiscal impact	Up to \$2,500.0	\$2,500.0	Recurring	General Fund
Wildfire Fund Administrator	Up to \$1,500.0	Up to \$1,500.0	Up to \$1,500.0	Up to \$4,500.0	Recurring	Wildfire Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bills 154 and 161 and House Bills 70 and 204

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Public Regulation Commission

Agency or Agencies That Were Asked for Analysis but did not Respond

Energy, Minerals & Natural Resources Department

New Mexico Attorney General

SUMMARY

Synopsis of House Bill 171

House Bill 171 (HB171) enacts the Wildfire Fund Act, which creates a wildfire fund to reimburse participating electric utilities for eligible damage caused by utility-ignited wildfires, funded

through a surcharge on electric service and administered by an independent third-party administrator. HB171 ties access to the funds to administrator-approved wildfire mitigation plans, establishes risk-based contributions and disbursement limits, and assigns the Public Regulation Commission (PRC) oversight and rulemaking. HB171 also creates the Service Infrastructure Safety Bureau at PRC to assist the administrator with developing wildfire liability risk estimates and reviewing mitigation plans.

HB171 appropriates \$2.5 million from the general fund to PRC for expenditure in FY27 to hire a service infrastructure safety engineer and staff.

The effective date of this bill is July 1, 2026.

Detailed Synopsis of House Bill 171

Section 3 establishes a wildfire fund to reimburse participating electric utilities for eligible claims for damages from covered wildfires, funded by a surcharge on electric power services. The fund is not considered public money. The fund is administered by a neutral third party, referred to as the “administrator” in the bill. HB171 allows the administrator to be compensated up to \$1.5 million annually.

Section 4 establishes eligibility requirements for fund disbursements, requiring a public utility to have an approved and compliant wildfire mitigation plan, agree to collect a surcharge to grow the fund by 10 percent of the average total risk estimate over the next ten years, and have participated in the fund for at least three consecutive years.

Section 5 directs the administrator to calculate 10-year wildfire risk estimates for each interested utility and a combined risk estimate for all participating utilities, based on wildfire liability history and projected risk reductions from mitigation plans. The administrator must also set a surcharge for each participating electric utility, with higher surcharge tiers applied for each fifteen percent increase in a utility’s estimated risk above the aggregate risk estimate.

Section 7 governs disbursements from the fund. Beginning in 2030, the administrator must calculate the fund balance as a percentage of the annual total risk estimate. No disbursements are allowed if the balance is below 30 percent. If the balance is between 30 percent and less than 100 percent, the administrator must reserve sufficient funds to support 10 percent annual growth and may disburse the remainder. If the balance is at least 100 percent of the annual total risk estimate, up to 70 percent of the fund may be disbursed that year.

Section 9 establishes the duties of the Service Infrastructure Safety Bureau at PRC and its duties. Duties include developing standards for wildfire mitigation plans and review of plans, administrator of the development of wildfire liability risk estimates and wildfire fund balance, and review of wildfire mitigation plans submitted by electric utilities. Section 8 requires the commission to appoint an engineer with at least five years of experience and allows the commission to hire additional staff to carry out the provisions of the act.

Section 10 requires the administrator to submit a report to PRC and appropriate legislative interim committees on the use and balance of the fund and recommendations to the act.

Notably, the bill defines “covered wildfire” as wildfire ignition that is caused by a participating

electric utility and “electric utility” that is a business that operates service infrastructure to generate, transmit, or deliver electric power to a customer. “Surcharge” means a per-megawatt fee on electric service by participating electric utility for deposit in the fund. “Eligible claims” are claims for damages against a participating electric utility resulting from covered wildfires.

FISCAL IMPLICATIONS

The appropriation of \$2.5 million contained in this bill is a nonrecurring expense to the general fund for PRC to hire staff for the Service Infrastructure Safety Bureau. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund. The proposed bureau would require recurring funding to comply with the duties outlined in the act. LFC analysis considers the agency requiring at least \$2.5 million per year, starting in FY28 when the appropriation expires, to continue the work of the bureau.

SIGNIFICANT ISSUES

Surcharge. HB171 directs the administrator to collect a surcharge, which is a per-megawatt fee on electric services, on participating electric utilities. The surcharge shall grow the fund by 10 percent of the average total risk estimate for the succeeding ten calendar years. For example, if the administrator estimates that the average total risk over the next 10 years is \$100 million, then the surcharge has to be high enough to grow the fund by \$10 million, or 10 percent, over time.

Section 5 directs the administrator to calculate ten-year wildfire risk estimates for each interested utility and a combined risk estimate for all participating utilities, based on wildfire liability history and projected risk reductions from mitigation plans. The administrator must also set a surcharge for each participating electric utility, with higher surcharge tiers applied for each fifteen percent increase in a utility’s estimated risk above the aggregate risk estimate.

As noted by PRC, the surcharge in HB171 is inconsistent with existing law. No utility can impose a new rate or charge without notice to PRC and a hearing if deemed necessary by PRC.

See “Technical Issues” for more context on surcharges placed on electric services.

Disbursement. As noted by PRC, the disbursement mechanism in HB171 is inconsistent with existing law. PRC has the authority to allow a utility to recover reasonable costs from ratepayers, which prevents utilities from recovering imprudently imposed costs from ratepayers. PRC notes that by allowing the administrator to establish surcharge rates and determine disbursement, HB171 minimizes PRC’s ability to protect ratepayers from imprudently imposed costs.

ADMINISTRATIVE IMPLICATIONS

HB171 requires PRC to promulgate a rule by November 1, 2026, setting the standards for wildfire mitigation plans for service infrastructure. The rule should include standards for monitoring, notice and response protocols, public safety power shutoff, service infrastructure integrity, and vegetation management. The deadline set in statute gives PRC four months, based on this legislation going into effect July 1, 2026, to establish these rules. PRC normally takes many months to establish rules, as it requires public notices, comments, and various administrative procedures.

This requirement would increase PRC’s administrative workload for FY27.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB171 conflicts with House Bill 70, which strikes the section of the Public Utility Act that lists the different divisions and bureaus at PRC. Section 11 of HB171 amends this section and adds the Service Infrastructure Safety Bureau.

TECHNICAL ISSUES

Defining Electric Power Services. HB171 does not define which electric power services would receive a per-megawatt fee for the surcharge. The bill could add a definition to make it clear which services provided by a utility company would be surcharged. Electric power services encompass the generation, transmission, distribution, and maintenance of electrical energy for residential, commercial, and industrial users.

Funding for the Service Infrastructure Safety Bureau. HB171 does not allow the fund to cover the operational costs of the Service Infrastructure Safety Bureau, for which the bill appropriates \$2.5 million in nonrecurring funding in FY27. It is unclear if that was the intent of the bill. Without language allowing the fund to be used for the proposed bureau, the Legislature would have to consider increasing PRC’s operating budget by at most \$2.5 million. A \$2.5 million increase in PRC’s operating budget constitutes a 15.7 percent increase over the agency’s FY26 general fund appropriation.

OTHER SUBSTANTIVE ISSUES

Example Disbursements from the Wildfire Fund. LFC provides an example of disbursements from the fund to provide additional clarity on language. Assume the administrator calculates an annual total risk estimate of \$100 million for the upcoming year. Below is a chart of possible disbursements, as prescribed by the bill, based on a variety of fund balances.

Example of Disbursements Based on Annual Total Risk Estimate of \$100 Million

Threshold	Fund Balance	Percent of Annual Total Risk Estimate	Reserved for 10 percent Annual Growth	Disbursement
Below the 30 percent	\$25 million	25 percent	Not applicable	No disbursements
At least 30 percent but less than 100 percent	\$60 million	60 percent	\$10 million	\$50 million Disbursement will be remainder of the fund balance after providing for a ten percent annual increase.
Exceeds the 100 percent threshold	\$120 million	120 percent	At least \$36 million	Up to \$84 million Disbursements is up to 70 percent of the total fund balance.

Files: LFC