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December 31, 2025

The Honorable Ronald D. Kouchi
President and Members
of the Senate
Thirty-Fourth Hawaii State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Nadine K. Nakamura
Speaker and Members of
the House of Representatives
Thirty-Fourth Hawaii State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

For your information and consideration, we are transmitting a copy of the **Public Utilities Commission's report to the 2026 Legislature relating to the study of the Establishment and Implementation of a Wildfire Recovery Fund required by Act 258, Session Laws of Hawaii 2025**.

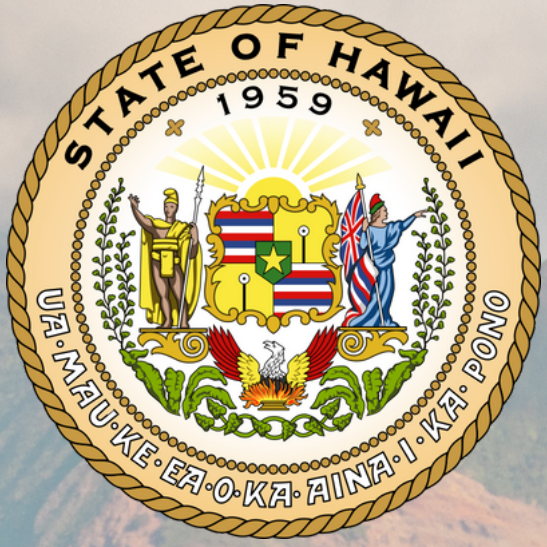
In accordance with Section 93-16, Hawaii Revised Statutes, we are also informing you that the report may be viewed electronically at **https://puc.hawaii.gov/reports/**.

Sincerely,

Naomi U. Kuwaye
Commissioner

Colin A. Yost
Commissioner

Enclosure



STATE OF HAWAIʻI
PUBLIC UTILITIES COMMISSION

Report to the 2026 Legislature on The Establishment and Implementation of a Wildfire Recovery Fund

Issued Pursuant to Act 258 (2025)
December 2025

Executive Summary

Overview

The 2023 Maui wildfires underscored the growing risks of catastrophic wildfires in Hawai‘i and the significant social, environmental, and economic impacts that follow them. The Hawai‘i State Legislature has taken several steps to address these impacts, including during the 2025 session with the passage of Act 258 relating to energy. In part, this legislation directed the Hawai‘i Public Utilities Commission (PUC) to study the establishment and implementation of a wildfire recovery fund. This legislation and study aim to identify mechanisms for efficient compensation to victims following future wildfire events allegedly caused or exacerbated by a regulated electric utility and to protect the financial integrity of Hawai‘i’s regulated utilities, upon which the public relies.

This Wildfire Recovery Fund Study, conducted by the PUC’s Office of Policy and Research, explores how a recovery fund could be structured, capitalized, and administered in Hawai‘i. It draws on comparative research from other states, analyzes potential financial and credit rating impacts, and offers insights from an extensive stakeholder engagement process involving 80 individuals representing 35 different entities.

At this time, and given the information available, the PUC finds that no fund is warranted until outstanding and interrelated issues are resolved, the outcomes of which would determine whether a fund would meet the needs of the electric utility, ratepayers, other interested parties, and future wildfire victims. The PUC additionally finds that a wildfire recovery fund of some nature is likely warranted in the future. To this effect, the PUC identifies outstanding issues for resolution and presents key findings and policy considerations with benefits, risks, and trade-offs for the legislature to evaluate going forward.

Summary of Key Findings

A wildfire recovery fund is highly intertwined with other factors, namely the determination of a liability cap for utilities.

- A wildfire recovery fund should not be determined in isolation. Its design, capitalization, and governance are directly linked to the establishment of a liability cap that defines the extent of a utility’s financial exposure in the event of a

catastrophic wildfire. Act 258 directs the PUC to conduct an administrative rulemaking process to make a determination of limitation on liability.
- A wildfire recovery fund and limitation of liability function together to balance accountability, financial stability, and victim and ratepayer protections, among other factors.

There is widespread consensus that proactive measures are necessary to protect Hawai‘i.

- Stakeholders interviewed for this study believe that collective inaction will leave Hawai‘i exposed to the growing risks from wildfires. They emphasized that investing in resilience through wildfire mitigation, vegetation management, and infrastructure improvements is as critical — if not more so — than investing in recovery. To a certain extent, Act 258 addresses utilities’ ability to invest in wildfire mitigation through securitization.
- Without meaningful action, Hawai‘i residents may leave the state because they cannot afford to recover and rebuild after future wildfires, and Hawai‘i’s largest electric utility could face severe financial stress. A strained or financially destabilized utility could disrupt essential services, lead to higher costs for ratepayers, delay renewable energy goals, and impact Hawai‘i’s economy.

An actuarial study could help determine an appropriate fund size.

- A 2024 actuarial study found that Hawai‘i faces $1.4 billion in annual expected property losses from a variety of natural hazards, including wildfires, with losses projected to rise over the next 25 years with climate change.
- The financial feasibility of capitalizing a wildfire recovery fund depends on the total resources available across potential contributors and the degree to which contributions are pre-funded or replenished after a triggering event.
- An actuarial study could provide the empirical foundation necessary to appropriately determine a fund’s size and durability, as well as ensure it is right sized to Hawai‘i’s true risk exposure.

The existence of a wildfire recovery fund would likely be viewed as credit positive for regulated utilities, but the details matter significantly.

- A wildfire recovery fund, in combination with a liability cap, would likely provide greater certainty that catastrophic wildfire liabilities can be managed, which may help maintain or improve a utility’s access to capital at reasonable interest rates.

- Benefits are highly dependent on a fund's structure and approach and should take into consideration the shared responsibility of a utility.
- Improved credit conditions enable utilities to finance infrastructure and wildfire mitigation investments. Improved access to capital also provides benefits to a utility's customers in the form of more stable electricity rates.
- Creating a credit-positive environment is most appropriate and beneficial when investor-owned utilities are required to meet certain conditions to participate in the fund.
- Credit rating agencies have emphasized that overall fund size, fund durability, and replenishment directly affect credit outcomes. A fund that lacks clear replenishment rules or that is undercapitalized could fail to achieve its intended stabilizing effect.

Fairness, financial durability, affordability, legality, and public trust are essential considerations in determining how to capitalize a wildfire recovery fund.

- Potential sources of capitalization discussed by stakeholders interviewed for this study include utility shareholders, ratepayers, insurers, large landowners, telecommunications companies, and the state. Alternative capitalization methods, including the implementation of new taxes and the use of interest from existing state funds, are also contemplated.
- How a fund is capitalized and who contributes to it will strongly influence public perception and political feasibility. Stakeholders interviewed for this study cautioned that if a fund is perceived as a "bailout" for private utilities rather than a mechanism to protect victims, it will erode public trust.

A wildfire recovery fund can help expedite compensation for wildfire victims if the fund's administration and governance are independent and well-designed.

- Transparency, expediency, and independence were strongly favored governance values amongst stakeholders interviewed for this study.
- A quasi-independent entity, such as a public corporation or trust led by a diverse board of experts and community representatives, may offer the best balance between oversight and operational ability. This entity would likely need to be created outside of the context of the current PUC and would require subsequent funding to maintain the streamlined process.
- An administrative claims process managed by this entity could provide faster recoveries for victims with fewer cumulative legal costs compared to traditional litigation.

Illustrative Decision Tree Framework

This study outlines possible decisions that the legislature can make if it chooses to establish a wildfire recovery fund. The following illustrative framework outlines key decisions and influencing factors that the legislature should consider, broken down in further detail in the subsequent table:

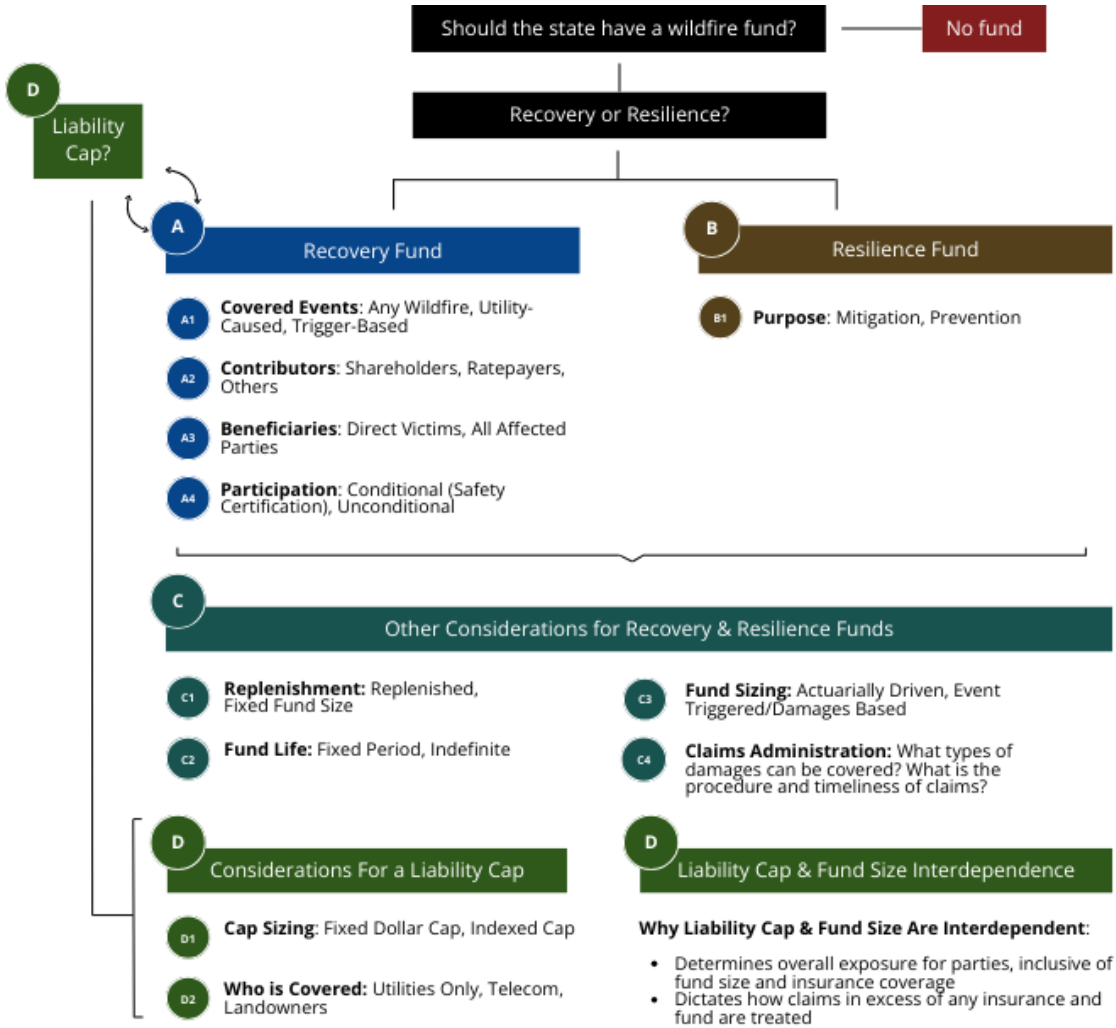


Fig. 1: An illustrative decision tree framework of decisions for legislative consideration related to a wildfire recovery fund.

Should a potential fund focus on recovery or resilience?			
	Description	**Benefits**	**Considerations**
A **Recovery**	• The goal of a recovery fund is to facilitate payouts to victims in the aftermath of a wildfire, and as a result, decrease liabilities/risks for utilities	• Helps address victim recoveries and utility credit quality/stability	• Recovery funds are costly, and unless they incorporate WMP, don't address the environmental factors causing fires • Potentially requires new agencies to administer the claims process
B **Resilience**	• The goal of a resilience fund is to finance resilience efforts to mitigate and prevent wildfires	• Helps address the root causes of fires and potentially helps slow their spread	• Resilience measures can never fully eliminate the risk of wildfires • Resilience funds may expose utilities and victims to solvency risk related to a "mitigated" fire
A1	**Recovery Fund: What events should be covered?**		
	Description	**Benefits**	**Considerations**
Any Wildfire	• A recovery fund that covers any wildfire regardless of its cause	• Ensures victims are compensated regardless of wildfire cause	• Risks fund depletion given anticipated losses
Utility Caused	• A recovery fund that covers any wildfire caused by a utility	• Ensures victims are compensated in cases where utilities are at fault	• Victim coverage is limited to utility-caused events
Any Peril	• A recovery fund that covers any natural disaster, including hurricanes and tsunamis, in addition to wildfires	• Ensures victims have maximum coverage across all possible events	• Risks fund depletion before any utilities utilize the coverage
Trigger Based	• A recovery fund that is triggered based on a predetermined threshold, like the number of structures destroyed or the amount of damages	• Ensures that the fund is reserved for the most destructive wildfires and is not depleted by smaller events that utilities and other parties can independently handle	• Risks not covering events that were destructive but did not meet the criteria or "trigger"

A2	Recovery Fund: Who should contribute?		
	Description	**Benefits**	**Compensation**
Shareholders	• A recovery fund that is capitalized by the shareholders of a utility	• Provides access to funding without directly increasing costs for the ratepayers	• Could reduce potential investment into utilities, and thus increase utilities' cost of capital and, as a result, rates
Ratepayers	• A recovery fund that is capitalized by the ratepayers of a utility	• Could offer the largest potential funding stream through securitization and general rate increases	• Hawai'i already has the most expensive rates in the U.S., and leveraging ratepayers to fund a wildfire fund would make electricity even more expensive • Could be perceived as a bailout and be politically unpopular
Others	• A recovery fund that is capitalized by other parties, like landowners, telecom companies, the state, or other third parties	• Could offer financing streams without costing ratepayers • Diverse set of options include tourists, corporations, and via taxes	• The Hawai'i tax base is very similar to the ratepayer base, so increasing taxes has similar effects to direct ratepayer charges • Not easy to regulate by the PUC and other governing bodies

A3	Recovery Fund: Who should benefit?		
	Description	**Benefits**	**Considerations**
Direct Victims	• A recovery fund that holds victims of the fire as the primary beneficiaries	• Provides the most vulnerable groups with a streamlined claims administration process that facilitates faster recovery	• Leaves out victims who didn't face economic damage or bodily harm, like farmers on leased land or individuals whose rented apartment burned down
All Affected Parties	• A recovery fund that includes victims beyond just those injured and economically harmed	• Provides access to settlements for victims that are traditionally overlooked	• Risks depleting a fund faster and not providing as much support to victims who were directly impacted by the wildfire

A4	Recovery Fund: Should participation be conditional?		
	Description	**Benefits**	**Considerations**
Unconditional	• A recovery fund allows participation from utilities without imposing conditions	• Maximizes the number of participants, which could potentially lead to increased funding	• Does not incentivize utilities to improve their safety behaviors, risking moral hazard
Conditional	• A recovery fund that requires utilities to conform to certain standards to participate	• Captures the benefits of having a fund, while also potentially improving utility behavior through safety standards and WMPs as a condition	• Makes participation more stringent and difficult, potentially reducing the number of participants and thus funding

A	Recovery Fund: Should a fund also come with a liability cap?		
	Description	**Benefits**	**Considerations**
D **Liability Cap**	• A liability cap limits the amount of liabilities that can be incurred by a single wildfire or over a period of time	• Ensures the fund is not depleted by a single event • Improves confidence in utility credit quality by limiting the amount of damages a utility would be responsible for	• Limits the amount of compensation that victims receive, regardless of the case-specific amount of damages
No Liability Cap	• Without a liability cap, liabilities from a wildfire are not limited or capped	• Does not impose a limit to victim recovery	• Risks of having a singular event deplete the fund • Risks causing insolvency for utility

B1	Resilience Fund: What is the primary purpose of the fund?		
	Description	**Benefits**	**Considerations**
Mitigation	• A resilience fund that focuses on slowing the spread of any potential fire	• Acknowledges that, to some extent, fires are inevitable, and attempts to reduce the scale and scope of fires • Supports initiatives to limit the impact of fires	• Does not address the root cause of fires, and only serves to limit damages
Prevention	• A resilience fund that attempts to prevent the ignition of fires in the first place	• Attempts to prevent wildfire ignition from starting in the first place • Supports initiatives to limit fires overall	• Displaces spending on mitigation if a fire does occur • Causes of fires are so extensive that any fund is likely insufficient

C1	Other Considerations: Should a fund be replenished?		
	Description	**Benefits**	**Considerations**
Replenished	• A fund that is replenished over time or through installments	• The fund continues even as it is depleted by various wildfires	• Continuously replenishing the fund comes at the continuous expense of the members capitalizing it
Fixed Fund Size	• After being created, the fund is not replenished and has no automatic replenishment mechanisms	• Provides a feasible and relatively cheaper way to establish a fund without the cost associated with replenishment	• Risks being depleted by a singular event • Only provides temporary benefits to utilities and victims until it is depleted

C2	Other Considerations: What is the fund life?		
	Description	**Benefits**	**Considerations**
Fixed Period	• A fund that is instituted for a set period	• Establishes a fund without committing indefinite expenses to parties capitalizing the fund	• Provides only temporary benefits for victims and utilities
Indefinite	• A fund that does not end after a set period	• Provides lasting benefits for victims and utilities	• Creates an indefinite increase in costs for parties capitalizing the fund

C3	Other Considerations: What should the fund size be?		
	Description	**Benefits**	**Considerations**
Actuarially Driven	• The fund is sized based on an actuarial analysis or potential damages	• Creates an actuarially accurate fund that is built to withstand simulated disasters • Academically tested	• Actuarial analysis is likely to identify the potential magnitude of loss that cannot truly be covered
Event Triggered or Damages Based	• The fund is sized based on the damages arising from an event (post-hoc)	• Bespoke and addresses costs related to wildfire without overfunding	• Could be difficult to immediately raise large sums of money after events • Raising capital on post-hoc business is likely expensive

C4	Other Considerations: Claim Administration		
	Description	**Benefits**	**Considerations**
Types of Claims	• A fund needs to determine the types of claims that it will accept and provide compensation for, such as economic vs. non-economic damages	• Fund administrators will need to determine what types of damages/claims the fund will cover • Selecting a wide array will cover the greatest number of victims, but may also strain the fund • Limiting the number of covered damages/claims will increase compensation to those most affected by the wildfire, but will also leave other non-injured or economically impaired victims without recovery	
Expediency	• A fund needs to determine the speed at which it will settle claims	• Determining the speed at which claims are resolved needs to balance releasing funds to victims quickly to let them start rebuilding, while preserving the fund by ensuring all claims get captured and no fraud occurs	

D1	Considerations for a Liability Cap: Cap Sizing		
	Description	**Benefits**	**Considerations**
Fixed Dollar Amount	• A liability cap that is set based on a fixed dollar amount	• Clearly identifies maximum exposure for utility or other cost benefits • Supports credit rating	• May be viewed as a bailout • May limit recovery
Indexed Cap	• A liability cap that scales with credit rates impact, size of company, or catastrophic event	• Can structure to ensure utility maintains investment grade status	• May limit recovery • May be complicated to structure

D2	Considerations for a Liability Cap: Who is covered?		
	Description	**Benefits**	**Considerations**
Utilities Only	• A liability cap that only covers utilities	• Credit supportive to utilities	• Puts other entities like telecom providers at an increased risk • Cross-claim issues
Telecom	• A liability cap that also covers telecom companies	• Reduces exposure for telecom companies	• Potentially limits the liabilities for too many parties, reducing potential payouts to victims
Landowners	• A liability cap that also covers landowners	• Reduces exposure for landowners	• Potentially limits the liabilities for too many parties, reducing potential payouts to victims

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Introduction

The 2023 Maui wildfires were a devastating wake-up call to the growing risk of catastrophic wildfires and the extreme costs they inflict on Hawai‘i’s residents, economy, environment, and society at large. Many residents continue to struggle with the aftermath of the 2023 wildfires, confronting challenges including navigating post-disaster aid, physical and mental health challenges, loss of employment, addressing issues related to insurance claims, and obtaining affordable insurance. For the state’s largest electric utility, Hawaiian Electric (HECO), the 2023 Maui wildfires triggered financial headwinds, resulting in a credit downgrade that threatens to increase electricity costs for Hawai‘i residents who already pay the highest electricity rates in the country.[1]

Statewide opinion polling conducted by the Hawai‘i Climate Advisory Team in the fall of 2024 indicated that 65% of Hawai‘i residents supported the creation of a disaster relief fund to support residents impacted by natural disasters, including wildfires,[2] but the way in which a fund would be capitalized, designed, and deployed matters immensely to the public.[3] This polling provides important context for the purpose and potential design of a wildfire recovery fund in Hawai‘i, as well as how we, as a state, choose to prepare for, respond to, and recover from future wildfires. A Lahaina wildfire-impacted community member interviewed in the preparation of this study offered the following perspective: “We are working-class people; any idea that it’s ratepayers first and shareholders are not paying is offensive,” and that “it is hard for me to want to give money to a company who has been part of destroying my town.”[4]

In the aftermath of the 2023 Maui wildfires, HECO’s credit rating, and in turn, access to capital needed for critical repairs, infrastructure improvements, and hazard mitigations, was acutely compromised. Subject matter experts consulted in the preparation of this study speculated that the creation of a wildfire recovery fund that would hold the electric

[1] U.S. Energy Information Administration. “Hawai‘i (HI) State Profile and Energy Estimates,” *U.S. Energy Information Administration.* October 7, 2025, https://www.eia.gov/state/print.php?sid=HI.

[2] Climate Advisory Team. “Hawai‘i Green Fee Advisory Council.” *Hawai‘i Green Fee Advisory Council, 2025*. October 3, 2025, https://greenfeehawaii.org/cat.

[3] The policy recommendations released by the Climate Advisory Team in January 2025 included the creation of a disaster relief fund, among other top policy priorities, and contemplated a range of options for capitalization, including utility ratepayer and shareholder contributions, but also possible revenues from other sources.

[4] See Section 4 for further discussion regarding perspectives shared by stakeholders.

utility as the primary fund participant could have a positive impact on ratings agencies' evaluation of the utility's credit when combined with other factors and proposed actions.[5] After considerable debate throughout two legislative sessions, the Hawai'i State Legislature passed SB 897 on May 2, 2025, which was signed into law as Act 258 by Governor Josh Green, M.D., on July 1, 2025. Act 258 addressed several interrelated issues.[6] Among them, the law directed the Public Utilities Commission (PUC) to conduct a study to:

> Examine the establishment and implementation of a wildfire recovery fund to: (1) Provide efficient compensation for damage resulting from a future wildfire that was allegedly caused or exacerbated by an electric utility; and (2) Help protect the financial integrity of Hawai'i's regulated utilities.[7]

In accordance with this law, the PUC, through its Office of Policy and Research (OPR), undertook the preparation of this Wildfire Recovery Fund Study, designed to examine the establishment and implementation of a wildfire recovery fund. This study investigates the following aspects, as directed by the legislature:

> (1) How a fund would impact utility credit ratings and costs to customers, including comparing how funds in other states have performed;
>
> (2) Whether the establishment of a fund is recommended;
>
> (3) If a fund is recommended, a determination of the size of the wildfire recovery fund, which may include commissioning of an actuarial study;
>
> (4) If a fund is recommended, a determination of the best approach to capitalizing the fund and whether moneys used to capitalize the fund should come from ratepayers or shareholders, or both;

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[5] For further discussion about the impact of a fund on utility credit ratings, please see Section 5.

[6] Act 258 authorizes electric utilities to securitize up to $500 million for infrastructure resilience costs, allows electric utilities to recover wildfire mitigation, repair, and restoration costs through an automatic rate adjustment or other mechanism, and requires the PUC to: (1) initiate a proceeding for the adoption of rules, subject to the Governor's approval, to determine an aggregate limit for liability for economic damages from a covered catastrophic wildfire; and (2) conduct studies and report its findings and recommendations to the legislature on (a) whether the framework established in SB 897 adequately balances electric utility interests and compensation owed to catastrophic wildfire victims; and (b) the establishment of a wildfire fund.

[7] Hawai'i Legislature. *Senate Bill 897 SD3 HD2 CD1: Relating to Energy. 33rd Legislature,* Regular Session. Enacted July 1, 2025., https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=897&year=2025.

(5) If a fund is recommended, a determination of the proper governance of the public corporation that would oversee the wildfire recovery fund;

(6) If a fund is recommended, a consideration of the benefits of an administrative process to provide efficient and low-cost recovery for claimants, and the proper mechanism for providing such an administrative process; and

(7) A consideration of who can participate in the fund and if parties other than an electric utility should be considered for participation.

The PUC finds that a wildfire recovery fund of some nature is warranted but does not recommend for or against the establishment of a specific kind of wildfire recovery fund at this time. A number of outstanding and interrelated issues must be resolved before any fund may be established, and this study seeks to provide the legislature with an overview of the policy and regulatory landscape and a summary of perspectives of some of the many stakeholders who would be impacted by the creation of a wildfire recovery fund. In addition, this study identifies the range of design considerations and outlines potential approaches the legislature may contemplate in the creation of future legislation. As such, the PUC's intent is not to prescribe a single course of action but to identify outstanding issues for resolution and present a menu of options with associated benefits, risks, trade-offs, and implications to support an informed legislative decision-making process that is in the best interest of Hawai'i's people.

This study first presents a comparative analysis of existing legislation across the United States relating to wildfire recovery funds and alternative financing structures to provide a comprehensive overview of how other states have handled these issues.[8] Next, we present the findings of our stakeholder engagement effort, in which the PUC interviewed approximately 80 individuals representing 35 organizations, government agencies and departments, groups, and companies. Afterwards, we present a summary of options and considerations related to a wildfire recovery fund's size and capitalization methods, followed by a discussion of fund administration and governance options.

[8] In addition, extensive analysis of state-specific legislative approaches to liability cap frameworks and liability damages frameworks is available in Appendix F and Appendix G, respectively.

2. Comparative Analysis of Wildfire Recovery Fund Legislation In California & Utah

The frequency and severity of wildfires in the United States are rising sharply, with over 7,100 fires reported in early 2025 — a 37% increase over the 10-year average.[9] Hawai'i has already experienced the devastating consequences of escalating wildfire risk, most notably in 2023, when the Maui wildfires claimed 102 lives and severely affected countless more, making it one of the deadliest wildfires in U.S. history. Some states have begun enacting and proposing wildfire-related legislation, including mitigation plans, liability reforms, and financial mechanisms to manage growing risks. As illustrated in Figure 2, the financial impact of wildfires has exceeded $60 billion in damages:

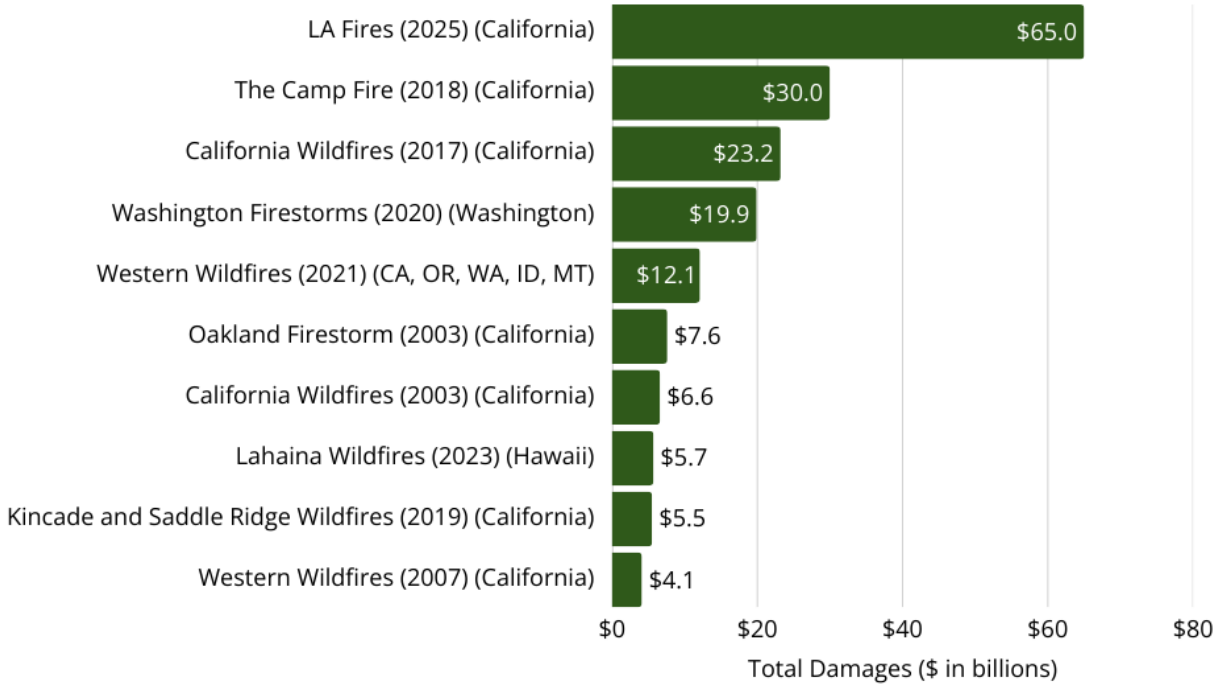


Fig. 2: Top 10 U.S. wildfires by total damages.[10]

[9] Reinsurance News, "Moody's Reports 7,112 Wildfires in 2025, Highlighting Expanding Threat Across US," *Reinsurance News*, March 11, 2025. October 7, 2025, https://www.reinsurancene.ws/moodys-reports-7112-wildfires-in-2025-highlighting-expanding-threat-across-us/.

[10] National Centers for Environmental Information, "U.S. Billion-Dollar Weather & Climate Disasters (1980—2024): Wildfire Events," *NOAA National Centers for Environmental Information.* October 7, 2025, https://www.ncei.noaa.gov/access/billions/events/US/1980-2024are/?disasters%5b%5d=wildfire.

This section provides a comparative analysis of wildfire recovery fund-related legislation across two states and includes an overview of a recently proposed multi-state utility-led wildfire fund. The analysis focuses on four core policy frameworks: wildfire recovery funds, liability caps, damages caps, and legislatively required wildfire mitigation plans (WMPs). Additional analysis and commentary specifically related to state-specific approaches to liability cap frameworks are provided in Appendix F. Liability damage caps are addressed in Appendix G.

While there are public policy benefits of such plans, this overview is focused on the financial and ratepayer cost elements and does not separately evaluate the impacts of the plans on the ability to provide safe service. These policy frameworks underpin emerging state-level approaches aimed at facilitating utility cost recovery, mitigating litigation risk, and distributing wildfire-related financial exposure among key stakeholders, including ratepayers, shareholders, and insurers, and increasing certainty and access to relief funds for residents impacted by wildfires. Figure 3 summarizes the legislative status of each policy framework across the states reviewed in this study:

	Recovery	Liability Cap	Damages Cap	Wildfire Mitigation Planning	Rejected or Limited Inverse Condemnation
California	✓	✓		✓	
Utah	✓		✓	✓	✓
Hawai'i	–	–		✓	
Oregon	✗		✓	✓	
PacifiCorp Multistate Plan	✗	✗			
Washington	✗			✓	
Arizona		✓	✓	✓	✓
Montana		✓	✓	✓	✓
Wyoming		✓	✓	✓	✓
North Dakota		✓		✓	✓
Kansas		✓			
New Mexico		–		–	
Oklahoma		✗	✗	✓	
Colorado			✓	✓	

Fig. 3: An overview of state legislation frameworks relating to wildfire recovery funds, liability caps, damages caps, wildfire mitigation plans, and inverse condemnation.

Key:

✓ Indicates bills have been passed by state legislatures

– Indicates bills undergoing legislative or administrative review

✗ Indicates proposed bills that used this framework but did not pass

As of October 2025, two states, California and Utah, have enacted fully operational wildfire recovery funds, established in 2019 and 2024, respectively. California's AB 1054 created a $21 billion fund jointly financed by ratepayers and utilities, with statutory liability protections, reimbursement requirements in the case of imprudence, and a formal claims process. Utah's SB 224 created a $1 billion ratepayer-funded reserve for each utility that caps non-economic damages at $450,000 for claimants with physical injuries and $100,000 for claimants with no physical injury and enables regulatory replenishment in cases of utility imprudence.

Since then, both states have enacted new legislation to strengthen their respective wildfire funds. California passed SB 254, which added up to $18 billion in funding, and Utah passed HB 307, which added $150 million in funding. In addition, following the 2025 Eaton Fire, Southern California Edison (SCE), the primary California electric utility for Southern California, established a Wildfire Recovery Compensation Program to provide interim payments to impacted victims, which are ultimately reimbursed by the California Wildfire Fund

Two states have come close to approving other fund structures, including Oregon and Washington. Oregon advanced wildfire mitigation and resilience efforts in 2025 through HB 3940; however, it has not yet established a dedicated utility wildfire fund. A 2025 proposal (HB 3917) to establish a state-run utility wildfire claims fund ultimately stalled amid strong opposition from wildfire survivors, who criticized it as a utility bailout. Opponents argued that the bill unfairly shifted costs onto consumers and limited victims' legal remedies by barring lawsuits against utilities responsible for fires in exchange for compensation from the fund.

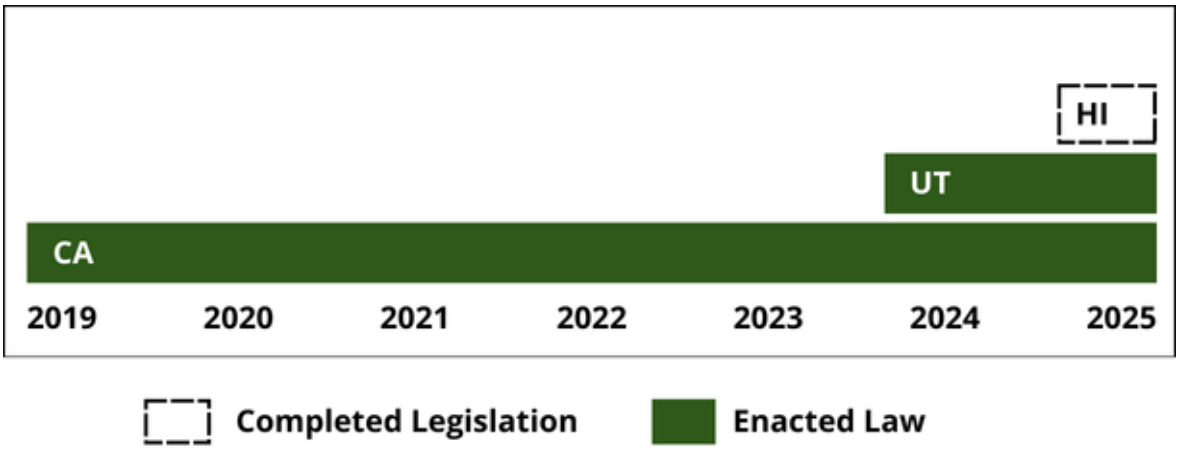
Separately, in 2025, PacifiCorp, an electric utility serving western states, sought to create a $3 billion Catastrophic Fire Fund, jointly funded by the utility and customers across six states, including Oregon. The Catastrophic Fire Fund would have managed liabilities exceeding insurance coverage and mitigated long-term financial risk, but the proposal was not adopted. In Washington, HB 1656 would have authorized utilities to securitize wildfire-related debt through rate recovery bonds backed by a non-bypassable customer charge, subject to commission approval, but the bill failed to pass in the 2025 legislative session.

In addition to fund creation, this study analyzes several states, including Arizona, Colorado, Kansas, Montana, North Dakota, and Wyoming, that have enacted liability or damages cap

legislation, which are available for reference in Appendix F and Appendix G, respectively. These statutes often provide safe harbors for utilities that comply with approved WMPs, reduce liability, or cap non-economic damages to reduce exposure to catastrophic claims. While these frameworks vary in scope and legal standards, they collectively reflect a policy consensus around the importance of risk mitigation and access to capital for investor-owned utilities (IOUs).

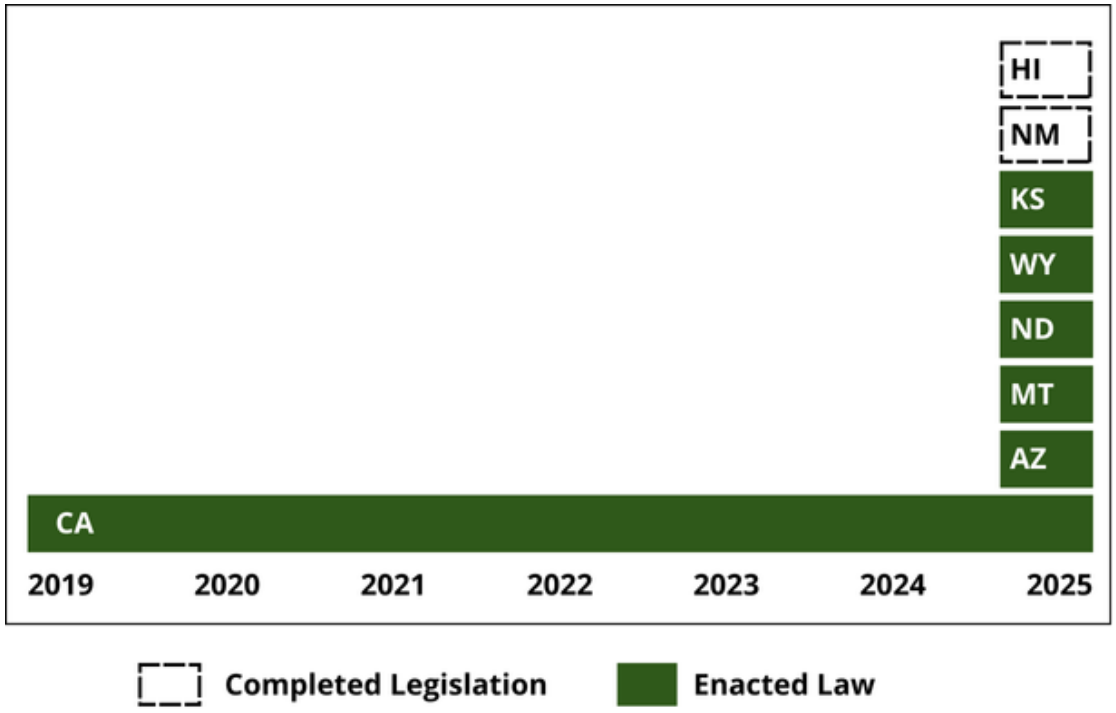
There has been a notable surge in the last two years in both enacted laws and proposed legislation related to wildfire mitigation plans, liability caps, damages caps, and recovery frameworks, indicating growing momentum among states to formalize wildfire-related risk management frameworks. This recent wave of activity reflects both the increased financial and legal risks facing utilities and the desire by policymakers to establish more predictable frameworks for cost recovery and claims resolution for victims. Ensuring access to capital on favorable terms is critical not only for maintaining utility credit quality but also for enabling long-term investments in safety and wildfire mitigation infrastructure. Legislative efforts increasingly reflect these priorities, as shown in the figures below.[11]

Recovery Fund Legislation Timeline

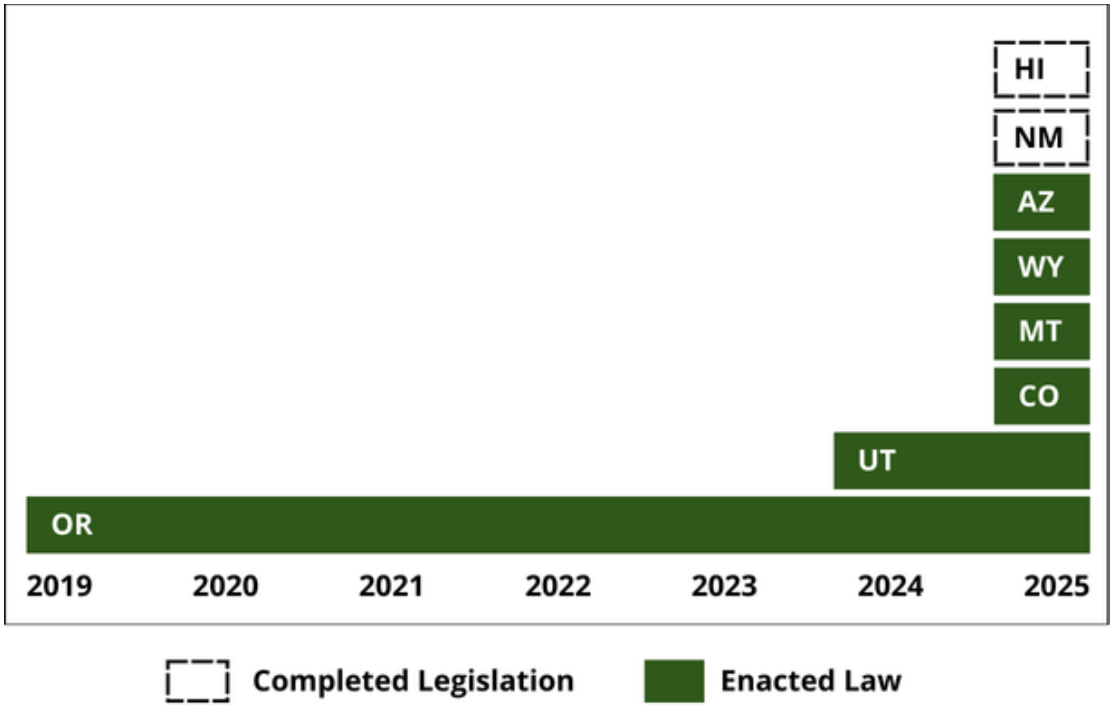


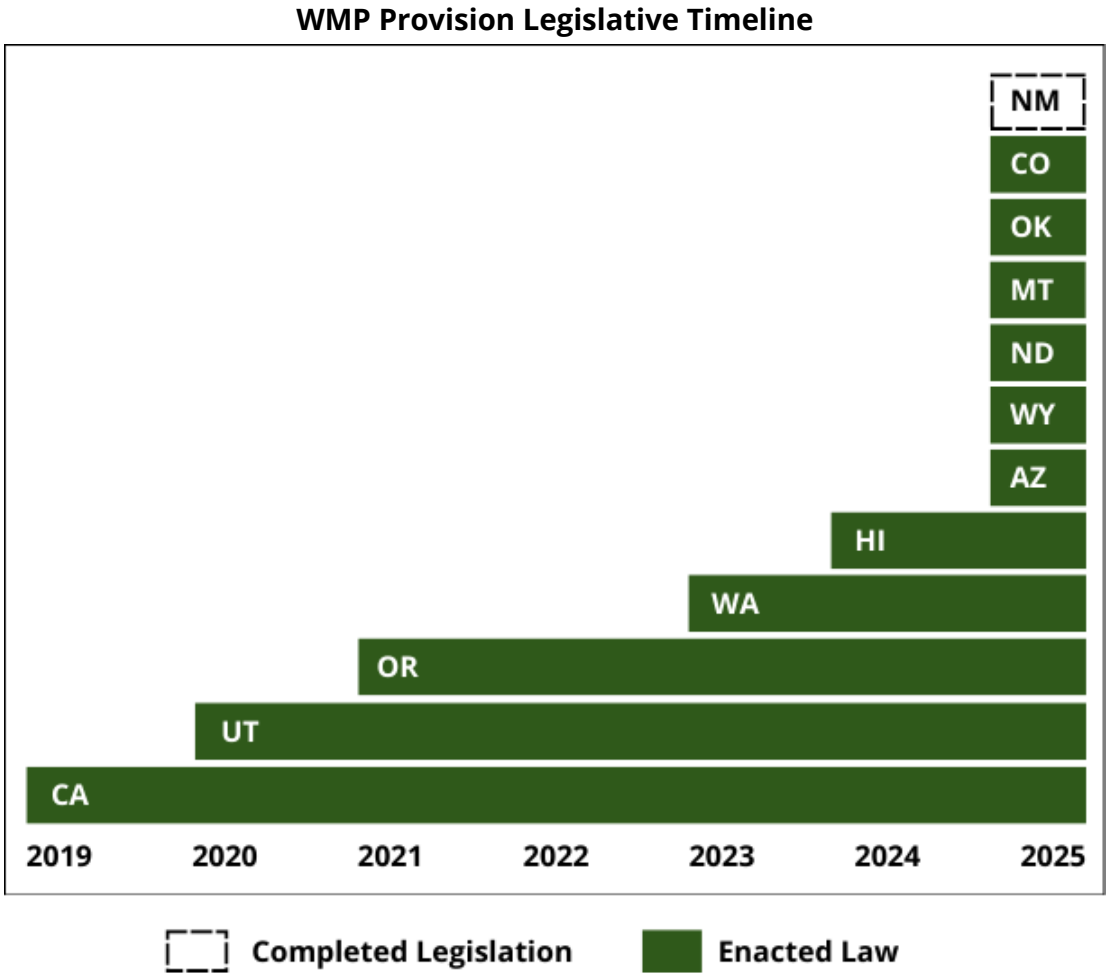
[11] Pacific Northwest National Laboratory. *Wildfire Risk Review of Utility Industry Trends. July 2025*. October 7, 2025, https://www.pnnl.gov/sites/default/files/media/file/Wildfire%20Risk%20Review%20of%20Utility%20Industry%20Trends_PNNL_July%202025.pdf.

Liability Cap Legislation Timeline



Damages Cap Legislation Timeline





Figs. 4-7: Timelines of states with contemplated or enacted legislation related to recovery funds, liability caps, damages caps, and WMP provisions. Disclaimer: Only includes states listed in Pacific Northwest National Laboratory's "Wildfire Risk: Review of Utility Industry Trends."[12]

For taxpayers and ratepayers, the implications of such legislative efforts are twofold: on one hand, securitization frameworks can help utilities access low-cost capital and avoid abrupt rate increases by spreading extraordinary costs over time through low-interest, ratepayer-backed bonds; on the other, liability limitations may reduce utilities' exposure to litigation, potentially stabilizing credit ratings and lowering long-term borrowing costs. However, these protections can also often shift financial burdens onto the public,

[12] There is currently no statutory mandate in Hawai'i requiring utilities to file wildfire mitigation plans (WMPs). In the 2024 legislative session, SB 2922 would have established such a mandate — modeled after California's AB 1054 — but the bill did not pass. Following that session, the Hawai'i PUC required HECO and KIUC to file annual WMPs through Orders 41033 (HECO) and 41075 (KIUC) in non-docketed Case No. 2023-04661 (the repository docket for Utility Natural Hazard Mitigation Reports). Thus, WMP requirements currently exist under PUC orders, not statute; codifying them in legislation would provide greater durability.

particularly when victims of utility-caused wildfires face restricted avenues for compensation. As such, while these legislative tools may provide solutions, they also raise critical questions about fairness, accountability, and the distribution of risk in an era of climate-driven disasters.[13]

Rating agencies, including Standard & Poor's (S&P), Moody's Investors Service (Moody's), and Fitch, have publicly expressed views on financial recovery and liability limitation legislation as credit supportive for utilities and states, recognizing these measures as critical to stabilizing utility credit profiles and mitigating financial exposure for utilities to wildfire liabilities.[14] Their assessments highlight the importance of wildfire recovery funds and mitigation reforms in reducing the financial risk utilities face. Absent such protections, utilities have historically suffered multi-notch downgrades, increases in borrowing costs, liquidity constraints, and steep market capitalization losses following major wildfire events. These trends underscore why rating agencies place such weight on legislative backstops in credit assessments.

Taken together, these legislative efforts represent a diverse and still-developing landscape of approaches to managing wildfire-related utility risk. This analysis offers a detailed comparative review to assess how these frameworks address cost recovery, liability limitation, claims resolution, and long-term financial resilience in the face of growing climate-related threats.

California

History of Wildfires

California has a long history of catastrophic wildfires, driven by its Mediterranean climate, prolonged droughts, and expansive wildland-urban interface. The state has endured some of the most destructive fires in US history, including the Tubbs Fire (2017), the Thomas Fire (2017), the Camp Fire (2018), the Dixie Fire (2021), and the Palisades and Eaton Fires (2025).[15]

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[13] See Appendix A: Payment Fund Proposal Structures for a summary of key wildfire recovery fund structures contemplated across the U.S.

[14] See Appendix B for a summary table compiling rating agency views on select wildfire-related legislation.

[15] Samuel Granados and Nicholas Bogel-Burroughs, "How the Destruction in Los Angeles Ranks in California's Fire History," *New York Times,* January 12, 2025. October 7, 2025, https://www.nytimes.com/2025/01/12/us/californias-worst-wildfires-history.html.

	California				
	Tubbs Fire (2017)[16, 17]	**Thomas Fire (2017)[18]**	**The Camp Fire (2018)[19]**	**The Dixie Fire (2021)[20]**	**The Palisades and Eaton Fires (2025)[21]**
Acres Burned	• 36,807	• 281,893	• 153,336	• 963,309	• ~40,500
Buildings Destroyed	• 5,636	• 1,063	• 19,357	• 1,311	• 15,467
Fatalities	• 22	• 2	• 85	• 1	• 29
Injuries	• 1	• N/A	• 3	• 3	• N/A
Total $ Amt. of Claims/Damages	• $1.2 billion	• $2.2 billion	• $25.5 billion	• ~$1.15 billion	• ~$65 billion

Fig. 8: A summary table of recent, major wildfires in California and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

California Senate Bill 901 (2018) and Assembly Bill 1054 (2019) establish California's statutory framework for managing financial risk associated with utility-caused wildfires, combining annual mitigation planning requirements with a dedicated funding structure for wildfire liabilities. Given its large population of roughly 40 million and its ecological zones, California faces heightened challenges in balancing wildfire risk mitigation with safe, reliable utility service.[22]

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[16] Phil Helsel, "California Wildfire Killed 22 in Wine Country Was Caused by Homeowner Equipment," *NBC News*, January 24, 2019. October 7, 2025, https://www.nbcnews.com/news/us-news/california-wildfire-killed-22-wine-country-was-caused-homeowner-equipment-n962521.

[17] Voss Law Firm, "Devastating Wildfires of California: A Historical Perspective on the Last Decade of Damages," *Voss Law Firm Blog*. October 7, 2025, https://www.vosslawfirm.com/blog/devastating-wildfires-of-california-a-historical-perspective-on-the-last-decade-of-damages.cfm#:~:text=Tubbs%20Fire:%20The%20Tubbs%20Fire,destructive%20fires%20in%20state%20history.

[18] Ventura County Fire Department. "VCFD Determines Cause of the Thomas Fire." *Ventura County Fire Department.* October 7, 2025, https://vcfd.org/news/vcfd-determines-cause-of-the-thomas-fire/.

[19] U.S. Department of Commerce, "November 2018 Camp Fire." October 7, 2025, https://www.weather.gov/media/publications/assessments/sa1162SignedReport.pdf.

[20] Cal Fire. "Dixie Fire." *Cal Fire*. October 7, 2025, https://www.fire.ca.gov/incidents/2021/7/13/dixie-fire.

[21] Antonio Pequeño IV, "California Fires: Here's the Data Behind the Historic Blazes That Have Burned Through 40,000 Acres," *Forbes,* January 21, 2025. October 7, 2025, https://www.forbes.com/sites/antoniopequenoiv/2025/01/21/california-fires-heres-the-data-behind-the-historic-blazes-that-have-burned-through-40000-acres/.

[22] World Population Review, "California Population," *World Population Review*, 2025. October 7, 2025, https://worldpopulationreview.com/states.

Wildfire Mitigation Reforms under SB 901 (2018)

In response to escalating wildfire threats, California enacted major legislative reforms under SB 901. The bill provided funding for wildfire prevention, forest restoration, and emergency response readiness across California. SB 901, signed into law on September 21, 2018, established a comprehensive wildfire mitigation and utility liability framework in response to the increasing frequency and severity of wildfires. The legislation mandates that electrical corporations prepare and submit annual WMPs to the California Public Utilities Commission (CPUC) that detail protocols for vegetation management, infrastructure inspection, system hardening, and de-energization procedures.

SB 901 created the Wildfire Safety Division, now part of the California Office of Energy Infrastructure Safety (OEIS), to oversee enforcement. While inverse condemnation liability remained intact, SB 901 authorized the CPUC to allow cost recovery for wildfire liabilities if deemed just and reasonable. CPUC is permitted to consider a utility's financial condition when making this determination. SB 901 also enabled the CPUC to set a Customer Harm Threshold to determine the maximum amount a utility could pay without harming ratepayers and allow for recovery in excess of such amount through securitization.

Wildfire Fund Creation under AB 1054 (2019)

AB 1054 was enacted on July 12, 2019, following Pacific Gas and Electric's (PG&E) bankruptcy filing. AB 1054 established a $21 billion California Wildfire Fund aimed at supporting IOU creditworthiness and insulating ratepayers via a 15-year non-bypassable charge. AB 1054 covers three major IOUs in California: PG&E, Southern California Edison (SCE), and San Diego Gas & Electric (SDG&E). The fund is jointly capitalized with $10.5 billion from ratepayers and $10.5 billion from shareholders of IOUs, not adjusted for inflation.

Ratepayer Contributions: California's electric customers are contributing $10.5 billion over roughly 15 years via a non-bypassable surcharge on utility bills. The surcharge is an extension of a $2.50 per month charge that was set to expire after an earlier energy crisis bond was paid off.[23] For the average residential customer (500 kWh/month), this is on the order of $2.50 to $3, or about 1.5% to 2% of a typical bill (around half a cent per kWh), as Governor Newsom noted while describing the bill. Of the ratepayer portion, customers will

[23] Robert Walton, "California Tees Up Wildfire Liability Bill as Utility, Consumer Groups Diverge on Solutions," *Utility Dive*, July 3, 2019. October 7, 2025, https://www.utilitydive.com/news/california-tees-up-wildfire-liability-bill-as-utility-consumer-groups-dive/558134/#:~:text=The%20bill%20was%20called%20a,Tribune.

contribute $900 million per year through 2035.[24] California initially loaned money from its Surplus Money Investment Fund so the Wildfire Fund could be capitalized upfront, and the utility surcharges have repaid that loan over time. It is important to note that this $10.5 billion is only part of what customers pay for wildfire costs; customers also continue to pay for utilities' annual wildfire mitigation and insurance expenses, which were reported to be $27 billion from 2019 to 2023 (about 7-13% of average bills statewide). The surcharge specifically covers the Wildfire Fund's pool for large payouts. Legislative analysts projected that if utility debt credit ratings fell to "junk" status, the added borrowing costs could cost ratepayers $17 to $35 billion over 10 years, far exceeding the $10.5 billion fund contribution.[25]

Shareholder Contributions: The IOUs' shareholders must contribute $10.5 billion. Of this, $7.5 billion was paid in July 2019 as an upfront infusion (PG&E contributed ~$4.8 billion; SCE ~$2.4 billion; SDG&E ~$0.3 billion). The remaining $3 billion is being paid in ten equal, annual installments of about $300 million per year collectively across the three companies. These utility contributions cannot be charged to customers and were legally required to be excluded from the utilities' rate bases. In effect, the utilities' shareholders absorbed this payment as a one-time expense. In PG&E's case, the contribution was financed as part of its bankruptcy emergence plan. Notably, AB 1054 tied each utility's share of contributions to its relative wildfire risk: the law set a formula ("Wildfire Fund allocation metric") weighting the percentage of the utility's service territory in high fire-threat areas and the utility's proportion of total transmission line miles among the three IOUs. This yielded shares of approximately 64% PG&E, 31% SCE, and 5% SDG&E for the upfront split, reflecting PG&E's vast territory and high wildfire exposure in Northern California. These percentages were subject to adjustments based on each utility's historical wildfire risk mitigation efforts, as determined by the California Director of Finance. Put in context, PG&E shareholder contribution of $6.72 billion represented around ~45% of its market capitalization (as of July 2019) and 19% of its transmission and distribution (T&D) rate base.[26] For SCE and SDG&E, their contributions represented around 15% and 1% of their respective parent company market caps and roughly 9% and 5% of their respective

[24] CapRadio, "PG&E Could Be the First Utility to Access California's Wildfire Liability Fund After Starting Dixie Fire," *CapRadio,* January 6, 2022. October 7, 2025, https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/.

[25] CalMatters, "Customers of PG&E, Other Utilities Pay Billions for Wildfire Prevention," CalMatters, December 17, 2024. October 7, 2025, https://calmatters.org/environment/2024/12/pge-utilities-wildfire-prevention-customer-bills-california/.

[26] California Public Utilities Commission, *2024 Senate Bill 695 Report, 2024*. October 7, 2025, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/office-of-governmental-affairs-division/reports/2024/2024-sb-695-report.pdf.

California T&D rate bases. The law also enabled the Wildfire Fund to authorize the securitization of up to $5 billion in aggregate wildfire mitigation capital expenditures across the three large IOUs. To incentivize this type of financing mechanism, AB 1054 expressly prohibits utilities from including their allocated share of these expenditures in their equity rate base, thereby encouraging the use of lower-cost, partly off-balance sheet debt financing.

Who May Participate and the Scope of the Fund

Participation in the California Wildfire Fund requires utilities to obtain an annual Wildfire Safety Certification from the CPUC, demonstrating compliance with wildfire mitigation standards and governance reforms. The fund is overseen by the Catastrophe Response Council and administered by the California Earthquake Authority. The California Wildfire Fund covers claims payments arising from wildfires ignited on or after July 12, 2019, that are determined by a competent court or governmental agency to have been caused by PG&E, SCE, or SDG&E. The fund also covers payments made to resolve third-party claims asserting that an eligible wildfire was caused by those same utilities if the payment was made in connection with a court-approved dismissal and settlement of those claims. Certification must be renewed annually and is a prerequisite to accessing the Wildfire Fund and securing a presumption of prudence in CPUC cost recovery proceedings.

For eligible claims, the fund issues payments subject to administrator approval. Subrogation claims may be capped at 40% of the approved amount, unless the administrator allows a higher recovery in exceptional cases. The fund is designed to support all three of California's major investor-owned utilities. This shared structure contrasts with states that have only one major utility, such as Hawai'i, where wildfire risk and recovery are more concentrated. California's approach spreads both the funding obligations and the financial protections across multiple companies but also adds complexity in managing timing and claims across different events.

Administrative Claims Process, Liability Caps, and Replenishment Due to Imprudence

The claims administration process under AB 1054 authorizes participating IOUs (PG&E, SCE, and SDG&E) to submit reimbursement requests to the CPUC after paying or committing to pay wildfire-related liabilities that exceed a $1.0 billion threshold or their required insurance coverage, whichever is greater, each year. The CPUC reviews the claims to

determine whether the utility's conduct was reasonable, with a presumption of prudence if the utility holds a valid Wildfire Safety Certification.

If deemed imprudent, an IOU must reimburse the Wildfire Fund, subject to a rolling three-year reimbursement cap equal to 20% of its transmission and distribution equity rate base. The 20% T&D cap limits exposure to a point where investors and creditors can have confidence in the California utilities. If the utility is found to have acted with conscious or willful disregard for public safety, the cap does not apply. No reimbursement is required if the utility is found to have acted prudently.

Utilities may seek reimbursement only for eligible claims arising from wildfires occurring on or after July 12, 2019, and before January 1, 2036. To qualify, the utility must be a participating electrical corporation, hold a valid Wildfire Safety Certification at the time of the fire, and demonstrate either prudent conduct or, if found liable, still meet the eligibility standards established by the fund. Reimbursement is not automatic; within six months of paying or committing in writing to pay a settlement, the utility may submit a claim to the fund administrator. The administrator is required to approve only eligible, substantiated claims and may disallow recovery for unreasonable or duplicative amounts. Approved claims must be reimbursed to the utility within 45 days unless impracticable.

Importantly, the fund cannot reimburse more than 40% of the value of eligible subrogation claims absent "specific facts" justifying a higher percentage — such as evidence of extraordinary loss concentration, gross utility fault, or insurer cooperation in expediting payments — ensuring that utilities and their insurers each retain a meaningful share of financial responsibility. The administrator is also empowered to develop streamlined claims procedures, pre-approve settlement tiers, and require standardized documentation formats. While AB 1054 does not specify a formal appeals process for rejected claims, utilities may seek resolution through regulatory or legal channels, including the CPUC's cost recovery framework. Collectively, these procedures ensure that fund access is conditioned on clear eligibility criteria, documentation, and administrative discretion — providing structure without compromising accountability.

Reimbursement Payments

Once a utility's reimbursement claim is approved, the California Earthquake Authority (CEA), under the oversight of the California Catastrophe Response Council, authorizes disbursement from the California Wildfire Fund. The process includes ongoing monitoring

of utility compliance with safety standards and fund eligibility requirements. Even though the fund administrator must issue payment within 45 days once a submitted claim is approved, the overall process from wildfire event to final reimbursement of utility costs can extend for years, as illustrated by PG&E's Dixie Fire request filed in 2023, which was still awaiting final disbursement in early 2025. Although the fund does not require utilities to advance payments for all wildfire claims, any delay between claim payment and reimbursement could introduce financial strain. This could be particularly true if the utility agreed to fund settlements upfront or float interim costs before the fund begins to disburse.

While the California Wildfire Fund has begun issuing reimbursements, it took several years to exceed the $1 billion distribution threshold in any single given wildfire-related event, and many claims remain unresolved. As a result, the full financial impact on the fund and participating utilities is likely to unfold gradually over time. For example, following the 2021 Dixie Fire, PG&E began submitting detailed claims for review approximately 27 months after the fire and only began receiving reimbursements around month 35 when the $1 billion claims threshold was crossed. This meant ratepayers did not begin seeing cost relief through the Wildfire Fund until nearly three years after the event.

To obtain a Wildfire Safety Certification under AB 1054, an electrical corporation must meet seven statutory requirements designed to strengthen safety culture, reduce wildfire risk, and ensure ongoing regulatory oversight by the Office of Energy Infrastructure Safety (OEIS). First, the utility must have an OEIS-approved WMP that outlines strategies to reduce ignition risk and mitigate the impacts of utility-caused wildfires. Second, it must be in good standing by agreeing to implement the findings of its most recent safety culture assessment. Third, the utility must have an established board-level safety committee composed of members with relevant safety experience. Fourth, it must maintain an OEIS-approved executive compensation structure that ties incentive compensation to safety performance and withholds all incentives if the utility causes a catastrophic wildfire resulting in fatalities. Fifth, the utility must have a board-of-director-level safety reporting structure to both OEIS and the California Public Utilities Commission (CPUC). Sixth, it must have an established compensation structure for any new or amended executive officer contracts consistent with safety performance objectives. Finally, the utility must demonstrate implementation of its approved WMP through quarterly reporting, with OEIS evaluating the actions taken rather than the outcomes. While a safety certification does not shield a utility from liability, it affirms that the company has documented compliance with

statutory safety requirements intended to improve accountability, oversight, and wildfire risk mitigation.

PG&E's 2021 proxy statement disclosed that 75% of short-term incentive pay and 50% of long-term incentive pay for executives were tied to safety and operational metrics,[27] while SCE's 2023 executive compensation plan linked approximately 50% of annual cash bonuses to safety performance, including wildfire risk reduction and system reliability targets.[28] The utility's CEO and board president must submit an annual verified attestation affirming compliance with these requirements and confirming substantial implementation of prior WMP commitments. While AB 1054 defines the statutory framework, regulators, particularly the Office of Energy Infrastructure Safety (OEIS), have enhanced scrutiny through audits, field inspections, and compliance reviews to ensure these measures are being executed in practice. As a result, the certification process is not merely procedural but contingent on demonstrable implementation and performance.

Replenishment

Overview of California's SB 254

California has recently passed a new piece of legislation, SB 254, which will inject an additional $18 billion into California's wildfire liability framework. The plan creates a two-tier fund structure: the existing 2019 fund, now approximately $13.5 billion after payouts, would cover "legacy" wildfires such as Eaton Fire claims and any earlier ones, while the new $18 billion fund would cover future fires going forward.

Funding is again split 50/50 between ratepayers and investor-owned utilities (IOUs). Ratepayers will contribute roughly $900 million annually through an extension of the monthly surcharge — previously set to expire in 2035 — through about 2045. IOU shareholders will contribute $300 million annually from 2029 to 2045, totaling around $5.1 billion, with an additional contingent $3.9 billion payable over five years if required by the fund administrator. If these contingent contributions are not called before the fund's dissolution, shareholders will instead provide 50% of that amount as a rate credit. Additionally, SB 254 prohibits IOUs from earning a return on the first $6 billion of fire-risk mitigation capital expenditures approved by the CPUC after January 1, 2026. This effectively

[27] PG&E Corporation, Definitive Proxy Statement (Form DEF 14A), *U.S. Securities and Exchange Commission, 2021.* October 7, 2025, https://content.edgar-online.com/ExternalLink/EDGAR/0001308179-21-000200.html?dest=LPCG2021_DEF14A_HTM.
[28] PG&E Corporation, *Definitive Proxy Statement* (Form DEF 14A).

ensures shareholders, rather than customers, absorb those costs and partially offsets the roughly $10 billion ratepayer contribution to the Wildfire Fund.

SB 254 modifies the 20% T&D equity rate-base reimbursement cap originally established under AB 1054. The cap is now determined as of the year in which the wildfire ignites rather than when the CPUC issues its prudence decision and applies to all costs and expenses arising from any wildfire ignited within a six-year window (three years before and after the fire at issue). IOUs may offset repayment obligations to the fund by the number of contributions they have already made to the new fund, effectively treating these contributions as prepayments of future replenishment obligations.

The new law also authorizes SCE to issue securitized bonds to finance costs from the Eaton Fire exceeding the assets of the original Wildfire Fund before CPUC prudence review, subject to providing an offsetting credit against securitized charges if those costs are later deemed unjust or unreasonable.

SB 254 further strengthens oversight of post-fire recoveries by granting IOUs a right of first refusal for insurance subrogation claims, requiring insurers to offer to settle on identical terms before selling such claims to hedge funds or other third parties. The provision was prompted by concerns that financial investors were profiting from buying discounted claims against utilities and litigating them for gain. Critics argued these activities undermined the purpose of the California Wildfire Fund. Collectively, these reforms aim to direct settlement funds toward victim compensation.

In addition, the legislation introduces an “automatic replenishment” mechanism to maintain fund solvency if future wildfire payouts exceed capacity and directs the Wildfire Fund Administrator to submit a comprehensive report to the Legislature in 2026. The report must evaluate new models to address climate-driven wildfire risks and include recommendations on insurance accessibility and affordability, alternative risk-socialization structures, low-cost payout mechanisms, liability and attorney-fee limitations, vegetation management, community hardening, and potential long-term replacements or enhancements to the existing Wildfire Fund structure.

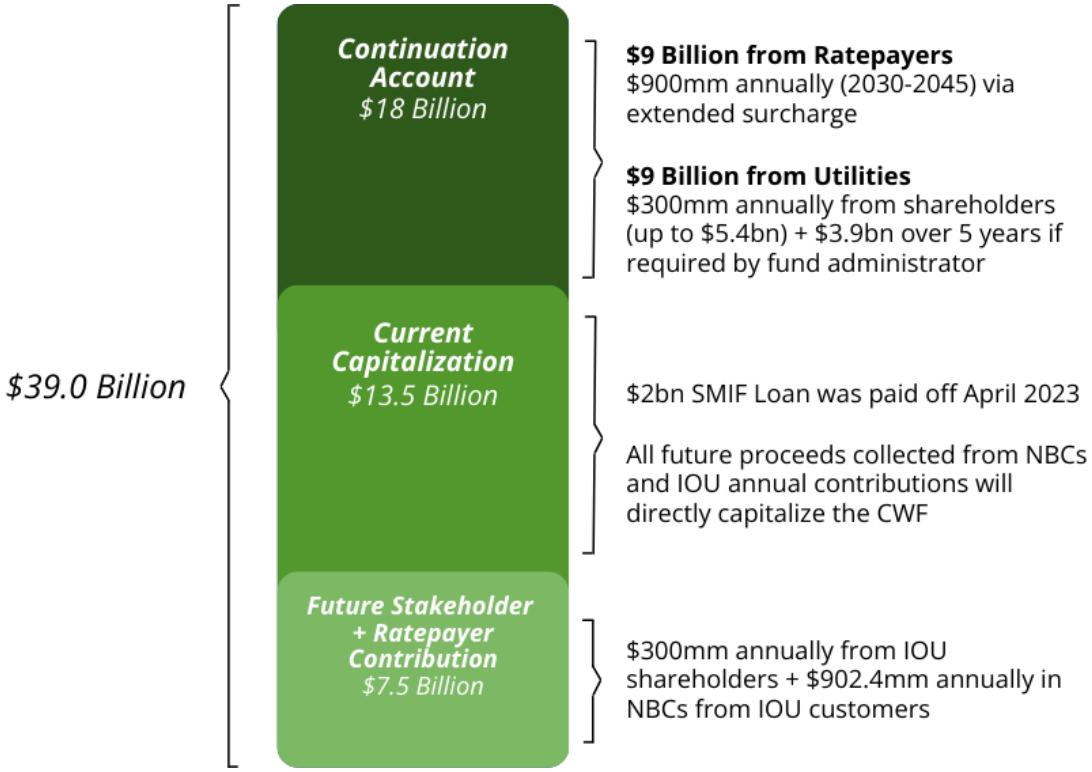


Fig. 9: An illustrative diagram of future proceeds into the California Wildfire Fund under SB 254.

Overview of SCE's Wildfire Recovery Compensation Program

SCE proactively launched a Wildfire Recovery Compensation Program to address losses from the January 2025 Eaton Fire, creating a new direct-pay claims mechanism outside of litigation. The purpose of the fund is to help affected community members recover and rebuild more quickly by offering an alternative to protracted lawsuits and insurance disputes through direct payouts from the fund itself.

The program is voluntary and open for one year from launch, covering homeowners, renters, businesses, and injury or fatality claims. Compensation is provided for both economic and non-economic damages, with additional amounts such as $5 million for death claims, $200,000 for destroyed primary residences, and $50,000 per adult tenant, among other fixed amounts. Claimants may pursue a Fast Pay track, with offers issued within 90 days based on simplified documentation, or a Detailed Review track that can take up to nine months. Importantly, claimants represented by counsel at submission receive an additional 10% of net damages. Insurance proceeds are offset through structured options, with specific percentages applied to unpaid coverage. Payments are issued approximately

30 days after acceptance and signing of a release, which permanently waives future litigation against SCE related to the Eaton Fire.

The program is notable because it complements, rather than replaces, California's broader wildfire liability framework. While AB 1054 and the recent SB 254 continuation fund focus on stabilizing utility finances and ensuring long-term fund solvency at the state level, SCE's program is event-specific, voluntary, and temporary, aimed at accelerating recovery for those directly affected by the Eaton Fire and potentially mitigating recovery costs. This dual approach highlights California's evolving strategy: state funds safeguard utility credit stability, while SCE's initiative is designed to deliver faster relief with lower associated litigation costs to fire victims. In effect, SCE's program front-runs potential reimbursements from the California Wildfire Fund by advancing payments directly to claimants before any formal liability determination, reflecting a proactive approach to community recovery even as ultimate cost responsibility remains subject to AB 1054's reimbursement framework.

Impacts of New Legislation on the Utilities' Credit Rating and Cost of Financing

Rating Agency Reactions and Implications for Utilities

Rating agencies have expressed positivity towards California's AB 1054 as a credit-supportive Wildfire Fund that enhances the financial resilience of the state's IOUs against catastrophic wildfire risks. The law's key provisions, including the establishment of a $21 billion Wildfire Fund, liability protections linked to safety certifications, and a presumption of prudence for cost recovery, collectively provide a foundation for maintaining utility credit quality and access to capital markets.

S&P described AB 1054 as "a credit-supportive legislative development" that introduced mechanisms to mitigate wildfire-related financial exposure. However, S&P emphasizes that the ultimate credit impact depends significantly on how the CPUC interprets and implements the law, stating, "We assess [wildfire legislation] as supportive of credit quality… under our base case, we assume the CPUC interprets and implements [it] in a manner that stabilizes credit quality."[29]

[29] S&P Global Ratings, "PG&E Corp. Ratings Affirmed on Passing of California Wildfire Fund," *S&P Global Ratings*, October 7, 2025, https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3442580.

The January 2025 Eaton and Palisades fires in the Los Angeles area marked a critical test of California's wildfire risk framework under AB 1054. The Eaton Fire, which ignited in SCE's service territory, has been linked to the utility's transmission equipment, though an official cause has not yet been confirmed. If SCE is found responsible, it could face liabilities exceeding $10 billion[30] — an amount that would historically have triggered severe credit distress. However, Moody's has maintained SCE's Baa1 rating with a stable outlook, citing the utility's continued access to the $21 billion California Wildfire Fund and the structural protections provided under AB 1054. Moody's emphasized that the Eaton fire will likely not materially impact SCE's cash flows, assuming the utility maintains its Wildfire Safety Certification and prudency is presumed.[31] Reimbursement from the fund is expected within 45 days, with longer-term cost recovery shaped by CPUC review. Even if SCE is later found to have acted imprudently, reimbursement exposure would be capped at 20% of the utility's equity rate base, estimated at around $4 billion.[32] Importantly, the market reaction diverged sharply from pre-AB 1054 patterns. After the Eaton fire, California's utilities debt yields rose by 14.06%[33] but did not face a ratings downgrade. In contrast, California's utilities debt yields increased by 34.06%[34] following the 2017/2018 wildfires, and they were downgraded by S&P from BBB to BBB- and by Moody's from A2 to A3, ultimately leading some to a 2019 Chapter 11 filing. The relative preservation of utility ratings in 2025 shows that AB 1054 was successful in preventing wildfire liabilities from increasing utility debt costs, a key element in overall rates.

The Moody's analysis underscores that AB 1054's presumption of prudence, reimbursement mechanism, and access to the Wildfire Fund are all central to stabilizing investor expectations and utility credit metrics, even under the threat of multi-billion-dollar liabilities. At the same time, the Eaton fire has raised broader concerns about the long-term

[30] Caroline Petrow-Cohen, "What the Eaton fire could mean for Edison's bottom line," *Los Angeles Times,* February 11, 2025, https://www.latimes.com/business/story/2025-02-11/the-future-for-edisons-bottom-line-after-the-fires.

[31] Moody's Ratings, "Edison International: Update to Credit Analysis," *Moody's Ratings,* June 2023. October 7, 2025, https://www.moodys.com/research/Edison-International-Update-to-credit-analysis-Credit-Opinion--PBC_1435085#b218628524958c44f06e3716d7322c47.

[32] Fitch Ratings, "Fitch Affirms Edison International and Southern California Edison's IDRs at 'BBB'; Outlook Stable" *Fitch Ratings,* January 17, 2025, https://www.fitchratings.com/research/corporate-finance/fitch-affirms-edison-international-southern-california-edison-idrs-at-bbb-outlook-stable-17-01-2025.

[33] According to Bloomberg market data.

[34] According to Bloomberg market data.

sufficiency of the fund, which could be reduced by nearly 75% if a full $14.2 billion[35] reimbursement is approved.

In short, the LA-area fires have provided real-time evidence of AB 1054's efficacy in protecting IOUs' financial health. The sharp contrast in market outcomes between PG&E (pre-fund) and SCE (fund-protected) offers a compelling case for why wildfire recovery funds, when paired with liability reforms, can meaningfully protect access to capital, preserve ratings, and insulate utilities from catastrophic financial exposure. For ratepayers, this translates into lower electricity costs over time, as preserved credit ratings and access to lower-cost capital help avoid steep rate increases that would otherwise be needed to finance wildfire-related liabilities. It also helps ensure utilities have the financial stability to make mandated safety investments that reduce long-term wildfire risk, in turn protecting both the grid and the communities it serves.

Moody's has discussed AB 1054 as a critical policy response to catastrophic wildfire events, such as the 2017-2018 fires that led to PG&E's bankruptcy and substantial financial strain on SCE. Moody's highlights that the Wildfire Fund "helps maintain investor confidence after a catastrophe" by providing liquidity that facilitates timely claim settlements and reduces pressure from protracted litigation.[36] Absent such a fund or liquidity to cover the cost of wildfires before determining cause and cost recovery, some utilities may struggle to continue to raise unsecured debt and equity following a catastrophic wildfire where their equipment may be involved. Moody's also places particular emphasis on the law's legal and financial safeguards, insurance requirements[37] (with a minimum coverage threshold of $1 billion before the fund issues payouts), and a rebuttable presumption of prudence for utilities holding valid safety certifications at the time of a wildfire event.[38]

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[35] Cecilia Nowell, "Insurance Claims from LA Fires Could 'Fully Exhaust' $21bn State Fund," *The Guardian*, July 23, 2025. October 7, 2025, https://www.theguardian.com/us-news/2025/jul/23/los-angeles-wildfires-insurance-claims.

[36] Moody's Investors Service, "What the Los Angeles Fires Taught Us About a Catastrophe Peril," *Moody's Investors Service*, October 7, 2025, https://www.moodys.com/web/en/us/insights/insurance/what-the-los-angeles-fires-taught-us-about-a-catastrophe-peril-u.html.

[37] Justia, "2024 California Code: Public Utilities Code — PUC, Division 1, Regulation of Public Utilities, Part 6, Wildfire Fund, Chapter 3, Operation of the Fund, Section 3293," *Justia US Law,* 2024. October 7, 2025, https://law.justia.com/codes/california/code-puc/division-1/part-6/chapter-3/section-3293/.

[38] Moody's Ratings, "PG&E Corporation: Update to Credit Analysis Following Rating Upgrade," *Moody's Ratings*, June 2023. October 7, 2025, https://www.moodys.com/research/PGE-Corporation-Update-to-credit-analysis-following-rating-upgrade-Credit-Opinion--PBC_1435315.

Before the Eaton Fire, Fitch affirmed Edison International (SCE's parent company) at BBB and removed prior negative watches after AB 1054's passage, highlighting the law's "imprudence risk cap" of 20% of rate base as a strong mitigant.[39] Fitch estimated this cap at approximately $3.9 billion for SCE and $2.5 billion for SDG&E in 2019 and noted that even if a utility were found imprudent, such a capped exposure over three years was manageable within the current rating category. In Fitch's view, AB 1054 significantly lowers the tail risk of a utility default.

Despite these strengths, particularly after the most recent LA wildfires, all these agencies acknowledge that AB 1054 is not a comprehensive solution. Moody's cautions that "no utility or wildfire compensation fund can realistically hold sufficient resources to cover all liabilities," underscoring the importance of evaluating frameworks to ensure ongoing access to needed capital on acceptable terms following a catastrophic event, including through evaluating fund structures and liability limitations. S&P also notes that utility credit quality remains highly dependent on ongoing regulatory support, the availability and affordability of insurance, and utilities' adherence to mitigation obligations.

Since AB 1054's enactment, California's large IOUs have generally maintained or improved their credit ratings. For example, PG&E's first-mortgage bonds now carry a Baa1 rating, and SCE/SDG&E remain investment grade. Rating agencies point to the Wildfire Fund, the 20% of T&D equity rate-based cap, and the safety-certification regime as key reasons these utilities maintained or improved their ratings. Maintaining investment grade directly lowers ratepayer costs for debt-financed resilience and clean-energy projects.

AB 1054 establishes a structured framework that significantly reduces wildfire-related financial uncertainty and supports long-term credit stability for California's IOUs. By insulating utilities from catastrophic liability, the framework also protects ratepayers from volatile electricity price spikes and ensures continued investment in wildfire safety and grid reliability. Nonetheless, its success depends on sufficient risk reduction, effective regulatory execution, the durability of legal protections, and the sustained solvency of the Wildfire Fund.

[39] Fitch Ratings, "Fitch Affirms Edison International and Southern California Edison's IDRs at 'BBB'; Outlook Stable," *Fitch Ratings*, January 17, 2025. October 7, 2025, https://www.fitchratings.com/research/corporate-finance/fitch-affirms-edison-international-southern-california-edison-idrs-at-bbb-outlook-stable-17-01-2025.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Even as AB 1054 achieved its goal of stabilizing utilities before the Eaton Fire, stakeholders had voiced concerns and experienced mixed outcomes. Wildfire victims and consumer advocates, in particular, offered a more critical perspective. Some saw the Wildfire Fund as a necessary step to ensure compensation, while others argued it amounts to a "bailout" that could reduce utilities' accountability. Below, we summarize key reactions from wildfire survivors, consumer groups, public officials, and others:

Wildfire Victims and Their Advocates: Many wildfire survivors initially supported AB 1054 because it was presented as the quickest way to get current and future victims compensated. In 2019, as PG&E's bankruptcy was looming, Governor Newsom and several prominent fire victim attorneys urged victims to back AB 1054 as part of PG&E's bankruptcy exit plan. Victim advocates were invited to the Capitol and, despite misgivings, testified in favor of AB 1054 because they were told it would expedite payments and enforce new safety standards.[40] A victim advocate later recounted that she "had mixed feelings… it was viewed by some as a public bailout of utilities," but she ultimately "supported it… hoping the good would outweigh the bad."[41] She and others were promised that getting PG&E out of bankruptcy by the June 30, 2020, deadline (a requirement to join the fund) was their "best bet" to be paid in full.

- **Dixie Fire (2021) Claimants:** At the time, the Dixie Fire was the largest single fire in California history based on acreage and was caused by PG&E's equipment. Here, AB 1054 showed both its strengths and limitations. PG&E admitted fault and was able to settle many claims, knowing the fund would reimburse a significant portion beyond $1 billion. This may have likely accelerated PG&E's willingness to resolve claims. However, victims from the Dixie Fire had voiced concern about the delays in reimbursement. By early 2025, PG&E had received about $875 million from the fund for Dixie Fire claims,[42] helping its balance sheet. But from the claimants' perspective, what matters is that their homes and lives are rebuilt. It still took them years of litigation and settlement processes to get payments. Some claimants, through attorneys, have asked whether the Wildfire Fund could directly pay victims rather

[40] The Press Democrat, "Northern California Wildfire Claimants Continue Fight to Be Made Whole: 'Can't Just Let Them Leave Us Behind'," *The Press Democrat*, 2025. October 7, 2025, https://www.pressdemocrat.com/article/news/pge-california-wildfire-victims-compensation/.

[41] The Press Democrat, "Northern California Wildfire Claimants Continue Fight to Be Made Whole."

[42] *The Press Democrat,* "Northern California Wildfire Claimants Continue Fight to Be Made Whole."

than reimbursing the utility to speed things up. AB 1054 does not currently allow that; it requires utility payment first. This is an administrative design choice that prioritizes utility liquidity to avoid insolvency and address claims with the expectation that a solvent utility will, in turn, pay victims.

- **Eaton Fire (2025) Claimants:** The Eaton Fire destroyed thousands of structures in the Pasadena and Altadena foothills and caused multiple fatalities, with SCE's equipment under investigation as a potential cause. Unlike earlier cases, SCE's parent company, Edison International, announced a proactive Wildfire Recovery Compensation Program in mid-2025, designed to provide voluntary, expedited payments to victims. This approach shows how AB 1054's framework can influence utility behavior even before fault is established: Edison structured the program with the expectation that costs would ultimately be reimbursed from the state's Wildfire Fund.[43] Positively, the program offers "fast pay" options and even an additional $200,000 premium per destroyed home, signaling an effort to resolve claims without years of litigation.[44] However, critics argue that the program requires victims to waive future legal rights, raising questions about fairness and adequacy. Much like in the Dixie Fire, the fundamental tension remains: AB 1054 prioritizes utility liquidity and credit stability by reimbursing utilities after they pay, but from the victims' perspective, the speed, sufficiency, and directness of compensation remain unresolved challenges.

Consumer Advocacy Groups and Ratepayer Advocates: Consumer groups have been some of the harshest critics of AB 1054, arguing that it over-relies on ratepayer funding and weakens accountability for utility mismanagement. Key concerns and reactions include:

- **Perceptions of a Bailout:** Even as AB 1054 was rushed through the legislature in July 2019, advocates like The Utility Reform Network (TURN) and attorneys for wildfire victims were decrying it as a bailout. In a letter to lawmakers, consumer attorneys Aguirre & Severson warned that "the bill would relieve IOUs from having to prove they acted reasonably before passing wildfire costs onto ratepayers,"

[43] Southern California Edison, "Southern California Edison Announces Wildfire Recovery Compensation Program for Eaton Fire Launching This Fall," *Edison International Newsroom*, July 15, 2025. October 7, 2025, https://newsroom.edison.com/releases/southern-california-edison-announces-wildfire-recovery-compensation-program-for-eaton-fire-launching-this-fall.

[44] Melody Peterson, Los Angeles Times, "Edison Details How Much It Plans to Pay Eaton Fire Victims," *Los Angeles Times*, September 18, 2025. October 7, 2025, https://www.latimes.com/environment/story/2025-09-18/edison-details-how-much-it-plans-to-pay-eaton-fire-victims.

referencing the "reversed burden of proof" (the presumption of prudence)[45]. They argued this new standard "would make it nearly impossible for ratepayers to prevent IOUs from passing on unjust and unreasonable costs."[46] Essentially, consumer advocates saw the Wildfire Fund as socializing the risk of utility-caused fires, flipping the historic paradigm where a utility would have to absorb costs if it was negligent. This sentiment was echoed in op-eds and public comments. For example, columnist Thomas Elias wrote that "Newsom cleverly devised [the Wildfire Fund] so customers rescuing the undeserving utilities would barely notice their payments… Business as usual would continue at companies that spent years mismanaging safety."[47] This sharp critique highlights a fear that utilities might become complacent if they know a fund is available. To counter this, policymakers point to the safety certification and reimbursement cap as retaining strong incentives for safety, but only time will tell if those measures are sufficient. TURN's Mark Toney has noted with concern that despite billions spent on hardening, the number of fires sparked by utility lines increased to 178 in 2024 versus 90 in 2023, suggesting that at least one utility needs to do more.[48]

- **Fund Cost and Affordability:** Consumer groups are extremely sensitive to California's high electricity rates, second only to Hawai'i nationally. They have therefore closely tracked the layering of wildfire-related costs onto bills. As noted, ratepayers fund not just the Wildfire Fund surcharge (around $3/month) but also the dramatic rise in wildfire mitigation spending (undergrounding lines, enhanced tree trimming, etc., totaling $27 billion over 5 years).[49] TURN and others argue that ratepayers are paying twice: once to prevent fires and again to cover damages when fires occur. TURN's director Mark Toney expressed dismay that despite these costs, the Wildfire Fund will need more money, calling it "very disappointing" and saying, "We can't go back every three or four years and put more money in."[50] Consumer

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[45] Utility Dive, "California Tees Up Wildfire Liability Bill as Utility, Consumer Groups Diverge on Solutions," *Utility Dive*, July 3, 2019. October 7, 2025, https://www.utilitydive.com/news/california-tees-up-wildfire-liability-bill-as-utility-consumer-groups-dive/558134/.

[46] *Utility Dive*, "California Tees Up Wildfire Liability Bill."

[47] *Utility Dive*, "California Tees Up Wildfire Liability Bill."

[48] Melody Peterson, "Newsom's Plan to Raise $18 Billion for State Wildfire Fund Faces Tough Opposition," *AOL News*, September 2025. October 7, 2025, https://www.aol.com/news/gov-newsom-seeks-raise-18-012229401.html.

[49] CalMatters, "Californians Pay Billions for Power Companies' Wildfire Prevention Efforts. Are They Cost-Effective?" *CalMatters*, December 17, 2024. October 7, 2025, https://calmatters.org/environment/2024/12/pge-utilities-wildfire-prevention-customer-bills-california/.

[50] Melody Peterson, "Gov. Newsom's Plan to Raise $18 Billion for State Wildfire Fund Faces Tough Opposition," *Los Angeles Times*, July 31, 2025. October 7, 2025, https://www.latimes.com/environment/story/2025-07-31/governor-wants-another-18-billion-to-shore-up-state-wildfire-fund.

advocates demand that when more funding is needed, shareholders and possibly insurers should bear a greater portion, not ratepayers.

Public Utility Commissions (California & Others): Since AB 1054 became law, the CPUC and the Office of Energy Infrastructure Safety (OEIS) have implemented their new enforcement powers. The CPUC quickly stood up the Wildfire Safety Division and later moved it to the Natural Resources Agency. CPUC decisions since then have generally honored the AB 1054 constructs. For example, in PG&E's Dixie Fire cost recovery review, the CPUC has thus far signaled that if PG&E were certified and acting under an approved WMP, the presumption of prudence would hold absent clear evidence of negligence. In essence, the CPUC recognizes that the credibility of the Wildfire Fund (and California's ability to keep utilities solvent) hinges on regulators not arbitrarily disallowing costs that the legislature intended the fund to cover.[51] At the same time, the CPUC has been vocal about oversight. In recent hearings, commissioners questioned PG&E and SCE about why — despite the Wildfire Fund and billions spent on mitigation — fires like the Dixie and Eaton fires still happened. The CPUC opened an investigation into the cause of the 2025 fires to determine if any utility safety violations occurred.

Insurance Industry and Financial Markets: From the perspective of property insurers and investors, AB 1054 has had mixed reviews. From one perspective, insurers benefit from the Wildfire Fund because it ultimately provides reimbursement for a portion of their payouts. With this, however, AB 1054 creates a 40% presumption for settled subrogation claims and requires that settlements above 40% be approved by the Fund Administrator. Some insurance companies quietly opposed that provision in 2019, but their leverage was limited in a crisis atmosphere. By 2025, the issue became front-page news: hedge funds were attempting to buy insurers' claims from the Eaton Fire at a discount, betting they could profit if the Wildfire Fund paid sixty cents on the dollar.[52] Part of SB 254 is designed to reduce that arbitrage potential by making it more difficult for investors to achieve higher payouts than insurers. The broader financial markets have also reacted positively to California's wildfire funds: utility stocks and bonds rallied when AB 1054 passed. Furthermore, as a recent example of success, Edison International's share declined around 10% during the 2025 fires, compared to a much steeper decline that would have been

[51] Utility Dive, "Moody's Upgrades PG&E on Reduced Credit Risks from Wildfires," *Utility Dive*, January 18, 2025. October 7, 2025, https://www.utilitydive.com/news/moodys-upgrades-pge-pacific-gas-credit-wildfire/743811/.
[52] *Los Angeles Times*, "Gov. Newsom's Plan to Raise $18 Billion."

expected without AB 1054.[53] Some skeptics in the market, however, point out that California needs a more sustainable funding mechanism beyond relying on ratepayers for wildfire disasters in the future.



Fig. 10: An illustrative diagram of how California's Wildfire Fund is funded and operates.[54]

[53] Claims Journal, "Edison Denies LA Wildfire Involvement as Insurers Ask It to Preserve Evidence," *Claims Journal*, January 10, 2025. October 7, 2025, https://www.claimsjournal.com/news/national/2025/01/10/328348.htm.

[54] Edison International, "Assembly Bill 1054 Wildfire Fund Summary," *December 5, 2019.* October 7, 2025, https://download.edison.com/405/files/202210/20191205-ab1054-wildfire-fund-summary.pdf.

Utah

History of Wildfires

Utah's dry climate, mountainous terrain, and expanding wildland-urban interface have made it increasingly vulnerable to wildfires. The state, home to 3.6 million residents,[55] has experienced several notable fire events in recent decades, including the Seeley Fire (2012), Brian Head Fire (2017), Dollar Ridge Fire (2018), and the 2020 Utah Fire Season (2020), which collectively burned vast land areas and caused significant property damage.[56] While none of these fires were caused by public utilities, Utah implemented various wildfire mitigation strategies, including the establishment of fire-related fees and funding mechanisms to support emergency services and recovery efforts.

	Utah			
	Seeley Fire (2012)[57]	Brian Head Fire (2017)[58]	Dollar Ridge Fire (2018)[59]	2020 Utah Fire Season (2020)
Acres Burned	48,050	71,000	68,869	329,732
Buildings Destroyed	N/A	13	363	N/A
Fatalities	N/A	N/A	N/A	N/A
Injuries	N/A	N/A	N/A	N/A

Fig. 11: A summary table of recent, major wildfires in Utah and their associated fatalities, injuries, and damages.

[55] World Population Review, "Utah Population 2025," *World Population Review*, 2025. October 7, 2025, https://worldpopulationreview.com/states/utah.

[56] Utah Department of Public Safety, "Utah Disaster History," *Utah Department of Public Safety*. October 7, 2025, https://dem.utah.gov/utah-disaster-history/eoc-activations/.

[57] Utah Geological Survey, "2012 Seeley Fire," *Utah Geological Survey.* October 7, 2025, https://geology.utah.gov/map-pub/survey-notes/damaging-debris-flows-prompt-landslide-inventory-mapping-for-the-2012-seely-fire-carbon-and-emery-counties-utah/.

[58] Jessica Miller Schreifels, "The Brian Head Fire," *The Salt Lake Tribune*. October 7, 2025, https://www.sltrib.com/news/2019/07/30/brian-head-fire-torched/.

[59] Alec Williams, "Utah 2018 Wildfires Destroy the Most Structures in Past 15 Years," *Deseret News*, August 18, 2018. October 7, 2025, https://www.deseret.com/2018/8/18/20651507/utah-2018-wildfires-destroy-the-most-structures-in-past-15-years.

Existing Funds and Liability Framework

Language of Enacted Wildfire Fund Legislation

Utah Senate Bill 224, effective as of May 1, 2024, establishes a comprehensive framework to enhance wildfire risk management by creating Utah Fire Funds, which are reserve accounts that may be funded, managed, and overseen by investor-owned electric utilities (mainly Rocky Mountain Power), specifically to cover third-party wildfire claims that exceed available insurance coverage. Each utility may establish its own Utah Fire Fund, but only with approval from the Public Service Commission (PSC); the funds are utility-specific and not part of a centralized or state-managed pool.

Funding Capitalization Amount and Contributors

These funds are capitalized through a fire surcharge added to customers' utility bills, which is collected over a 10-year period and must be approved by the PSC, as well as investment income; there are no shareholder contributions. The surcharge rates are limited to 4.95% of current rates or $3.70 per month for average residential customers.[60] Additionally, utilities must absorb the first $10 million in wildfire-related costs per year, which functions as a self-insured retention or deductible and must be exhausted before Wildfire Fund resources become available.

The fund also accrues investment income, and payments terminate early if it reaches a cap equal to 50% of the utility's Utah revenue requirement. The revenue requirement is the amount of money the utility needs to collect from customers to cover its costs and make a reasonable profit, as approved by state regulators.

Who May Participate and Benefit from the Fund

Participation is limited to large-scale electric utilities serving at least 200,000 customers in Utah. The PSC holds authority to approve each fund's establishment in the public interest, limit surcharge collections once a fund reaches $1 billion or after ten years, and oversee the prudence of fund disbursements, with a rebuttable presumption protecting utilities from challenges regarding fund usage.[61]

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[60] Tim Fitzpatrick, "This Bill Shifts Costs to Utahns for Wildfire Insurance Claims and Keeping Coal Plants Running," *The Salt Lake Tribune*, February 23, 2024. October 7, 2025, https://www.sltrib.com/news/politics/2024/02/23/this-bill-shifts-costs-utahns/.

[61] Utah Senate. "Senate Bill 224." *Utah Legislature*. October 7, 2025, https://legiscan.com/UT/text/SB0224/id/2956219.

The utilities must establish a distinct investment account for the fund, separate from their general operations, to track deposits, disbursements, assets, liabilities, and equity. Utilities are required to report the fund's activity, including investment performance, to the PSC on an annual basis. Because the fund is singular and jointly funded, utilities must coordinate on account setup, recordkeeping, and annual reporting. This likely involves a shared governance structure or a designated lead utility to streamline compliance with PSC requirements.

Scope of the Fund

The scope of the fund is narrowly defined and may only be used to pay economic damages resulting from fire events occurring within Utah. It does not apply to out-of-state incidents or damage to utility-owned infrastructure. Coverage under the fund is limited to wildfires caused by utility-owned infrastructure or operations, excluding naturally occurring fires or those with no utility involvement. Unlike California, Utah does not recognize the doctrine of inverse condemnation in the utility context, meaning utilities are not strictly liable for wildfire damages absent a finding of fault or imprudence. Only third-party claimants, excluding governmental entities, may receive fund disbursements.

Administrative Claims Process, Reimbursement Payments, and Replenishment Due to Imprudence

Claims must be filed within two years of the fire event. Once that time has elapsed, utilities may disburse funds to cover eligible payments, including court judgments and settlements, subject to oversight by the PSC. Disbursements are not subject to prior PSC approval; utilities may access the fund once deductible requirements are met, but the prudence of the payment can be reviewed after the fact.

Under SB 224, the utility initially pays wildfire-related claims and then seeks reimbursement from the wildfire fund. If the Utah Public Service Commission (PSC) later determines that a payment made from the fund was unreasonable, it may order the utility to reimburse the fund, with the reimbursement obligation capped at 10% of the utility's distribution and equity rate base assigned to Utah for that calendar year. This review is limited to the prudence of the settlement amount, not the utility's fault or negligence in causing the fire. Settlements paid from a Utah Fire Fund are subject to PSC review.

For example, if the commission finds that a utility overpaid a claim or settled in bad faith, shareholders may be required to reimburse the fund, subject to the same 10% cap. By

contrast, if a court judgment is paid using the fund, that payment is automatically deemed prudent and cannot be challenged by any party.

While this framework protects utilities by limiting exposure, it may result in under compensation for future victims, particularly homeowners whose rebuilding costs exceed the fair market value of older or underinsured properties. Victims experiencing non-physical harm, such as emotional distress or environmental degradation, will also face significant recovery limitations under the capped non-economic damages regime. Additionally, because governmental entities are excluded from receiving fund disbursements, victims may face indirect costs if damaged public infrastructure or services are not promptly restored due to unreimbursed municipal losses.

Aggregate Liability Caps

The bill imposes clear aggregate damages caps on wildfire liability, mandating that third-party claims be filed within two years and state government claims within six years of the fire event. The fund does not cover government claims, but the bill sets a six-year deadline for asserting them. It defines economic losses as the lesser of replacement cost or fair market value differential pre- and post-fire. Non-economic damages are capped at $450,000 for claimants with physical injuries and capped at $100,000 for those without, while wrongful death claims remain uncapped. Property damage claims are compensable up to the actual economic loss, defined as the lesser of the replacement cost or the post-fire reduction in fair market value. These damages are not subject to a fixed monetary cap.

This liability framework provides utilities with defined risk boundaries, enhancing predictability in wildfire-related litigation. Additionally, the bill clarifies that limitations on an electrical corporation's liability for recoverable damages do not apply if the electrical corporation did not have an approved wildland fire protection plan in place before the fire occurred, and the PSC finds that the electrical corporation was materially non-compliant with its wildland fire protection plan in the area where the fire happened. A qualified utility must prepare and file a wildland fire protection plan that, among other elements, describes wildfire-prone areas, inspection protocols, vegetation management standards, infrastructure upgrades, de-energization procedures, restoration methods, cost estimates, community outreach efforts, and coordination with state or local plans. The PSC must review the plan (submitted by June 1, 2020, and every 3 years thereafter), consider input from Utah’s Department of Natural Resources Division of Forestry, Fire & State Lands,

and other stakeholders, and approve the plan only if it is found to be reasonable and in the public interest, balancing cost against wildfire risk.

Cost to Customers

To protect ratepayers, SB 224 limits the cost to ratepayers by capping the fire surcharge and requiring that any unused funds (i.e., funds remaining in the Utah Fire Fund that are not expected to be needed for eligible wildfire claim payments) be returned as a regulatory liability. This means the utility can only collect up to the approved surcharge cap, and any excess or unspent funds are credited back to customers through future rate adjustments.

The legislation also strengthens cost recovery mechanisms for utilities to acquire, operate, and maintain dispatchable energy resources, aligning with Utah's energy policy priorities. It clarifies that reasonable costs associated with dispatchable resources are fully recoverable through regulatory processes, facilitating utility investment in reliable energy solutions that can support wildfire resilience and system stability. The legislation was specifically intended to clarify cost recovery for existing dispatchable generation resources, such as coal and natural gas plants, whose ongoing operating costs had previously faced regulatory scrutiny. By establishing a rebuttable presumption of reasonableness, SB 224 mitigates the risk of cost disallowance and allows utilities to continue recovering expenses tied to these resources, even amid broader policy pressures favoring decarbonization.

Rating Agency Reactions and Implications for Utilities

S&P Global Ratings has provided commentary characterizing Utah's SB 224 as credit supportive, emphasizing that the law reduces financial exposure from wildfire-related claims and enhances regulatory predictability. The creation of a supplemental wildfire claims fund is seen as a key mechanism for shifting liability away from utilities' balance sheets. By treating wildfire liabilities above the $10 million deductible as regulatory costs recovered through a PSC-approved mechanism, the statute reclassifies potential legal exposure as a pass-through obligation, reducing the utility's contingent liabilities and shielding equity holders from catastrophic loss. The credit-supportive strength of SB 224 lies not only in establishing the Utah Fire Fund but also in its comprehensive liability and cost recovery framework. Importantly, a utility with a fund can access it regardless of whether they are deemed negligent, subject to a $10 million deductible, which lowers uncertainty in the event of fire-related litigation.

S&P also points to the liability caps available to utilities that comply with an approved wildland fire protection plan as a material protection that reduces downside credit risk. While the law permits challenges to fund disbursements and potential reimbursement orders for imprudent payments up to 10% of the utility's Utah rate base, these are commented on as balanced regulatory safeguards rather than material credit constraints.[62]

While utilities can access the fund to cover wildfire claims regardless of negligence, disbursements are still subject to PSC review for prudence. If a utility's conduct or cost recovery request is later deemed imprudent, the utility must reimburse the fund within a reasonable timeframe, capped at 10% of its Utah rate base, ensuring accountability without exposing the utility to catastrophic losses. This balance allows utilities to manage wildfire liabilities predictably while maintaining regulatory oversight that protects ratepayers from unreasonable expenses. The ability to spread fund-related costs over time mitigates the risk of customer bill shocks, even if large wildfire claims emerge.

Moody's echoes these views, placing Utah alongside California as the states that have responded "most forcefully in mitigating the financially crippling impact of wildfire liabilities on utilities."[63] Moody's sees SB 224 as part of a "robust policy framework" that includes legal and financial safeguards to preserve credit quality and investor confidence. Moody's highlights that regulating damage compensation is key to cost containment, and Utah's statutory caps on non-economic damages help constrain liability volatility that could otherwise threaten utilities' capital market access.[64]

The fund structure is also viewed positively by Moody's, as it provides a clear, predefined path to liquidity in the event of a catastrophic event. A wildfire fund "can help reassure investors that a utility has the liquidity and financial backing should it be necessary to pay a large amount of damages" and encourages settlement over litigation, thereby reducing uncertainty and reputational risk.

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[62] S&P Global Ratings, "North American Utility Regulatory Jurisdictions Update: Some Notable Developments," *S&P Global Ratings*, September 24, 2024, https://www.spglobal.com/ratings/en/regulatory/article/240924-north-american-utility-regulatory-jurisdictions-update-some-notable-developments-s13243527.

[63] Moody's Investors Service. "Regulated Electric Utilities — U.S.: Liability Reform Will Be Key to Sector In Depth." *Moody's Investors Service*, October 7, 2025, https://www.moodys.com/research/Regulated-Electric-Utilities-US-Liability-reform-will-be-key-to-Sector-In-Depth--PBC_1421373.

[64] *Moody's Ratings*, "Liability Reform Will Be Key to Support Credit Quality."

Both agencies agree that SB 224's inclusion of transparent fire mitigation standards, cost recovery mechanisms, and damage caps represents a comprehensive credit-positive model. While the framework remains untested, rating agencies consider it a meaningful improvement in Utah's regulatory and legal environment, particularly in a region where wildfire risk is growing but has not yet resulted in utility-caused catastrophe. As Moody's concludes, "liability reform will be key to support credit quality of utilities in wildfire-prone states," and Utah's legislative approach reflects a forward-leaning effort to address this challenge before a crisis hits.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Beyond the views of rating agencies, SB 224 has drawn mixed responses from Utah stakeholders. Advocacy groups caution that the framework risks shifting costs to customers and undercompensating survivors, while utilities and policymakers defend it as a necessary safeguard to preserve reliability and ensure funds are available after catastrophic events. Outlined below are different stakeholders' perspectives:

Wildfire-Affected Residents and Ratepayers: At public hearings in Utah, wildfire-affected residents and ratepayers have consistently raised concerns about the affordability of SB 224's wildfire fund. Some urged regulators to increase transparency, saying "we want more public hearings, and the Utah Fire Fund divulged with each discussion of rate increases."[65] At a December 2024 rally outside the PSC, a longtime advocate underscored these concerns: "We know that the rates are going to be going up because of the wildfire fund."[66] For some Utahns, the strain is already acute. At a March 2025 "people's hearing" in Salt Lake City, a resident described the impact bluntly: "Rocky Mountain Power's proposed hike isn't just a number. It's a sentence. It leaves people like me in cold homes staring at dark ceilings."[67] Together, these voices highlight a sense of vulnerability that legislative safeguards may not fully protect households from the financial burdens of wildfire liability.

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[65] Public Service Commission of Utah, *Public Comments from December 9, 2024, Docket No. 24-035-04, Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah* (Dec. 9, 2024). October 7, 2025, https://pscdocs.utah.gov/electric/24docs/2403504/337027PblcCmntsDec9202412-9-2024.pdf.

[66] KSL, "Rocky Mountain Power Customers Rally Against 18% Proposed Rate Increase, Commitment to Coal," KSL.com, October 7, 2025, https://www.ksl.com/article/51207725/rocky-mountain-power-customers-rally-against-18-proposed-rate-increase-commitment-to-coal.

[67] Shannon Sollitt, "Feeling 'a Sense of Betrayal,' Rocky Mountain Power Customers Host 'Hearing' to Protest Utah Rate Hikes," *The Salt Lake Tribune*, March 25, 2025. October 7, 2025, https://www.sltrib.com/news/business/2025/03/25/rocky-mountain-power-customers/.

Consumer Advocates: Utah's Office of Consumer Services (OCS) has sought to balance fairness to customers with the need for financial stability in the utility sector. OCS director Michele Beck emphasized that "customers should pay for the costs incurred in electric service… but not for gross negligence or poor management."[68] She warned that SB 224 "moves away from least cost/least risk" principles and "removes risk from Rocky Mountain Power shareholders."[69] This perspective reflects a core consumer-protection concern: while the legislation lowers the utility's exposure, it risks shifting excessive burdens onto ordinary households, potentially undermining long-standing regulatory safeguards.

Large Energy Users and Industrial Customers: Business and industrial users also expressed unease about the liability framework. The Utah Association of Energy Users testified that SB 224 alters fundamental regulatory assumptions. Its representative noted, "we are concerned … the burden of proof shifts from utility to ratepayers… [It] upends decades" of ratemaking practice.[70] For these customers, the law may mean not only higher costs but also diminished oversight, leaving them skeptical of whether the framework appropriately balances risk between utilities and their customers.

Environmental and Clean-Energy Advocates: Utah's environmental and clean-energy groups have been among the most vocal critics of SB 224. Sierra Club Utah argued that by allowing the utility to access the fund even when found negligent, the law creates "a counter-incentive … because they're not on the hook if they're found negligent."[71] Western Resource Advocates echoed this concern, stating "this bill changes the rules of the game and eliminates some of the tools regulators use to keep rates just and reasonable." Sarah Wright of Utah Clean Energy added, "we agree with the intent… This bill goes in the wrong direction, taking away consumer protections and PSC oversight."[72] HEAL Utah went further, warning the bill would "allow them to keep running these plants, ultimately at taxpayers' expense, and even create a fund for utilities to dip into to pay for wildfire damages" while

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[68] Meghan Moore, "This Bill Shifts Costs to Utahns for Wildfire Insurance Claims and Keeping Coal Plants Running," *The Salt Lake Tribune*, February 23, 2024. October 7, 2025, https://www.sltrib.com/news/politics/2024/02/23/this-bill-shifts-costs-utahns/.

[69] *The Salt Lake Tribune*, "This Bill Shifts Costs to Utahns for Wildfire Insurance Claims and Keeping Coal Plants Running,"

[70] Moore, "This Bill Shifts Costs to Utahns."

[71] Kylie Mohr, "When a Utility Sparks a Wildfire, Who Pays?" *High Country News*, 2024. October 7, 2025, https://www.hcn.org/issues/56-7/when-a-utility-sparks-a-wildfire-who-pays/.

[72] Tim Fitzpatrick, "This Bill Shifts Costs to Utahns for Wildfire Insurance Claims and Keeping Coal Plants Running," *The Salt Lake Tribune,* February 23, 2024. October 7, 2025, https://www.sltrib.com/news/politics/2024/02/23/this-bill-shifts-costs-utahns/.

passing costs on to Utahns.[73] Collectively, these groups contend that SB 224 reduces accountability and shifts the financial risk of wildfires to the very communities utilities are meant to serve.

State Officials and Regulators: State officials have voiced caution about the fund's financial and legal implications. Utah's treasurer stressed the importance of avoiding unintended consequences for state finances, remarking, "We just need to ensure that the state doesn't take on unnecessary liability." The Division of Public Utilities likewise flagged fairness concerns, warning that "Utah may be subsidizing the higher liability costs associated with states that do not [have] comparable measures to SB224."[74] These comments illustrate how, even among supporters of liability reform, there remains a strong emphasis on protecting the broader public interest and ensuring Utah does not carry disproportionate costs.

Utility and Legislative Sponsor: Rocky Mountain Power and SB 224's legislative backers defended the fund as a prudent safeguard. A bill sponsor described SB 224 as clarifying that "reasonable costs are recoverable," characterizing the wildfire fund as an "overarching insurance policy" for extreme events.[75] From the utility's standpoint, the fund is a narrowly tailored backstop for "extremely large claims that exceed insurance coverage." This perspective stresses stability, investor confidence, and service reliability, positioning SB 224 as a forward-looking compromise that benefits both customers and the grid.

Wildfire Recovery Fund Comparison

Outlined below is a side-by-side comparison of California's AB 1054 and Utah's SB 224, two distinct state-level approaches to managing utility exposure, cost recovery, and liability in the context of catastrophic wildfire events. While California emphasizes scale and utility-backed funding, Utah focuses on capped ratepayer exposure and liability reform. The comparison highlights differences across fund structure, financing sources, liability limits, and replenishment mechanisms.

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[73] HEAL Utah. "Recap 2024," *HEAL Utah*. October 7, 2025, https://www.healutah.org/recap2024/

[74] Utah Division of Public Utilities, Testimony of Peter J. Kelly, Public Service Commission of Utah

[75] Tim Fitzpatrick, "This Bill Shifts Costs to Utahns for Wildfire Insurance Claims and Keeping Coal Plants Running," *The Salt Lake Tribune,* February 23, 2024. October 7, 2025, https://www.sltrib.com/news/politics/2024/02/23/this-bill-shifts-costs-utahns/.

Fund Models Side-by-Side Comparison

	California (SB 254)	California (AB 1054)	Utah (SB 224)
Year	• 2025	• 2019	• 2024
Utilities	• Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), San Diego Gas & Electric Company (SDG&E)	• Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), San Diego Gas & Electric Company (SDG&E)	• Rocky Mountain Power
Fund Size	• $18.0 billion	• $21.0 billion	• 50% of the utilities' Utah revenue requirement; Rocky Mountain Power has said in testimony this represents $1.0 billion
Ranking	• Applies after first $1.0 billion of damages per utility in any year	• Applies after first $1.0 billion of damages per utility in any year	• After $10.0 million of self-insurance per utility
Fund Structure	• **Source**: 50/50 Ratepayers and Utilities • $1.0 billion ratepayer-funded insurance or self-insurance programs for PG&E, SCE, and SDG&E • Separate $18 billion Continuation Account within the broader Wildfire Fund framework • Rolls in any remaining AB 1054 funds once existing claims are resolved • Covers wildfires ignited on/after SB 254 effective date	• **Source**: 50/50 Ratepayers and Utilities • $1.0 billion ratepayer-funded insurance or self-insurance programs for PG&E, SCE, and SDG&E • No prudency review for self-insurance • AB1054 fund ($21.0 billion) is triggered following catastrophic events exceeding $1.0 billion in any year, with the first $1.0 billion (or greater amount set by the PUC) anticipated to be covered by insurance	• **Source**: Ratepayers • Each electric utility is allowed to establish a 100% ratepayer-financed fund with a cap on fund size of 50% of the utility's revenue requirement • ~4.95% maximum surcharge increase over base rates, limiting monthly bill impact on ratepayers
Liability Cap	• Over a 3-year period, 20% of IOU T&D equity rate base, now determined based on year of ignition rather than disallowance; improves predictability for utilities and creditors	• 20% of T&D Equity Rate Base (applicable to SCE, PG&E, and SDG&E) for imprudence • No reimbursement required if utility is found to have acted prudently	• 10% rate base cap on reimbursement for imprudence (regulatory safeguard)
Damages Cap	• No fixed cap on total damages • utilities remain exposed above liability cap (though with reimbursement via Fund), and insurers retain full claim value (subrogation reform only changes priority, not amounts)	• N/A	• Non-economic damages capped at $100,000 for non-injured, $450,000 cap for physically injured; caps do not apply to wrongful death claims • Economic damages capped at lesser of replacement cost or the difference between the pre- and post-fire fair market value • No joint claims allowed; each claim must be filed individually

	California (SB 254)	California (AB 1054)	Utah (SB 224)
Replenishment Mechanism	• Utilities: $300 million annually (2029—2045) + contingent $3.9 billion over five years if required • Ratepayers: ~$900 million annually (2036—2045) through extended non-bypassable surcharge • DWR: authority to issue up to $9 billion in bonds • Remaining AB 1054 balances roll into Continuation Account	• Utilities: $300 million annual contributions (2019–2030) to the Wildfire Fund • Ratepayers: $902.4 million annually (2019–2035) through a 15-year non-bypassable charge managed by DWR • DWR: Issued $5 billion in bonds to initially capitalize the Wildfire Fund • Additional Provision: The statute includes no automatic replenishment mechanism, funding is limited to initial capitalization and scheduled contributions	• No automatic replenishment mechanism
Funding Mechanism	• IOU contribution splits: PG&E 47.85%, SCE 47.85%, SDG&E 4.3% • 50/50 split between utilities and ratepayers • Annual IOU shareholder payments + potential contingent contributions • Long-term surcharge on ratepayers • Bond issuance authority through DWR	• Utilities pay into the fund based on the Wildfire Fund allocation metric, factoring in high fire-threat district exposure and infrastructure risk • Initial allocation: PG&E (64.2%), SCE (31.5%), SDG&E (4.3%) • Self-insurance is replenished each year by ratepayers if exhausted • For AB 1054, initial funding is split 50%/50% between ratepayers and shareholders, with each contributing $10.5 billion originally over 17 years (now potentially extended to 26 years)	• Fund is financed via ratepayer bill surcharge that is capped at a 4.95% rate increase, with residential bills rising by up to $3.70 per month • No shareholder contribution • Assets in the fund may be invested according to Utah's State Money Management Act, and the returns are added to the fund

Fig. 12: Comparative table of California and Utah's wildfire funds.

3. Select Alternative Financing Structures and Proposals

Oregon

History of Wildfires

Oregon has a long history of destructive wildfires, fueled by its dry summers, dense forests, and expanding wildland-urban interface. The state has faced major wildfire disasters such as the Tillamook Burn (1933, 1945, and 1951), Biscuit Fire (2002), Long Draw Fire (2012), Eagle Creek Fire (2017), Labor Day Fires (2020), and Bootleg Fire (2021).[76] The catastrophic Labor Day fires in September 2020 in Oregon, such as the Archie Creek Fire, burned over a million acres, destroyed thousands of structures, and led to multiple lawsuits, including class-action and jury verdicts against Pacific Power and its parent company PacifiCorp, awarding over $85 million. In response to increasing wildfire threats, Oregon House Bill 3940 (2025) was developed to fund wildfire preparedness through home retrofit grants, community risk reduction, and emergency fire suppression, thereby strengthening the state's readiness by supporting forest resilience and mitigation projects. Oregon's population of 4.29 million amplifies the scale and impact of damages.[77, 78]

[76] Oregon Department of Land Conservation and Development. "Wildfires," *Oregon's Natural Hazards*. October 7, 2025, https://www.oregon.gov/lcd/nh/pages/natural-hazards.aspx.

[77] World Population Review, "Oregon Population 2025," *World Population Review*, 2025. October 7, 2025, https://worldpopulationreview.com/states/oregon.

[78] Oregon Public Broadcasting, "Oregon Wildfire Bills Offer Some Financial Protections to Utility Companies," *Oregon Public Broadcasting*, March 11, 2025. October 7, 2025, https://www.opb.org/article/2025/03/11/oregon-wildfire-bills-offer-some-financial-protections-to-utility-companies/?utm_source.

	Oregon					
	Tillamook Burn (1933, 1945 & 1951)[79, 80]	Biscuit Fire (2002)[81]	Long Draw Fire (2012)[82]	Eagle Creek Fire (2017)[83]	2020 Labor Day Wildfires (2020)[84]	Bootleg Fire (2021)[85, 86]
Acres Burned	• 355,000	• 500,000	• 558,198	• 48,816	• 850,000	• 413,765
Buildings Destroyed	• N/A	• 14	• At least 1	• 4	• 4,000	• 400
Fatalities	• At least 5	• N/A	• N/A	• 0	• 11	• 0
Injuries	• 0	• N/A	• N/A	• 4	• N/A	• 0

Fig. 13: A summary table of recent, major wildfires in Oregon and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

Oregon has introduced, but not enacted, several wildfire-related bills designed to provide financial protection to utility companies through mechanisms such as cost recovery and liability limitations, while also aiming to shield ratepayers from volatile rate spikes and direct funding for community wildfire mitigation and resilience efforts.

[79] Oregon Encyclopedia, "Tillamook Burn," *Oregon Encyclopedia*. October 7, 2025, https://www.oregonencyclopedia.org/articles/tillamook_burn/.

[80] Wildland Firefighter Foundation, "Incident Summary Page for the 100 Fires Project," *Wildland Firefighter Foundation*, October 7, 2025, https://wffoundation.org/wp-content/uploads/2023/11/Tillamook-Final.pdf.

[81] U.S. Government Accountability Office. "Biscuit Fire." *U.S. Government Accountability Office*. October 7, 2025, https://www.gao.gov/products/gao-04-426.

[82] Oregon Department of Transportation, "Northwest Passage: Let Me Stand Next to Your Fire," *Northwest Passage Magazine*, Spring 2013. October 7, 2025, https://www.blm.gov/sites/default/files/documents/files/magazine-oregon-Northwest_Passage_Magazine_Spring_2013_Web.pdf.

[83] StoryMaps, "The 2017 Eagle Creek Fire," *ArcGIS StoryMaps*. October 7, 2025, https://storymaps.arcgis.com/stories/db264e90d97f43e68e9d1beff3e11dcc.

[84] Oregon Department of Forestry. *Forest Facts: 2020 Labor Day Fires: Post-Fire Challenges with Invasive Plants*. October 7, 2025, https://www.oregon.gov/odf/Documents/forestbenefits/fact-sheet-labor-day-fire-weeds.pdf.

[85] Alaska Incident Management Team, *2021 Bootleg Fire: Executive Summary*. October 7, 2025, https://fire.ak.blm.gov/content/aicc/team_left/03.%20Alaska%20CIMT%20Incident%20Archive/Alaska%20IMT%20Incident%20Summaries/2021%20Summaries/2021%2007-23%20to%2008-06%20Bootleg.pdf.

[86] Hollie Silverman and Joe Sutton, "Oregon's Bootleg Fire Has Devoured 400 Buildings, 342 Vehicles," *CNN*, July 27, 2021. October 8, 2025, https://edition.cnn.com/2021/07/27/weather/us-western-wildfires-tuesday/index.html.

Proposed Fund Capitalization, Funding, and Contributors

House Bill 3917, proposed in 2025, would have created Oregon's first Catastrophic Wildfire Fund, capitalized up to $800 million through a cost-sharing model between ratepayers and utility shareholders (up to 50/50). The fund, which was developed and spearheaded by a task force, was intended to cover property damage claims from wildfires caused by utility infrastructure, with the Oregon Public Utility Commission appointing an independent administrator to manage claims.

Under the proposed bill, utilities could securitize recovery costs via ratepayer-backed bonds, with customer rate increases capped at 3% per rate class — that is, each group of customers categorized by usage type, such as residential, commercial, industrial, or agricultural, would see no more than a 3% increase in their respective billing rates. Funding could occur over 10 years, allowing for gradual cost recovery while avoiding sudden rate shocks. Although utilities would have been permitted to raise customer rates to fund their portion, HB 3917 included limits on the damages that could be recovered from the fund, excluding non-economic and punitive damages.

Eligible claimants could receive up to 80% of allowed property damages (with the remaining 20% not being covered by the fund) and capped non-economic damages at $100,000. While the bill did not cap utility payments explicitly, its structure was designed to limit overall liability exposure by offering an alternative to litigation and enabling wildfire victims to receive partial compensation in exchange for waiving their right to sue. The proposed fund also included a prudence review process: if a utility's conduct was found to be imprudent, it could be ordered to reimburse the fund for claims paid, up to 20% of its Oregon equity rate base. In the event that claim obligations threatened to exceed 75% of the fund's financial capacity, the administrator could declare a depletion event and offer reduced "depletion payments" to claimants, who could either accept partial payment or retain their right to litigate.

HB 3917 would have permitted fund recapitalization through supplemental utility contributions, legislative appropriations, or additional securitizations. Oregon's HB 3917 adopted structural elements from California's AB 1054, such as a wildfire compensation fund, but diverged by not addressing a strict liability standard and operating on a smaller financial scale. Ultimately, HB 3917 was not enacted, in part due to concerns from trial lawyers and insurers who argued the bill unfairly shifted costs onto consumers and

restricted victims' legal remedies by preventing them from suing any utility responsible for starting a fire in exchange for receiving a payment from the fund.

Established Fund Scope, Purpose, and Funding

Oregon House Bill 3940, signed and enrolled on July 24, 2025, establishes a comprehensive wildfire finance and mitigation framework, though it does not create a wildfire recovery framework. The bill introduces two primary revenue sources: a new $0.65 per-pack tax on oral nicotine products and a reallocation of 20% of annual interest earnings from the Oregon Rainy Day Fund. These mechanisms are projected to generate between $15 and 22.5 million annually from the nicotine tax and around $32 million annually from interest redirection.

HB 3940 creates three distinct wildfire-related funds — the State Fire Marshal Mobilization Fund, the Community Risk Reduction Fund, and the Landscape Resiliency Fund — within the State Treasury, each permanently dedicated to specific aspects of wildfire prevention, response, and resilience. It reforms the forest products harvest tax, increasing rates to enhance fire suppression funding, and adjusts assessment and surcharge structures for forest landowners to better reflect wildfire risk.

Funds will be distributed across three wildfire-related programs: 80% to the State Fire Marshal Mobilization Fund, 13.3% to the Community Risk Reduction Fund, and 6.7% to the Landscape Resiliency Fund. The bill also authorizes funding (without specifying dollar amounts) for the State Fire Marshal and Department of Forestry.

Cost to Customers

The bill also institutes a $0.05 per container beverage surcharge, with proceeds split between the State Fire Marshal Mobilization Fund and the Landscape Resiliency Fund. It mandates the allocation of 50% of the Oregon Rainy Day Fund on September 1, 2025, divided equally between these two wildfire funds. Additionally, 0.5% of biennial General Fund appropriations and 50% of annual insurance retaliatory tax revenue are redirected to these dedicated wildfire mitigation and preparedness funds.[87]

The bill streamlines rural fire protection district formation, expands taxable property classifications within those districts, and empowers the Emergency Fire Cost Committee to

[87] Oregon Citizens Lobby, "HB 3940B Tax on Drinks, Etc. for Fire Protection," *Oregon Citizens Lobby*. October 8, 2025, https://oregoncitizenslobby.org/taxes-fees/hb-3940-tax-on-drinks-etc-for-fire-protection/.

oversee wildfire funding and expenditures. It also requires the Oregon Department of Forestry to apply cost offsets for fire protection on designated forestlands, supported by a $1.5 million General Fund appropriation for the 2025-27 biennium.

Beneficiaries of the Fund

Beneficiaries of HB 3940 include the State Forestry Department, Department of the State Fire Marshal, local fire protection districts, small forestland and grazing landowners, and homeowners in wildfire-prone areas, particularly in low-income and wildland-urban interface zones. The bill also indirectly benefits the general public by funding community-wide wildfire resilience and suppression efforts.

Under HB 3940, customers indirectly bear costs through a $0.05 per container beverage surcharge and taxes on oral nicotine products, estimated to generate at least $30 million over the next 2 years.[88] These charges fund wildfire prevention but are not added to utility bills.

Building on prior wildfire legislation, HB 3940 establishes a comprehensive, long-term financial framework aimed at enhancing Oregon's wildfire resilience and response capacity across diverse landscapes. It is designed to reduce the long-term fiscal and public safety impacts of wildfires by creating dedicated, sustainable funding streams for prevention and response. Enhanced funding for wildfire prevention and response can lead to better-managed wildfire risks, potentially improving the credit ratings of state and local governments.[89] The proactive measures funded by HB3940 can bolster overall economic resilience, potentially leading to more favorable credit conditions for businesses and homeowners in wildfire-prone areas.

Rating Agency Reactions and Implications for Utilities

While HB 3940 does not directly establish a utility wildfire liability framework, it indirectly impacts utilities by enhancing state-funded wildfire suppression, risk reduction, and forest resilience, which may mitigate future wildfire losses and liability exposure. The bill does not create a utility-backed wildfire claims fund, nor does it alter utilities' legal exposure or

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[88] KATU Staff, "Oregon Lawmakers Pass Tax on Nicotine Pouches to Help Pay Wildfire Costs," *ABC News*, 2025. October 8, 2025, https://abc3340.com/news/nation-world/oregon-lawmakers-pass-tax-on-nicotine-pouches-to-help-pay-wildfire-costs.

[89] Zach Urness, "Oregon House Passes New Tax on Oral Nicotine, Taps Rainy Day Fund for Wildfire Fund Prevention," *Statesman Journal*, June 24, 2025. October 8, 2025, https://www.statesmanjournal.com/story/news/politics/2025/06/24/oregon-house-passes-new-tax-on-oral-nicotine-to-pay-for-wildfires/84331505007/.

create safe harbors for wildfire liability. However, by expanding funding for fire suppression and mitigation through new taxes on oral nicotine products and beverage containers, reallocation of Rainy Day Fund interest, and adjustments to forest product taxes, it could reduce the frequency and severity of catastrophic wildfires, thereby indirectly reducing utilities' risk.

The bill may also ease pressure on utilities by shifting the financial burden of frontline wildfire response to the consumers and citizens, particularly benefiting investor-owned utilities like PacifiCorp, which faced multi-million dollar wildfire verdicts related to the 2020 wildfires in Oregon. That said, HB 3940 imposes no direct financial contributions, reporting obligations, or liability protections for utilities, meaning its credit impact for utilities is limited and indirect and would likely not affect ratings unless coupled with further legislation addressing liability caps or cost recovery.

S&P commented on a class action wildfire lawsuit against PacifiCorp in Oregon, where jurors were allowed to "assess economic damages at about $4 million for 17 plaintiffs but added substantial non-economic and punitive damages of about $68 million and $18 million."[90] This underscores the uncertainty utilities face, as legislative protections that were proposed by HB 3917 may not fully shield them from substantial jury-awarded damages in wildfire litigation. S&P discusses the proposed HB 3917 in a positive light and notes that it would have been credit supportive for utilities, citing the potential to improve cost recovery and reduce exposure to catastrophic losses. However, S&P also cautions that such proposed legislation has inherent limitations. Specifically, they highlight that the effectiveness of these frameworks will depend on how they are implemented, tested in the courts, and interpreted in litigation. Potential drawbacks include the potential for inconsistent application by juries, challenges to the statutory structure, and the risk that punitive or non-economic damages may still be awarded outside of the framework's intended protections.

Ultimately, while S&P views HB 3917 as a constructive step toward mitigating wildfire-related credit risk, they emphasize that the law's real-world impact remains uncertain until it is tested through actual claims and judicial interpretation. Lawsuits against utility

[90] S&P Global Ratings, "Report: Wildfire-Exposed U.S. Investor-Owned Utilities Face Increasing Credit Risks Without Comprehensive Solutions," *S&P Global Ratings*. October 8, 2025, https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3280003.

companies can lead to credit rating downgrades, increasing their cost of debt, which creates costs that are often passed on to ratepayers through higher electricity bills.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Stakeholder reactions to HB 3917 and HB 3940 highlight the core tensions embedded in Oregon's wildfire policy debates. Survivors and plaintiffs argue that liability reforms risk shortchanging victims, while consumer advocates warn against shifting utility costs onto households already paying for basic safety. Municipalities and policy advocates support HB 3940's dedicated funding streams for prevention, but business and environmental groups pushed back on revenue mechanisms like the beverage-container surcharge. Regulators and the PUC, meanwhile, stressed the difficulty of balancing shareholder accountability with ratepayer protection. Together, these perspectives reveal the challenge of designing a framework that balances financial stability with fairness for those most impacted by wildfire.

Wildfire Survivors and Plaintiffs: Survivors of the 2020 Labor Day Fires and their attorneys were some of the most vocal opponents of HB 3917. They argued that the bill's Catastrophic Wildfire Fund would effectively force fire victims to accept partial payouts in exchange for waiving their right to sue. One plaintiff's lawyer explained that the legislation "would charge customers to create a fund and also make them pay the next time Berkshire Hathaway burns down an Oregon town," noting that many victims would face pressure to settle for less than full damages because they urgently needed funds to rebuild.[91] Advocates worried that HB 3917 was written to benefit PacifiCorp, the utility facing billions in liability from recent verdicts, rather than to ensure victims were made whole. As one attorney summarized, survivors "are forced into the impossible position of giving PacifiCorp a get-out-of-jail-free card to get a fraction of what they're owed."[92] These concerns were a key reason why HB 3917 ultimately stalled in the legislature.

Ratepayers and Consumers: Consumer groups and advocates highlighted the tension between protecting customers from higher bills and ensuring that wildfire victims receive compensation. HB 3917 proposed a 50/50 cost-sharing model between shareholders and

[91] Oregon Capital Chronicle, "PacifiCorp Involved in Bills in Oregon, Western States, Limiting Utility Wildfire Liability, Damages," *Oregon Capital Chronicle*, March 31, 2025, October 8, 2025, https://oregoncapitalchronicle.com/2025/03/31/pacificorp-involved-in-bills-in-oregon-western-states-limiting-utility-wildfire-liability-damages/.

[92] E&E News, "Warren Buffett's Empire Is Shaping Wildfire Laws to Shield Utilities," *E&E News*, 2025, October 8, 2025, https://www.eenews.net/articles/warren-buffetts-empire-is-shaping-wildfire-laws-to-shield-utilities/.

ratepayers, raising fears that customers might bear the cost of utility negligence. The Citizens' Utility Board (CUB), Oregon's main consumer watchdog, emphasized that "the principle that customers shouldn't be bailing out utilities for bad practices is a critical standard."[93] Public commentators echoed this point, warning that "customers already pay the company to fulfill safety measures. They should not be charged to pay for the company's recklessness, neither now nor in the future."[94] These concerns made HB 3917 deeply controversial, as it sought to balance wildfire cost recovery with protections against rate shock.

Municipal and Policy Advocates: In contrast, HB 3940 — focused on wildfire prevention and resilience funding rather than liability — drew more support from cities and public-interest organizations. The League of Oregon Cities testified that "stabilizing wildfire funding is critically important in this session; we support… a new tax on synthetic tobacco pouches… [and] using the full amount of the Rainy-Day Fund interest for wildfire funding."[95] Policy advocates noted that while HB 3940 did not directly address utility liability, it created dedicated revenue streams for prevention and response, which would reduce long-term wildfire risks. However, even here, some advocates warned that costs were being shifted broadly. As Oregon Wild's wildfire program director put it, "Oregonians writ large… are going to be the ones to pay for it," through new taxes and redirected state funds.[96]

Public Utility Commission and Regulators: The Oregon Public Utility Commission (PUC) was directly written into HB 3917's proposed framework as the claims administrator and regulator of prudence reviews. Under the bill's design, "if an investigator determined the company acted negligently, then that money could not come from customers' rates."[97] This safeguard was intended to ensure that shareholders would be responsible for absorbing the costs of negligence. However, critics argued that in practice the PUC would be tasked with making difficult determinations about causation and prudence, likely resulting in contested litigation and uncertainty.

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[93] Alex Brown, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *Idaho Capital Sun,* April 22, 2025, https://www.idahocapitalsun.com/2025/04/22/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

[94] Oregon CUB, "Customers Speak Out Against Pacific Power Bill Increase," *Oregon CUB*, 2024, https://www.oregoncub.org/news/blog/customers-speak-out-against-pacific-power-bill-increase/2987/.

[95] League of Oregon Cities, "Wildfire Funding Starting to Take Shape — City Action Needed on HB 3940," *League of Oregon Cities*, 2025, https://www.orcities.org/resources/communications/bulletin/wildfire-funding-hb-3940.

[96] OPB, "Oregon's Wildfire Bill Cut Landowner Costs, But Didn't Raise Funds for Fighting Large Fires," *Oregon Public Broadcasting*, July 31, 2025, https://www.opb.org/article/2025/07/31/oregon-wildfire-bill-landowner-costs-funds-fighting-fires/.

[97] OPB, "Oregon's wildfire bill cut landowner costs, but didn't raise funds for fighting large fires."

Business and Environmental Groups: HB 3940's proposed beverage-container surcharge became a flashpoint for business and environmental stakeholders. A coalition of Bottle Bill defenders, including environmental organizations and grocers, argued that "the Bottle Bill and wildfires have nothing to do with each other" and warned that repurposing redemption revenues would undermine Oregon's nation-leading recycling program. Business groups added that the surcharge would "increase the cost of consumer goods for Oregonians" without a direct nexus to wildfire recovery.[98] Lawmakers eventually adjusted the revenue package to avoid undermining the Bottle Bill, but the debate revealed the challenge of raising sustainable funds for wildfire mitigation without sparking opposition from unrelated constituencies.

Governor and Administration: The Oregon Governor's office framed HB 3940 as a proactive measure that would reduce long-term risk. The final version, signed into law in July 2025, "creates a dedicated… Large Wildfire Fund, ensuring resources are available when — not just after — catastrophic fires strike."[99] The administration emphasized that the bill would help "build more resilient, fire-adapted communities," even if it did not directly solve the problem of utility wildfire liability.[100] By focusing on prevention rather than claims management, HB 3940 gained broader bipartisan support than HB 3917, though it left unresolved the contentious debate over utility responsibility for past and future fires.

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[98] Nigel Jaquiss, "Coalition Tells Lawmakers to Keep Their Hands Off Bottle Bill," *Willamette Week*, March 28, 2025, https://www.wweek.com/news/2025/03/28/coalition-tells-lawmakers-to-keep-their-hands-off-bottle-bill/.

[99] Oregon Newsroom, "Governor Kotek Signs Legislation to Strengthen State's Wildfire Response," *Oregon Newsroom*, 2025, https://apps.oregon.gov/oregon-newsroom/OR/GOV/Posts/Post/governor-kotek-signs-legislation-to-strengthen-states-wildfire-response.

[100] Oregon Newsroom, 2025, "Governor Kotek Signs Legislation to Strengthen State's Wildfire Response."

PacificCorp Multi-State Fund Concept

History of Wildfires

PacifiCorp's service territory spans six western states — Oregon, California, Utah, Washington, Idaho, and Wyoming — encompassing roughly 141,500 square miles and serving approximately 2.1 million retail electric customers. After events such as the Labor Day Fires in September 2020 in Oregon, PacifiCorp began to explore long-term structural mechanisms beyond annual insurance renewals to manage wildfire liability and protect stakeholders.

Proposed Funds and Liability Framework

In 2024, PacifiCorp sought approval from the Wyoming PSC to establish a Catastrophic Fire Fund to cover extreme wildfire liabilities exceeding insurance and self-insurance limits as part of its general rate case. The fund was contemplated to be capitalized to $3 billion over 10 years, with PacifiCorp contributing $600 million (20%) and customers in all six states covering 80% via surcharges. In states like Utah, customer charges may be capped (e.g., at 4.95% or $3.70/month of the residential bill). The fund was explicitly designed for extraordinary wildfire events, only engaging when insurance is exhausted. As contemplated by the regulatory framework, PacifiCorp assumes a 5% per-event deductible to maintain risk incentives.[101]

PacifiCorp faced a staggering 1,888% increase in excess liability insurance costs between 2019 and 2023, with wildfire sub-limits in the Idaho/Utah/Wyoming region more than doubling from $215 million in 2021 to $458 million in 2023. This dramatic cost escalation, paired with significant insurance market strain, was a key driver behind the push for liability reform. The cost of wildfire-specific insurance alone contributed to a 270% year-over-year increase in the cost of insurance from 2022 to 2023.

In the contemplated fund, participation would be limited to PacifiCorp through its two distinct utility divisions, Pacific Power and Rocky Mountain Power, with costs and benefits shared system-wide via a multi-state process, overseen by a multijurisdictional advisory board. An administrative claims process would validate fund access. If PacifiCorp is

[101] Rocky Mountain Power, "Direct Testimony of Joelle R. Steward," *Rocky Mountain Power*, October 8, 2025, https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/wyoming/filings/20000-671-er-24/03_Joelle_R_Steward_Direct_Testimony.pdf.

deemed imprudent, it must reimburse the fund up to 10% of its distribution equity rate base. Contributions cease once the fund reaches its target of $3 billion and resume only if the fund balance is drawn down or replenishment is needed. The structure includes aggregate liability caps and cross-claim immunity to prevent intrastate legal disputes, ensuring equitable, coordinated fund governance across jurisdictions.

Rating Agency Reactions and Implications for Utilities

Rating agencies have directly linked PacifiCorp's significant wildfire liability to credit risk. The massive payouts and unresolved claims from the 2020 fires prompted both S&P and Moody's to downgrade the company in 2023, citing elevated operating risk and volatility in cost recovery mechanisms. The proposed fund was explicitly cast as a credit-stabilizing tool, intended to reduce dependence on one-off rate increases, ensure timely recovery, and preserve access to capital markets. Agencies have praised similar mechanisms, such as California's AB 1054 wildfire fund and Utah's 2024 SB 224 statute, for providing structured cost recovery, lowering financial volatility, and helping maintain investment-grade ratings. Moody's has specifically stated: "We view Utah's law as a significant indication of its supportive posture towards PacifiCorp's credit quality regarding exposure to wildfire risk."[102] If adopted, PacifiCorp's fund would similarly help protect its credit profile and borrowing costs and serve as a replicable framework for other utilities in fire-prone regions navigating climate-driven regulatory and financial landscapes.

Rating agencies, including S&P and Moody's, have acknowledged the growing financial risks associated with wildfires in Oregon and their impact on utility creditworthiness. Recent wildfire-related incidents have led to rating downgrades for PacifiCorp, highlighting increased operational and financial risks. Specifically, S&P cited heightened wildfire liability exposure as contributing to PacifiCorp's credit downgrade and revised negative outlook.

Although rating agencies have not specifically commented on the proposed PacificCorp self-insurance mechanism and catastrophic fire fund, the tools are expected to be viewed as credit positive. By stabilizing financial metrics, reducing exposure to volatile insurance markets, and ensuring access to financial resources in catastrophic events, these mechanisms represent proactive risk management that could support PacifiCorp's credit profile. Their adoption, along with continued regulatory support, would help preserve

[102] Moody's, "PacifiCorp: Update to Credit Analysis — Credit Opinion," *Moody's*, December 4, 2024, https://www.moodys.com/research/PacifiCorp-Update-to-credit-analysis-Credit-Opinion--PBC_1429608.

access to affordable capital, benefiting both the utility and its customers over the long term.

Washington

History of Wildfires

Washington's diverse landscape, ranging from dense forests in the west to dry shrublands in the east, has made it increasingly susceptible to large-scale wildfires. Historic and recent events such as the Yacolt Burn (1902), Tripod Complex Fire (2006), Carlton Complex Fire (2014), Okanogan Complex Fire (2015), the Labor Day Fires (2020), and the Gray and Oregon Fires (2023) have devastated communities, strained firefighting resources, and highlighted the growing threat posed by hotter, drier summers and expanding development in wildland-urban interface areas.[103]

	Washington					
	Yacolt Burn (1902)[104]	Tripod Complex Fire (2006)[105]	Carlton Complex Fire (2014)[106]	Okanogan Complex Fire (2015)[107]	Washington Labor Day Fires (2020)[108]	Gray and Oregon Road Fires (2023)[109]
Acres Burned	• 238,920	• 175,000+	• 256,108	• 305,000+	• 300,000	• 20,000
Buildings Destroyed	• 146+	• N/A	• 353	• 170	• N/A	• 366
Fatalities	• 38	• N/A	• 0	• 3	• N/A	• 2
Injuries	• N/A	• N/A	• 0	• 7	• N/A	• N/A

Fig. 14: A summary table of recent, major wildfires in Washington and their associated fatalities, injuries, and damages.

[103] HistoryLink, "Major Forest Fires in Washington," *HistoryLink*, accessed October 8, 2025, https://www.historylink.org/File/22785.

[104] HistoryLink, "Yacolt Burn, Largest Forest Fire in Recorded Washington History to That Point, Rages for Three Days Beginning on September 11, 1902," *HistoryLink*, https://www.historylink.org/file/5196.

[105] Technology Networks, "Researchers Develop New Tool for Modeling Wildfire Risk," *Technology Networks*, August 22, 2023, https://www.technologynetworks.com/applied-sciences/news/researchers-develop-new-tool-for-modeling-wildfire-risk-378001.

[106] HistoryLink, "Carlton Complex Fire," *HistoryLink*, accessed October 8, 2025, https://www.historylink.org/file/10989

[107] Washington Department of Fish & Wildlife. "2015 Fire Season Update." *Washington Department of Fish & Wildlife*, September 2015, https://wdfw.wa.gov/sites/default/files/about/commission/meetings/2015/09/sep1815_04_presentation.pdf.

[108] Tidal Basin Group. "The Top Ten Disasters of 2020." *Tidal Basin Group.* Accessed October 9, 2025, https://www.tidalbasingroup.com/the-top-ten-disasters-of-2020-10-the-2020-washington-state/.

[109] Office of the Insurance Commissioner. "Most Gray and Oregon Road Fire Survivors Were Under-Insured." *Office of the Insurance Commissioner*, 2024, https://www.insurance.wa.gov/about-us/news/2024/most-gray-and-oregon-road-fire-survivors-were-under-insured.

In response to escalating wildfire risk, Washington lawmakers enacted several bills during the 2025 legislative session, including House Bill 1522, which mandates formal utility wildfire mitigation plans, and House Bill 1539, which created a working group to improve property-level resilience and reduce insurance market volatility. However, the state has not yet created a dedicated wildfire fund or implemented a liability cap tied to any specific wildfire disaster. As the state's population of 7.9 million continues to grow, particularly in fire-prone regions, the potential scale and financial impact of wildfires on communities, utilities, and ratepayers is expected to increase significantly. PacifiCorp, Puget Sound Energy (PSE), and Avista are the main utilities that are impacted by Washington's wildfire-related legislation.

Existing Funds and Liability Framework

Washington currently lacks a dedicated wildfire fund or liability cap for electric utilities. Unlike in California, where AB 1054 created a $21 billion wildfire fund backed by utilities and ratepayers, the Washington legislature in 2025 stopped short of introducing any comparable protections.[110]

The only enacted measure with direct regulatory consequence was HB 1522, which requires all investor-owned electric utilities to file formal WMPs with the Washington Utilities and Transportation Commission (UTC).[111] These plans must be updated every three years and are subject to public workshops and UTC review. While HB 1522 allows utilities to seek cost recovery for wildfire mitigation investments through rate proceedings, it does not grant automatic approval or pre-authorize recovery. Moreover, it does not shield utilities from liability if their equipment is determined to have caused a fire, even if they complied with an approved plan.

Senate Bill 5430, which ultimately failed, would have expanded the state's regulatory framework by setting standards for vegetation management, pole materials, and power shutoffs. It also proposed formal rules for plan reviews and conditions under which the UTC could approve or modify wildfire mitigation plans. However, the bill included no financial mechanisms such as funds and cost-recovery mechanisms, liability limitations, or

[110] Washington State Legislature. "Summary of Legislation — 2025 Session." *Washington State Legislature*, 2025, https://leg.wa.gov/media/4mqblw0a/summary-of-legislation-2025.pdf.

[111] Washington State Legislature. "House Bill 1522." *Washington State Legislature*, 2025. Accessed October 9, 2025, https://app.leg.wa.gov/billsummary?BillNumber=1522&Year=2025&Initiative=false.

claims resolution structures, and its failure left the state's oversight regime largely unchanged aside from the HB 1522 requirements.[112]

Another enacted bill, House Bill 1539, did not focus on utilities directly but instead created a temporary working group to study and recommend standards for property-level wildfire mitigation and insurance resilience. Co-chaired by the Insurance Commissioner and the Commissioner of Public Lands, the work group is tasked with aligning Washington's mitigation standards with national best practices and developing proposals for a homeowner retrofit grant program to reduce fire risk and minimize insurance nonrenewal. While the group's recommendations could shape future policy, HB 1539 provided no funding for the proposed grant program and made no changes to utility liability exposure.[113]

House Bill 1656, which did not pass in 2025, would have allowed investor-owned utilities to securitize wildfire-related costs, such as system repairs or legal settlements, through the issuance of investment-grade rate recovery bonds. The bill included many of the core features seen in successful securitization programs in Texas and California, such as irrevocable ratepayer charges, regulatory oversight through a financing order, and provisions to ensure lower customer impacts compared to traditional recovery through rates.[114] However, HB 1656 failed to advance past committee as a result of significant opposition from landlord groups, leaving Washington utilities without a securitization framework and without the financial flexibility that such structures could provide in the event of major wildfire liabilities.

Taken together, Washington's 2025 legislative session advanced the state's planning and regulatory coordination but left in place a liability framework that exposes utilities to full legal and financial responsibility for wildfire events. Washington does not recognize inverse condemnation claims against utilities for wildfire damages.

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[112] Washington State Legislature. "Senate Bill 5430." *Washington State Legislature*, 2025. Accessed October 9, 2025, https://app.leg.wa.gov/billsummary?BillNumber=5430&Initiative=False&Year=2025.

[113] Washington State Legislature. "House Bill 1539." *Washington State Legislature*, 2025. October 9, 2025, https://app.leg.wa.gov/billsummary?BillNumber=1539&Initiative=False&Year=2025.

[114] Washington State Legislature. "House Bill 1656." *Washington State Legislature*, 2025, October 9, 2025, https://app.leg.wa.gov/billsummary?BillNumber=1656&Year=2025&Initiative=False.

Rating Agency Reactions and Implications for Utilities

While the bills introduced in 2025 may enhance planning rigor and regulatory oversight, rating agencies are likely to view Washington's overall wildfire framework as underdeveloped. The absence of a wildfire claims fund or liability cap means that investor-owned utilities remain fully exposed to catastrophic risk factors that could result in negative rating pressure should a major fire event occur.

House Bill 1522, though enacted, primarily improves internal utility governance and transparency. However, without any safe harbor provisions or limits on legal exposure, the financial risks associated with wildfires remain largely unchanged.[115]

The failure of HB 1656 to pass may be viewed as a missed opportunity. Securitization frameworks have been consistently rated favorably by credit agencies in other states, offering a way to finance extraordinary costs while avoiding disruptive rate increases. These tools can provide liquidity and stabilize credit profiles, especially following high-cost disasters. Washington's decision not to adopt such a mechanism leaves utilities reliant on traditional ratemaking processes, which may be insufficient if the scope of wildfire-related losses escalates. By not adopting HB 1656, ratepayers may face greater exposure to sudden rate hikes and long-term financial risk, while utilities lack access to low-cost financing tools.[116]

Fitch Ratings views recent regulatory developments in Washington as modestly credit supportive but not sufficient to fully mitigate wildfire-related risks. This perspective aligns with the implementation of HB 1522, which requires utilities to submit wildfire mitigation plans and enables the Washington UTC to approve cost trackers for recovering associated expenses. In its March 2025 review of Puget Sound Energy (PSE), Fitch specifically cited the UTC's approval of a wildfire cost tracker as a positive step, enabling PSE to recover mitigation expenses and reduce regulatory lag. The commission's authorization of higher ROEs and improved equity ratios in PSE's 2024 rate case was also seen as a shift toward a more constructive regulatory posture, helping support capital investment needs.[117]

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[115] House Bill Report. "HB 1522 — Wildfire Mitigation Plans and UTC Approval Process." *House Bill Report*, February 6, 2025.

[116] BillTrack50. "HB 1656 Authorizes Securitization of Wildfire-Related and Emergency-Related Costs." *BillTrack50*, 2025.

[117] Fitch Ratings. "Fitch Rates Puget Energy's Senior Secured Notes 'BBB'; Sufficient Headroom to Absorb Wildfire Impacts." *Fitch Ratings*, March 10, 2025.

Still, Fitch flagged PSE's limited credit headroom and warned that a major wildfire event could pressure liquidity and trigger rating action. While PSE's current BBB+ rating signals an investment-grade profile, it does not necessarily incorporate material wildfire risk, as Washington has yet to experience a catastrophic, large-scale wildfire event comparable to those in Hawai'i or California. Washington's lack of structural backstops remains a key gap compared to other wildfire-prone states with more mature frameworks.

S&P states HB 1522 is a credit-positive development for regulated electric utilities. The legislation mandates regular wildfire mitigation planning and regulatory review, which helps reduce business and regulatory risk by ensuring utilities operate under approved safety protocols. However, S&P notes that financial risks remain, as the Washington UTC does not pre-approve spending, leaving utilities exposed to potential cost disallowances during rate cases. Overall, the bill enhances operational predictability while maintaining traditional rate-making oversight.[118] Going forward, rating agencies will likely watch whether Washington moves beyond planning and begins to implement structural risk-sharing mechanisms.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

While credit rating agencies have emphasized the financial implications of Washington's wildfire legislation, the lived experience and advocacy of other stakeholders reveal a broader set of concerns. Wildfire survivors highlight the human and economic toll of recovery without a dedicated compensation fund. Consumer advocates and ratepayer groups focus on affordability and transparency in utility planning. Insurance representatives stress the need for stronger mitigation standards to stabilize markets, while utilities and business groups argue for financial tools to spread risk and lower borrowing costs. Together, these perspectives underscore the complex balance between protecting communities, preserving ratepayer interests, and ensuring utility accountability in the state's evolving wildfire policy framework.

Wildfire Victims' Advocates and Insurers: Representatives of wildfire victims, including trial attorneys and insurance organizations, have largely opposed proposals to limit utility liability for fires, arguing these measures shift costs onto victims and policyholders. "The

[118] S&P Global Ratings. "Puget Energy Inc. Credit Opinion." S&P Global Ratings, June 20, 2025, https://www.spglobal.com/ratings/en/research/articles/250620-puget-energy-inc-credit-opinion.

overall goal, as I see it across a lot of these bills, is to shift the cost of this… onto ratepayers," warned one trial lawyers' association spokesperson when discussing utility-backed wildfire bills.

Similarly, the Northwest Insurance Council cautioned that laws granting utilities immunity from wildfire lawsuits would have a "significant" impact on property owners, "likely to impose a new burden of proof on a property owner seeking recovery after a utility-ignited wildfire."[119] From this perspective, Washington's lack of a dedicated victim compensation fund — coupled with utilities' full liability exposure — means survivors must rely on insurance and litigation for compensation. Any reduction in utility accountability is seen as potentially leaving wildfire victims worse off in recovering their losses. Testimony on HB 1539 repeatedly underscored lived impacts on homeowners: "Residents have been uninsurable because of age or because they have experienced losses, and inconsistent application of the current insurance framework can have arbitrary results in who loses insurance… Even homes in the Firewise program… have found it difficult to get insurance."[120] Outside the hearing room, Washington's insurance regulator reported that "most survivors" of the 2023 Gray and Oregon Road fires were underinsured, intensifying recovery hardships. Survivors' stories echo that reality; one Malden resident, five years after the Babb Road Fire, told reporters: "Nothing could be salvaged… It was all melted and mixed in together."[121]

Consumer and Ratepayer Advocates: Consumer advocates emphasize the need for strong oversight to protect ratepayers from both wildfire hazards and undue costs. Washington regulators have historically been very critical of spending by utilities to keep customer rates in check. The state's Public Counsel in the Attorney General's Office has pushed for more rigor in utility wildfire plans, noting that all three major electric utilities "failed to include cost-benefit analyses" of their fire-prevention strategies despite a

[119] Washington State Standard, "PacifiCorp involved in bills to limit utility wildfire liability and damages," *Washington State Standard*, 2025, https://washingtonstatestandard.com/2025/03/31/pacificorp-involved-in-bills-in-oregon-western-states-limiting-utility-wildfire-liability-damages/.

[120] House Bill Report, "SHB 1539 — Wildfire Mitigation and Resilience," *Washington State Legislature House Bill Reports*, April 5, 2025, https://lawfilesext.leg.wa.gov/biennium/2025-26/Pdf/Bill%20Reports/House/1539-S%20HBR%20SA%2025.pdf?q=20250405010022.

[121] Cascade PBS, "WA Families Struggle to Rebuild After Utility-Sparked Wildfires," Cascade PBS, *Cascade PBS*, 2025, https://www.cascadepbs.org/investigations/2025/08/wa-families-struggle-to-rebuild-after-utility-sparked-wildfires/.

requirement to "incorporate cost-effective measures to minimize wildfire risk."[122] As summarized to the House Environment & Energy Committee on HB 1522, "wildfire mitigation plans are complex and deserve a longer time for review and for feedback," with suggestions to align review periods to Oregon's 180-day standard. Supporters simultaneously framed HB 1522 as a way to keep bills in check by ensuring only "reasonable and prudent" practices are approved and by requiring cost-benefit analysis for specific mitigation elements. Advocates argue that utilities should invest in wildfire safety, but only in ways that are justified and affordable for consumers, to avoid excessive rate hikes.

Rural/landowner & working-land perspectives: Forestry and rural stakeholders asked legislators to recognize the value of removed biomass and to broaden representation beyond insurers. HB 1539 testimony flagged "no process for including input from affected citizens" and called for "small forest landowners" to have a seat at the table as standards and grant programs are developed.[123]

Regulators and Oversight Bodies: Utility regulators have also weighed in on wildfire liability and prevention. In fact, when PacifiCorp sought to preemptively cap its wildfire damage exposure through state utility commissions (including Washington's), regulators pushed back. Idaho's Public Utilities Commission in 2024 rejected PacifiCorp's request to make its utility liable only for "actual economic damages" in a powerline-ignited fire, a decision signaling concern for maintaining victim compensation and utility accountability. In Washington, the Utilities and Transportation Commission (UTC) has been cautious in exercising new oversight powers: after lawmakers authorized the UTC in 2025 to approve or reject utility wildfire mitigation plans, the agency stated it does "not currently intend to act on that authority" for plans already filed before the law took effect.[124] Going forward, regulators face the challenge of ensuring utilities take robust wildfire prevention measures while also holding them accountable if negligence causes a fire.

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[122] Attorney General of Washington, Public Counsel. *Public Counsel's First Comments on 2024 Wildfire Mitigation Plans (Dockets UE-240831, UE-240832, UE-240836)*. December 2, 2024, https://s3.documentcloud.org/documents/26041771/ag-public-counsel-comment-on-wildfire-mitigation-plans.pdf.

[123] Leg. Files Ext., Washington State Legislature, "House Bill Report: HB 1522 — An Act Relating to Approval of Electric Utility Wildfire Mitigation Plans," *Washington State Legislature House Bill Reports*, 2025, https://lawfilesext.leg.wa.gov/biennium/2025-26/Pdf/Bill%20Reports/House/1522%20HBR%20ENVI%2025.pdf.

[124] California Legislature, "Senate Bill 254: Energy," *California Legislature*, September 19, 2025, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB254.

4. Stakeholder Engagement

To inform its study evaluating the creation of a wildfire recovery fund, the Hawaiʻi PUC conducted robust stakeholder engagement to gather perspectives from a diverse range of individuals and organizations. In total, the PUC interviewed 80 individuals representing 35 organizations, government agencies and offices, companies, and groups. This engagement sought to surface the concerns, priorities, insights, and suggestions of stakeholders, including:

- Attorneys representing wildfire plaintiffs, utilities, and insurers
- Community leaders, wildfire survivors, and wildfire safety advocates
- Consumer advocacy groups
- Elected officials
- Electric utilities and cooperatives
- Insurance market participants
- Large landowners
- State and county government agencies and departments
- Technical experts
- Telecommunications companies
- Unions

This section summarizes the stakeholder engagement process, participants, and key themes identified through stakeholder interviews. These perspectives raise considerations for lawmakers when designing future legislation.

Methodology

Between July and September 2025, the PUC and its retained advisors conducted a rigorous stakeholder engagement and interview process. The process focused on obtaining a broad range of expert perspectives related to wildfire risk, liability, and recovery and on assessing potential frameworks, capitalization methods, and governance structures for the possible creation of a wildfire recovery fund in Hawaiʻi.

The PUC first identified a list of stakeholders intended to be representative of a wide range of issue area expertise. Next, the PUC developed a discussion guide with questions to provide for consistent interviewing methods while also allowing space for open-ended discussion. The discussion guide contemplated the following topic areas:

- Perceptions of Wildfire Risk
- Wildfire Recovery Fund, Impact on Credit Rating & Cost to Customers

- Wildfire Recovery Fund Capitalization & Funding Sources
- Liability Cap Framework and Interplay with a Recovery Fund
- Fund Participation & Scope
- Fund Governance & Administration

Following several rounds of outreach to stakeholders, a total of 32 interviews were conducted via in-person or virtual meetings with 80 total participants representing 35 organizations. These interviews were held over a period of nine weeks. Two stakeholder groups provided written responses to questions. Interviews were then analyzed to identify key themes in the stakeholders' views and notable insights that would inform the PUC's evaluation of the wildfire fund concept, design, and implementation variables. A list of the stakeholder groups engaged in this effort is available in Appendix H.

Summary of Key Themes from Stakeholder Interviews

Consensus in Views on Current Statewide Wildfire Risk and Mitigation Needs:	Mixed Support for a Wildfire Recovery Fund:
• Most stakeholders believe statewide wildfire risk is increasing. • There is broad support for wildfire prevention and mitigation work and associated spending for that work. • While there are varying perspectives over responsibility and accountability for managing ignition risks, most stakeholders agree that electric utilities hold significant responsibility.	• Supporters see a fund as essential for timely victim compensation and preserving utility stability. • Skeptics are concerned about moral hazard, cost to ratepayers and the public, the fund being a "bailout" for HECO, and unintended consequences. • Many interviewees see the liability cap tied to the fund. • A significant number of stakeholders prefer a resilience fund in addition to, or instead of, a recovery fund.

Mixed Views on How to Capitalize:	Consensus in Views on Fund Administration:
• Many stakeholders are concerned about the high-cost burden Hawai'i ratepayers already face. • Besides contributions from HECO shareholders and ratepayers, potential contributors and funding sources mentioned by interviewees included taxpayers and/or the state, large landowners, insurers, tourism surcharges, and reserve fund interest. • Fairness and equity in capitalization and fund participation were key themes.	• Most stakeholders believe a wildfire recovery fund should be governed transparently and independently. • Stakeholders largely agree a fund should be administered by an independent governing board with expertise in wildfires, claims administration, legal processes, and audits, and be familiar with Hawai'i cultural values. • Many stakeholders have concerns about the resources and capacity of state agencies or departments to govern or administer a fund.

Stakeholder Interview Insights

Views on Statewide Wildfire Risk

Across interviews with stakeholders, there was widespread consensus that wildfire risk is a significant and rising threat to Hawai‘i’s people, environment, communities, businesses, and economy. Many stakeholders referenced the fact that over 98% of the total wildfires in Hawai‘i are human-caused,[125] illustrating general agreement that increasing wildfire risk is a societal concern. However, stakeholders expressed divergent opinions about who bears responsibility and liability for mitigating wildfire risk across the state, particularly in the context of wildfires that are allegedly caused or exacerbated by electric utilities.

Interviewees identified several factors that exacerbate wildfire risk in Hawai‘i, ranging from climate change impacts that increase the number of Red Flag Days[126] and worsen periods of drought to unmanaged invasive grasses and trees on former agricultural lands and water scarcity issues. Many stakeholders emphasized that fragmented and inconsistent land management practices on privately owned parcels of land have created dangerous sources of fuel. Some wildfire safety advocates interviewed noted that some landowners do not prioritize proactive vegetation management and are not doing enough to manage fuel on their lands, particularly in areas with known wildfire risk, like Waikōloa on Hawai‘i Island. Other stakeholders with expertise in wildfire safety and prevention noted that building codes for housing have not kept pace with the changing risk landscape for wildfires, resulting in residential infrastructure that is more vulnerable to damage from a variety of natural disasters.

Several stakeholders, including electric utilities themselves, acknowledged the utilities’ role in ignition risk and the importance of implementing their wildfire mitigation plans (WMP). Representatives of electric utilities noted that even with the best wildfire mitigation plans and practices in place, electric infrastructure ignition risks cannot be eliminated entirely. Additionally, some interviewees raised concerns that Hawai‘i lacks enough qualified and experienced line workers with the necessary skills to handle vegetation management work and noted that attracting and maintaining workers with these skills is increasingly difficult.

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[125] Hawai‘i Emergency Management Agency. State Hazard Mitigation Plan: Section 4.15 — Risk Assessment: *Wildfire*. January 2023, https://dod.hawaii.gov/hiema/files/2023/01/2023_Hawaii_SHMP_4.15_RA-Wildfire.pdf.

[126] Red Flag Days, or red flag warnings, are a defined set of conditions by the National Weather Service in which there is an elevated risk of rapidly spreading wildfire, see National Weather Service, “What Is a Red Flag Warning?,” *National Weather Service*, October 2, 2025, https://www.weather.gov/media/lmk/pdf/what_is_a_red_flag_warning.pdf

Where interviewees differed the most was on the question of responsibility for wildfire risk management. Some stakeholders emphasized that wildfire risk is a shared, societal problem and warned against frameworks that place unlimited liability solely on utilities. By contrast, other stakeholders, including survivors of the 2023 Maui wildfires, expressed the view that utilities are a primary ignition source and must remain at the center of accountability and wildfire risk mitigation measures. Several interviewees ranging from landowners to wildfire safety experts underscored the need for clear and enforceable statewide wildfire safety standards for private landowners in addition to utilities, noting that the current lack of consistent standards across Hawai'i's counties is an issue. With respect to potential liability reforms, some stakeholders, including representatives of large landowners and telecommunication companies, expressed concern that if utilities are shielded from liability, other entities could bear a higher burden in litigation with little to no control over wildfire ignition risks.

Most stakeholders interviewed underscored the significant need for proactive resilience and wildfire mitigation investments statewide. Part of Act 258 enables electric utilities to issue securitized bonds, backed by a dedicated, non-bypassable charge on customers' bills, to finance large-scale wildfire mitigation and resilience investments. This securitization mechanism is subject to strict oversight by the Hawai'i PUC. Securitization is intended to help utilities access lower-cost capital to invest in necessary wildfire mitigation efforts, thereby spreading the cost of investments over time. However, this portion of the law may not be as widely understood among stakeholders interviewed. Aside from securitization, several interviewees cited the "Green Fee"[127] as a promising step for resilience work and wondered how the new source of funds would be used to reduce wildfire risk statewide.

Diverging Perspectives on the Need and Purpose for a Recovery Fund

Stakeholders expressed a variety of opinions on whether a wildfire recovery fund is needed in Hawai'i, as well as the purpose of a fund if it were created. For some, the 2023 Maui wildfires and the financial liabilities that resulted illustrated a need to establish a pre-existing mechanism that can provide timely compensation to wildfire victims and help preserve the financial stability of Hawai'i's largest electric utility. For others, the idea of creating a recovery fund raised serious concerns about moral hazard, perceptions that the fund could be a government bailout for private companies and concerns that fund costs would burden already vulnerable ratepayers and taxpayers. Stakeholders also shared

[127] Green Fee Advisory Council, "FAQ," Hawai'i *Green Fee Advisory Council,* October 3, 2025, https://greenfeehawaii.org/faq.

diverging views on whether a fund should be used solely for post-wildfire recovery or if it should be used, in whole or part, to pay for proactive resilience and risk reduction measures.

Supportive of a Fund

Representatives of HECO and its parent company, Hawaiian Electric Industries (HEI), emphasized the stabilizing effect a fund, in combination with a liability cap, could provide for Hawai'i's largest electric utility, reduce its cost of capital, and help it acquire insurance at acceptable costs. They noted that without a fund and a liability cap, the costs of a future catastrophic wildfire could pressure credit ratings and customer rates. According to public information from credit rating agencies, the existence of a recovery fund and liability cap would be viewed as credit positive and ultimately allow HECO to attract capital at better rates.[128] Based on this, representatives of HECO suggested that a lower cost of capital to the utility may allow it to fund infrastructure improvements that reduce its wildfire risk profile in a more cost-effective way and would benefit ratepayers. Several stakeholders shared that absent a recovery fund and liability reform, it is unlikely the utility can regain investment-grade status. Other interviewees, including technical experts and some insurers, supported the creation of a fund but shared it should also be used for resilience investments, not solely recovery. Other industry and regulatory experts stated that preventing wildfire risk and investing in resilience is as significant, if not more so, than investing in a recovery fund.

Several parties noted that while a fund may provide a measure of financial stability for the state's largest utility, structuring a fund may be difficult given the dynamic of the utilities in Hawai'i. Kaua'i Island Utility Cooperative (KIUC) is Hawai'i's only electric cooperative, whereas HECO is investor-owned. KIUC representatives acknowledged that a fund could provide a measure of financial stability and would be valuable given the limited availability and high costs of insurance. At the same time, KIUC representatives emphasized that its structure as a member-owned cooperative makes its position distinct from HECO and expressed concerns that KIUC could carry a disproportionate burden relative to its size and resources if a potential recovery fund's framework did not account for these differences. KIUC representatives stated that participation in a fund should be voluntary and actuarially fair based on equitable risk allocation.

[128] Moody's Investors Service, "Liability Reform Will Be Key to Regulated Electric Utilities in Wildfire-Prone States," *Moody's Investors Service*, 2024. October 3, 2025, https://events.moodys.com/2024-miu22138-investor-breakfast-briefing/liability-reform-will-be-key-to-support-credit-quality-of-utilities-in-wildfire-prone-states.

Some interviewees voiced strong support for the establishment of a wildfire recovery fund and highlighted the need for a mechanism to provide timely and equitable compensation to wildfire victims, rather than leaving communities to navigate years of litigation and uncertain settlements. They also emphasized that a fund should serve as a tool to promote accountability and wildfire prevention work by conditioning utility access to a fund on proven compliance with wildfire mitigation plans; this sentiment was shared by many other stakeholders.

Supporters of a recovery fund emphasized that it must prioritize people over corporations while implementing strong guardrails to prevent a fund from becoming a "bailout" for the utility. This view was particularly underscored by survivors of the 2023 Maui wildfires and organizations serving wildfire survivors, who emphasized that the objective of a potential fund should be to speed up recovery and provide much-needed relief for survivors, both in the immediate aftermath of a catastrophic wildfire and years after the event, when resources to rebuild are more difficult to access.

Skeptical of a Fund

Several stakeholders expressed reservations about the creation of a wildfire recovery fund, raising concerns about moral hazard, incentives to mitigate wildfires, fairness, and the risk of burdening ratepayers, taxpayers, and the state's resources. Many interviewees expressed that the public, whether ratepayers or taxpayers, cannot be responsible for "bailing out" a private entity like the electric utility.

Interviewees shared varying reasons for their skepticism of a fund. Some questioned if state or legislative involvement was even necessary, noting that HECO could create its own fund if desired. Some interviewees, including representatives of state government and legal advocates for wildfire survivors, recognized that a wildfire fund provides some benefits to the public but were deeply concerned about a fund's impact on ratepayers. Several interviewees, including regulatory experts, expressed concerns that the availability of a wildfire recovery fund might disincentivize utilities from procuring adequate insurance coverage for catastrophic events like wildfires or investing enough in wildfire mitigation and resilience work. In general, many representatives of government agencies were concerned that the creation of a wildfire recovery fund could result in the public — whether ratepayers or taxpayers — absorbing more liability than is warranted when it comes to wildfires allegedly caused or exacerbated by utilities.

Other interviewees had reservations about a fund being created without knowing specific details but shared they may be supportive if specific protective guidelines were imposed in the fund's design. Representatives of some entities that contributed to the One ʻOhana Fund expressed concern that a recovery fund could impose financial obligations on entities with limited responsibility for wildfire ignition but acknowledged that if a fund were structured fairly, it could provide benefits by streamlining victim compensation and reducing litigation, which is costly both for victims and potentially culpable parties. These stakeholders noted that a fund should benefit Hawaiʻi's communities, not just HECO, and should avoid the shifting of risk and exposure from the utility to other parties.

Interviewees from the insurance industry were somewhat skeptical of a fund and emphasized that resilience and wildfire mitigation must come first, advocating for improved building codes and community fire protection guidelines. Representatives of a large property insurance company were open to the concept of a fund if it were structured in a way to help address issues with subrogation and liability, but only if designed with strong accountability measures and clear governance. Representatives of an insurance industry trade group expressed concern that a fund would primarily benefit utilities rather than consumers. Other insurance industry regulatory experts questioned the purpose of creating a fund at all and pondered whether requiring utilities and large landowners to carry greater insurance coverage would be a simpler and more effective approach.

Views on the Interplay between a Recovery Fund and a Liability Cap

In addition to requiring the PUC to evaluate the creation of a wildfire recovery fund, Act 258 (SB 897) directs the PUC to "determine an aggregate limit on the amount of liability for economic damages caused by a covered catastrophic wildfire by an electric utility."[129] While this rulemaking process is a separate effort that falls outside the scope of this study, the liability cap was a recurring theme in stakeholder interviews in the context of the potential creation of a wildfire recovery fund. For many stakeholders, the two mechanisms could not be considered in isolation — some argued that a recovery fund without a cap would require an untenably large cap size and could expose utilities to unlimited liability and undermine the fund's stabilizing purpose. Others stated that a cap without a recovery fund could leave victims uncompensated once damages exceed the set liability cap.

[129] Hawaiʻi Legislature. *Senate Bill 897 SD3 HD2 CD1: Relating to Energy. 33rd Legislature, Regular Session*. Enacted July 1, 2025.

Representatives of HECO and HEI emphasized that a liability cap and a recovery fund must operate together. They further noted that a recovery fund will likely be viewed as credit-positive by rating agencies only if it is paired with a liability cap. Without both in place, they argued that the utility's financial stability remains at risk and harms its ability to borrow at favorable rates and invest in wildfire mitigation. Representatives of HEI noted they are most focused on the PUC's rulemaking process to determine a limitation of liability, and that it would be difficult to determine a potential size for a wildfire recovery fund without knowing what the liability cap might be. Representatives of KIUC echoed this sentiment, noting that the liability cap affects the size of a potential recovery fund. Additionally, representatives of KIUC stressed that while they support the limitation of liability, they would be concerned if the limitation applied only if a catastrophic wildfire event destroys 500 structures and instead support the lower 50-structure threshold for electric cooperatives.

Some industry experts and representatives of government agencies expressed that they supported a liability cap for utilities working in concert with a recovery fund, but only if the utilities demonstrated progress on wildfire mitigation and resilience efforts. They noted that the existence of both a cap and a recovery fund would likely be viewed as credit-positive actions in the eyes of rating agencies, which could ultimately benefit ratepayers if it enables the utility to borrow at lower rates and invest in wildfire mitigation more affordably. However, other government agency representatives expressed concern that a liability cap might reduce accountability on the part of the utility. Some regulatory experts were highly skeptical of establishing a liability cap, noting that it would go against the basic principles of the tort system, which is designed to promote accountability and incentivize good conduct. While acknowledging the argument for preserving utility solvency, these experts pondered how utilities would be compelled to improve their practices if their liability were limited.

Some interviewees, including some wildfire safety advocates, expressed views that a liability cap should only be allowed if utilities demonstrate proven compliance with wildfire mitigation plans. Some advocates for wildfire survivors also raised concerns about the practicality of how a liability cap and a wildfire recovery fund would function — for example, if two major wildfires occurred back-to-back, how would the cap be applied, and how would victims be paid out from a fund that was just depleted by the first fire? These stakeholders, as well as some legislators, also noted that any liability cap would need to be

carefully structured and should only be for economic damages for fires above a certain monetary threshold, rather than based on time periods.

Representatives of some telecommunications companies and large landowners expressed concern that a liability cap would shield utilities from litigation in the event of a wildfire and could result in plaintiffs' lawyers seeking damages from other parties. While these parties were generally supportive of a recovery fund because it would help ensure there is compensation available for victims of a catastrophe, they were not convinced that the fund design needed to be considered in the context of a liability cap and felt strongly that any liability cap should be tied to compliance with wildfire mitigation plans. Additionally, some attorneys representing wildfire victims expressed strong opposition to liability caps writ large and noted that any limitation on liability could result in victims receiving inadequate compensation from a wildfire recovery fund that may result in the inability to rebuild homes and livelihoods. In short, these parties strongly believe that liability caps shortchange victims and the compensation they are owed in the event that victims suffer total devastation from a wildfire allegedly caused or exacerbated by an electric utility.

Views on Fund Capitalization

If there is a fund established, there is a key question to answer: who will contribute to the fund? Act 258 (SB 897) directs the PUC to evaluate "the best approach to capitalizing the fund and whether moneys used to capitalize the fund should come from ratepayers or shareholders, or both."[130] Throughout interviews, stakeholders shared various perspectives on capitalization methods and possible contributors to a potential wildfire recovery fund. However, many interviewees felt that without explicit details about the purpose of the fund, who can access it, and in what circumstances it can be used, it would be difficult to say definitively how the fund should be capitalized.

Views on Shareholder and Ratepayer Contributions

Discussions about who should contribute to a fund were largely dictated by stakeholder beliefs on the necessity of a fund. Many stakeholders expressed the view that HECO would be the greatest beneficiary of a fund and therefore believed the utility should be the primary, or potentially sole, contributor to the fund. Those stakeholders, and others expressing skepticism about the need for a fund, differed on how the utility should

[130] Hawai'i Legislature, "Senate Bill 897 SD3 HD2 CD1: Relating to Energy," *Hawai'i State Legislature*, July 1, 2025, https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=897&year=2025.

contribute to a fund and how much, if any, of the contribution should be borne by the utility's shareholders, in contrast to the utility's ratepayers.

Many experts interviewed referred to California's recovery fund, established via AB 1054[131] enacted in 2019, which was capitalized via a 50/50 contribution from utilities' ratepayers and utilities' shareholders. Representatives of HEI and HECO expressed support for the fund to be capitalized by ratepayers, noting potential positive sentiment toward a self-insurance or pooled self-insurance model funded through ratepayer charges. They noted that a fund solely capitalized by the utility's shareholders would be untenable given the utility's current financial situation and that creating a fund large enough to be useful in the event of a catastrophic disaster would require some level of ratepayer support. They acknowledged that although it could be beneficial to have other contributors contribute to a fund, such as large landowners, these entities are not subject to the same regulatory requirements or oversight as utilities, which would complicate determinations of prudence in the event of a catastrophic fire.

Stakeholders concerned about ratepayer contributions to a fund included representatives of government agencies, legislators, and attorneys representing wildfire victims, among others. These stakeholders' primary concern was that requiring ratepayers to contribute to a wildfire fund would increase their already expensive utility costs. In Hawai‘i, utility costs are the highest in the country in terms of usage-to-cost ratio.[132] Some interviewees commented that seeking greater insurance coverage may be more cost-effective than establishing a fund, noting that a fund requires an upfront cost to be capitalized, while an insurance policy requires a smaller, ongoing cost that provides access to funding when needed. Other regulatory experts who acknowledged a fund's potential benefits to ratepayers questioned how to quantitatively assess those benefits. Some consumer advocacy groups noted that if a wildfire fund is established and ratepayers are to contribute, the PUC should open a docket to allow interveners to participate.

Finally, a critical theme that emerged in interviews was the principle of fairness and justice for ratepayers to contribute to a fund that would benefit a private company, namely HECO. Some stakeholders, including survivors of the 2023 Maui wildfires, shared that if a wildfire

[131] California Legislature, "Assembly Bill 1054: Electrical Corporations: Wildfire Mitigation Plans and Safety Culture," *California Legislature*, July 12, 2019, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1054.
[132] Jeremy Hay, "Data Dive: Consumers Sacrifice to Pay Hawai‘i's Record Electric Bills," *Civil Beat,* February 19, 2025, https://www.civilbeat.org/2025/02/data-dive-consumers-sacrifice-to-pay-hawai%CA%BBis-record-electric-bills/.

recovery fund is capitalized in part by ratepayers, ratepayers should have the greatest say in how the fund is used. Other stakeholders, such as attorneys representing wildfire victims, felt strongly that the notion of ratepayer contributions to a potential fund is fundamentally unjustified and would put an undue burden on the very people who suffered significant damages, both economic and non-economic, because of the negligence of a private company.

Multiple Contributors and Alternative Capitalization Methods

Several interviewees raised the idea of multiple contributors to a potential wildfire recovery fund. However, a fund capitalized by multiple contributors also implies that multiple entities could access or benefit from the fund, which may require complex legislative efforts to effectively enact those contributions and condition access. Additionally, some stakeholders, such as representatives of telecommunications companies and insurance companies, expressed the view that their organizations were victims of the Maui wildfires and were concerned about being treated as potential funding sources for a wildfire recovery fund.

Aside from utility shareholders and ratepayers, potential contributors that were suggested by interviewees included taxpayers, large landowners, insurers, and any entities that contribute to wildfire risk or liability. Some stakeholders noted that taxpayer contributions could be more equitable than ratepayer contributions because those contributions could be scaled by income bracket. However, other representatives, including representatives of government agencies, were cautious of relying on public funds that stress the state's tax revenues. A few stakeholders suggested alternative capitalization methods, including using a process like unemployment where businesses pay into it, scraping interest from Hawai'i's Emergency and Budget Reserve Fund ("Rainy Day Fund"),[133] or enacting tourism-related surcharges.

Views on Fund Sizing

Interviewees shared varying — and for the most part, unspecific — views on the appropriate size of a potential wildfire recovery fund for Hawai'i. Several experts noted that an actuarial study would be required to determine an appropriate size for a potential wildfire recovery fund. Other stakeholders mentioned California's wildfire recovery fund, which was initially capitalized at $21 billion, as a reference point for fund size given the

[133] State of Hawai'i, Department of Budget and Finance, "State Fiscal Reserves," *State of Hawai'i*, October 3, 2025, https://budget.hawaii.gov/budget/about-budget/state-fiscal-reserves/.

state of California's population, geographic size, and level of wildfire risk. Many others referenced the Maui wildfire settlement in Hawai'i of $4 billion as a known value that any future Hawai'i wildfire recovery fund could be benchmarked against. Most stakeholders who supported the creation of a fund stressed that it would need to be large enough to meaningfully compensate victims and pay out claims, as well as provide a meaningful degree of confidence to utility investors and credit rating agencies, for there to be any positive impact on the utility's credit rating. Interviewees, including wildfire safety advocates, plaintiff's attorneys, and some government representatives, noted a fund should be sized in anticipation of multiple catastrophic wildfires back-to-back, in case the fund were to be fully depleted by one event.

Views on Fund Participation and Scope

Stakeholder perspectives on who should benefit from a potential recovery fund, and the scope of the fund, were frequently tied to viewpoints about how the fund should be capitalized. Across interviews, there was a broad consensus that the primary beneficiaries of a wildfire recovery fund should be victims who are directly harmed by catastrophic wildfires. There was also broad consensus amongst stakeholders that any participants in a fund — namely, electric utilities — must adhere to wildfire mitigation plan compliance and safety certifications to be able to participate in the fund. However, there were divergent perspectives on who should be able to make claims to the fund and how claims should be paid out.

A representative from the electric utilities suggested the fund's contributors should be the same entities that can access the fund's resources after a qualifying event. They referenced California's wildfire recovery fund, which requires the utility to pay claims first and then seek reimbursement from the fund. Other experts, consumer advocates, and attorneys representing wildfire victims suggested that individual victims should be able to submit claims and receive compensation from a fund directly, without the utility acting as an intermediary.

Another key theme in discussions of fund participation concerned the issue of subrogation, or the right of an insurer to pursue recovery from the party or parties that caused the loss. Many stakeholders agreed that a wildfire recovery fund should primarily help victims and not go towards subrogation claims or attorneys' fees. Conversely, representatives in the insurance industry shared that the subrogation rights of insurers need to be protected

because an insurer's right to subrogate affects the price and availability of the insurance they offer and, in turn, directly affects the public who own property.

Voluntary or Mandatory Contributions

Stakeholders shared a variety of perspectives on whether contributions to a fund should be voluntary or mandated. Several stakeholders expressed concern that optional contributions to a wildfire fund would mean that no one would contribute. Representatives from HEI and HECO supported mandatory contributions as a demonstration of stability for rating agencies. Representatives of KIUC stated contributions from electric cooperatives should be optional and shared that they would need to understand the costs and benefits to their members before they could support contributing to a fund. Additionally, a representative from KIUC felt that they have a lower risk profile and, as a result, their participation in a fund should be optional. Representatives from other telecommunications utilities stated participation in a fund should be voluntary. Representatives of large landowning companies questioned how there could be mandatory participation without knowing what associated protections from liability there might be.

Legal and Structural Concerns for Fund Administration

Several stakeholders shared concerns that a potential wildfire recovery fund may have serious or complicated legal implications regarding the claims process. For example, some attorneys representing plaintiffs stated that capping liabilities could be considered unconstitutional. Other attorneys went further to share that the Fifth Amendment right that protects private property from being taken without fair compensation may be infringed if there is a cap on damages. Other legal industry experts also expressed concern regarding sufficient compensation for victims and the length of time victims have to utilize the fund or choose to pursue alternative mechanisms for damages. These experts further suggested that if the fund were perceived as insufficient in compensating victims for their losses, attorneys would be inclined to pursue litigation as a means to recover damages.

Representatives across the state government also pondered whether the state has legal authority to require taxpayers or ratepayers to contribute to a fund that might be inextricably linked with a private entity. A representative of a telecommunications company inquired how a multi-contributor fund model would operate if the PUC does not have regulatory jurisdiction over all parties. Legal regulatory experts saw the high rates of underinsured or uninsured homeowners in Hawai'i as a concern for the insurance claims process and the impact this would have on potential claims made to a fund. They further

expounded on this concern because it had financial implications for the state and any recovery fund if people lack sufficient insurance on their properties.

Public Perception and Unintended Consequences of the Fund

In addition to varying perspectives on a fund's participation and scope, several stakeholders raised concerns about public perceptions of a wildfire recovery fund, potential misunderstandings of a potential fund's purpose and function, and unintended consequences of a fund. Some interviewees remarked that misunderstanding the purpose and benefits of the fund might lead individuals and companies to change their behavior for the worse. For example, different insurance market participants suggested that such a fund may disincentivize people from purchasing adequate insurance if not structured appropriately. Representatives from state government agencies discussed the potential interaction between the fund and FEMA, suggesting that the existence of a fund might result in fewer federal resources being provided in the event of a catastrophic wildfire.

In addition to confusion about what the fund could offer, many stakeholders interviewed referenced the perception that this fund is or could be a "HECO bailout." During the 2025 legislative session, a local labor union launched a public campaign in opposition to legislation that would have established a wildfire recovery fund, positioning the proposed fund as a "HECO bailout" created "on the backs of ratepayers" that would increase ratepayers' electricity costs, particularly for commercial and industrial customers.[134] Interviewees who were more supportive of the creation of a wildfire recovery fund suggested that a fund be intentionally crafted to be as equitable as possible and ensure that the public is receiving the benefits of a fund equally, not just the utility or people with more means and resources to navigate legal processes.

Views on Fund Governance and Administration

Throughout interviews, representatives held diverse and diverging opinions regarding the existence of a fund, capitalization methods, liability caps, fund scope, and participation. Yet, views on fund governance and administration trended towards more of a consensus. Many stakeholders shared that a wildfire recovery fund should be transparent, expedient, and independent in its operations and governance. These guiding principles could lead to quicker delivery of funds to victims and reduced litigation costs.

[134] Ben Gutierrez, "Heated Dispute Erupts over Disaster Recovery Fund for HECO," *Hawai'i News Now*, March 29, 2025, https://www.hawaiinewsnow.com/2025/03/29/heated-dispute-erupts-over-disaster-recovery-fund-heco.

New Quasi-Independent Entity or Trust

Several interviewees suggested a new, quasi-independent entity or trust be created to oversee a potential wildfire fund, which would operate with structural autonomy but be administratively tied to an existing government department or agency for funding and oversight purposes. People who supported this emphasized that the entity operates independently and is not controlled by political influence. An expert in state budget and finance matters noted that if ratepayers or taxpayers are to contribute to a fund, the state may wish to be a trustee of the funds to protect the public interest or comport with any fiduciary obligations the state may have. Others suggested the entity should have multi-stakeholder oversight and clear rules for participation.

While several stakeholders mentioned the PUC or DCCA as possible entities that could house a potential governing body for a recovery fund, others had serious reservations about the ability and capacity of these entities to manage the additional responsibility. The ability to manage such a governance board would require resources of time, finances, and expertise. An attorney representing plaintiffs emphasized that an independent audit would be crucial for the utility but acknowledged that this is beyond the current resources of the PUC. A representative from the insurance sector suggested that governance for a wildfire recovery fund might look similar to the Hawai‘i Hurricane Relief Fund, which has historically been housed within DCCA. However, a representative of DCCA shared serious reservations about the agency’s ability to handle the responsibility of managing a wildfire recovery fund, citing the financial cost it would require and the unique funding of the DCCA office via their own revenue. A legal and regulatory expert also expressed concern about the state being involved in managing administrative claims for the fund.

Finding Expertise

Many experts interviewed noted the importance of a fund’s potential governing board holding specific expertise. This expertise could be related to a variety of subject matters, including wildfires, audits, prudency reviews, and claims administration. Several interviewees recommended that the new state fire marshal be a key member of this governing board for their expertise in wildfires. An attorney representing plaintiffs plainly stated that the governing body should not include any “wrongdoers” or those who might be liable for damages. A large property insurer shared that a potential fund should be managed by a board who have some fiduciary obligations and expertise in claims administration. A regulatory expert compared the expertise needed for managing a

potentially large wildfire recovery fund to the expertise required to manage the state's Employees' Retirement System.

To other stakeholders, expertise did not exclusively pertain to knowledge associated with wildfire risk or the ability to manage a high volume of complex claims. These stakeholders underscored that individuals responsible for managing a wildfire recovery fund should reflect and deeply understand the diverse community they would serve. A technical expert suggested members of a government board or commission possess a dedication to community, a connection to Hawai‘i, and an unsullied point of view focused on community resilience.

Summary

The stakeholder engagement process provided critical insights into the diverse perspectives, concerns, and priorities surrounding the potential establishment of a wildfire recovery fund. This phase aimed to ensure that this study reflects not only technical and regulatory considerations but also the lived experiences and views of those most impacted by catastrophic wildfire events. This engagement effort revealed important areas of common ground, as well as key points of divergence that should be considered by legislators if legislation is crafted to address the collective risk and cost of wildfires in Hawai‘i.

5. Fund Sizing and Capitalization

This section examines key considerations involved in designing a potential wildfire recovery fund for Hawaiʻi. The analysis is organized around four central themes:

- Ensuring efficient compensation for victims;
- Identifying capitalization methods and contributors;
- Determining appropriate fund sizing;
- Assessing the implications for utility credit ratings.

At its core, the purpose of a wildfire recovery fund is to provide a dedicated, predictable source of compensation following catastrophic wildfire events, ensuring victims are paid in a timely and fair manner, while also stabilizing the financial position of the state's regulated electric utilities by providing access to capital to fund needed investment at acceptable rates. Designing such a fund requires balancing multiple policy objectives, including, but not limited to, victim protection, utility creditworthiness, and ratepayer needs.

There is a range of potential approaches to fulfilling this purpose. At one end of the spectrum, regulated utilities could self-finance wildfire liabilities. They could pursue rate recovery of insurance costs, whether commercial or self-insurance. They could also seek to recover wildfire damages via rate increases while trying to balance liquidity needed to address claims as they are settled or adjudicated and hope access to capital is not eliminated if claims are extreme and unrecoverable. At the other end, fund structures may be put in place to ensure adequate access to capital to fund such payments when due. Each option may include a different allocation of costs and risks between ratepayers, utilities, insurers, and victims.

For this analysis, efficient compensation encompasses not only the timeliness of payments to victims but also legal friction costs. It also consists of topics like wildfire mitigation, including how funds can be structured to align incentives for utility safety and wildfire prevention work. In addition, fund sizing is considered in the context of previously conducted actuarial loss estimates, catastrophic risk exposure, and economic feasibility. Precedent examples are also introduced to illustrate alternative approaches to structuring a fund, compliance standards, and self-insurance models.

This analysis also explores capitalization methods and potential contributors to a wildfire fund. This includes evaluating approaches such as pre-funding, replenishment, and event-based models, as well as potential contributions from shareholders, ratepayers, insurers, other defendants, the state, and other stakeholders like taxpayers and landowners. The analysis further reviews how credit rating agencies have evaluated wildfire fund structures, emphasizing the interaction of capitalization, liability limits, replenishment mechanisms, and regulatory frameworks.

Determining Efficient Compensation

Efficient compensation is a core consideration that Act 258 (SB 897) directs the PUC to examine in the design of a wildfire recovery fund. This issue has come under increased scrutiny over the last several years as wildfire settlements have become drawn out and litigious. Efficient compensation is determined by multiple factors, several of which are timeliness of payment, friction costs, and the incentivization of utility safety measures.

Some stakeholders interviewed by the PUC highlighted questions of what constitutes *sufficient* compensation, that is, whether victims of a wildfire allegedly caused or exacerbated by a utility can ultimately be made whole. In Hawai‘i, where rebuilding costs can far exceed insurance payouts, even a well-capitalized fund may not cover all future damages. While Act 258 (SB 897) is framed around efficiency, it is important to acknowledge that a wildfire recovery fund, even if designed effectively, may have limits in addressing the full extent of catastrophic losses. Furthermore, the coverage model of a fund may naturally exclude payment on certain types of claims, which ultimately may result in unresolved liabilities, which further accentuates the concern of what is sufficient compensation.

Timeliness of Payments

For a fund to deliver efficient compensation, it must be able to pay funds to victims in a fair, timely, and streamlined manner.

Efficient frameworks should first and foremost ensure fair, timely, and streamlined compensation for victims, while also providing clarity on the related subrogation recovery process. Expeditious payouts help victims and communities rebuild faster in a way that is mutually beneficial for them, impacting communities, the utility, and insurers. Having an established, time-bound claims administration process reduces delays, alleviates pressure on victims, and ensures capital is directed toward recovery and rebuilding efforts rather than litigation costs.

Inefficient payout structures, by contrast, create uncertainty not only for victims but also for insurers in the subrogation process. When victim compensation is delayed or disputed, insurer recoveries are also pushed out. Several stakeholders noted that insurers price this risk into higher premiums, which ultimately cascade back to consumers through higher rates and further burden victims. Clear frameworks can reduce these systemic costs by limiting insurer uncertainty and lowering the pass-through via premiums into end-users' bills.

Friction Costs

In the face of limited resources, it is important that a potential fund's dollars are sent to victims.

Maximizing the share of payouts that go directly to victims is critical to ensuring fair compensation. In the recent Camp Fire settlement in California, 30% of victim settlement dollars were absorbed by legal and administrative costs,[135] reducing the net benefit to those most affected. Establishing a clearer and more predictable framework can help minimize friction costs, enabling victims to navigate the process more easily and ensuring that the majority of funds flow to those impacted.

Reducing the amount of litigation and having a clearer framework creates a more predictable process that is easier to navigate and ensures fair compensation. This predictability does not just affect victims; it also benefits insurers and utilities by providing

[135] Doug LaMalfa, "PG&E Wildfire Settlement Payments: General Information," *Congressman Doug LaMalfa*, December 5, 2022, https://lamalfa.house.gov/pge-wildfire-settlement-payments-general-information.

a clearer understanding of potential liabilities and risks. This ensures that victims receive savings from lower electric rates and insurance premiums, in addition to direct payments. The One ʻOhana Fund offers a good example of this type of structure. In it, victims choose to participate directly with the fund to receive payouts and thus avoid the costly and litigious process in court.

While litigation is pending, insurance claims against liable parties are often also sold by insurance companies to investors. These new capital providers often have higher expectations of anticipated returns. Developing the ability to settle the claims at an efficient time and price may avoid such incremental friction costs that dilute victim recovery.

A further mechanism to enhance efficiency and cost control is the inclusion of a right of first refusal (ROFR) on subrogation claims, modeled on California's SB 254.[136] Under this mechanism, before an insurer can sell or assign a wildfire-related subrogation claim to a third party, it must first offer the claim to the utility or to the wildfire fund administrator on identical terms. The offeree then has a fixed period (for example, 30 days) to accept, reject, or negotiate modified terms, with all discussions conducted under confidentiality agreements. In practice, the ROFR allows the utility or fund to exercise the option to purchase the claim directly, preventing hedge funds or litigation financiers from accumulating claims and pursuing inflated recoveries against the fund. By channeling subrogation rights through a coordinated and transparent process, the ROFR reduces settlement friction, may improve victim recoveries, supports faster resolution of insurer recoveries, and curbs system costs that would otherwise be passed on to ratepayers. This alignment of incentives across utilities, insurers, and the fund administrator helps ensure wildfire liabilities are addressed efficiently, protecting both the financial stability of the fund and affordability.

Requiring Utility Safety Methods

Efficient compensation goes beyond the actual distribution of fund dollars — it also involves improving utility behavior and safety.
It is critical to align incentives so that utilities are required to invest in mitigation efforts and maintain safe operational practices. In Hawaiʻi, the PUC already requires utilities to submit Wildfire Mitigation Plans (WMPs), and Act 258 (SB 897) went further by defining wildfire risk

[136] California Legislature. Senate Bill 254: Energy. 2025—2026 Regular Session. Enacted September 19, 2025. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB254.

mitigation plans in statute and making PUC approval of such plans a prerequisite for an electricity utility that seeks to assert the limitation on aggregate liability. Hawaiian Electric's 2025-2027 strategy[137] and Kauaʻi Island Utility Cooperative's WMP[138] lay out measures such as vegetation management, installation of weather stations and sensors, operational changes during red-flag conditions, and selective undergrounding. However, Hawaiʻi's framework is still in its early stages: enforcement standards remain under development, and mitigation plans are not yet directly tied to a liability cap or a comprehensive funding structure. By contrast, in California, investor-owned utilities must obtain a Safety Certification from the Office of Energy Infrastructure Safety (OEIS) to access the state's $21 billion Wildfire Fund established under AB 1054 and SB 254. The Safety Certification requires an approved WMP and compliance with statutory conditions such as board-level safety oversight, executive compensation structures tied to safety performance, and regular reporting to regulators. This certification serves as both a prerequisite for fund participation and evidence that the utility is meeting the state's mandated safety and governance standards.

Other states are moving in the same direction. Oregon's HB 3940, Utah's SB 224, and Washington's HB 1522/1656 all establish frameworks that require utilities to file and adhere to wildfire mitigation plans as a condition for gaining liability protections or cost recovery. In these models, financial incentives are explicitly tied to compliance with safety obligations, ensuring that utilities cannot access the benefits of liability limits or recovery mechanisms without first demonstrating proactive investment in risk reduction.

Such wildfire mitigation plans require not only clear filing obligations but also a strong process for review and enforcement. Under Hawaiʻi's Act 258 (SB 897), each electric utility must file a wildfire mitigation plan with the PUC, periodically update it, and obtain commission approval to qualify for the statute's liability protections. To assert the prospective liability cap, a utility must demonstrate that its plan is being implemented on the approved timeline and that it is in full compliance with all conditions and reporting requirements.

[137] Hawaiian Electric, "2025—2027 Wildfire Safety Strategy," *Hawaiian Electric*, January 2025. https://www.hawaiianelectric.com/documents/safety_and_outages/wildfire_safety/2025-2027_wildfire_safety_strategy.pdf.

[138] Kauaʻi Island Utility Cooperative. "Wildfire Preparedness and Mitigation." *Kauaʻi Island Utility Cooperative*. October 3, 2025, https://kiuc.coop/wildfire.

For this framework to function effectively, the Hawai‘i PUC will need adequate resources to evaluate plans, technical staff with wildfire and grid-safety expertise, and mechanisms to monitor implementation through audits, progress reports, and site inspections. It may also require additional funding and legislative authority to enforce compliance, as well as structured stakeholder engagement to ensure transparency. Alternatively, the Legislature may wish to consider allocating these resources to a new agency dedicated to monitoring utility infrastructure safety, as California did when it shifted oversight of wildfire mitigation plans from the California Public Utilities Commission to the Office of Energy Infrastructure Safety in 2021. Under either approach, without sufficient review and enforcement resources, the statutory requirement risks becoming procedural rather than substantive.

Fund Design Considerations

Developing a wildfire recovery fund requires balancing several elements, including the overall size of the fund, the way it is capitalized, the mix of contributors, and the timing of contributions. Each of these elements influences the fund’s durability, affordability, and ability to provide meaningful credit support.

Sizing must take into account the ability to provide funds when needed and ensure the protections the fund is intended to deliver, while capitalization methods determine how those resources are raised and deployed. Although all contributions are ultimately collected over time, the approach — whether paid directly or financed upfront — can affect the cost borne by shareholders or other contributors. For utilities in particular, financing contributions may be more expensive if raised after a major event, when a credit overhang increases the cost of capital and strains balance sheet flexibility. The mix of contributions, whether from shareholders, ratepayers, insurers, other defendants, the state, or other stakeholders like taxpayers and landowners, shapes both financial feasibility and perceptions of fairness and perceptions of the regulatory environment in which the utility operates, which in turn influences its cost of capital.

The following section addresses these considerations, with attention to how lessons from other states can inform a framework that fits Hawai‘i’s constraints and market realities.

Fund Sizing

The critical design question is how to size the fund, including considerations for what contributors can afford to provide and future expected losses from events. If the fund is

too small, it risks depletion after a single disaster and may fail to provide the intended customer benefits, such as lower rates because of utility credit support or meaningful recovery. At the same time, it may be impractical to make a large fund dedicated to a single peril when exposure may range from a wide variety of perils.

Moreover, depending on how a fund is ultimately capitalized, a large fund can place too extensive a burden on certain stakeholders, including utility shareholders and ratepayers. Available forecast data for sizing includes actuarial analysis conducted by advisors to the Governor's Climate Advisory Team in 2024,[139] which covers not only wildfire risk but also hurricanes, tropical storms, floods, and earthquakes. That study estimated that Hawai'i faces approximately $1.4 billion in expected annual property losses from these climate-related perils, equating to $14 billion over a ten-year horizon. These losses are projected to increase by roughly 25% over the next 25 years due to continued climate change, underscoring the need for a fund design that can adapt over time.

For context, the Lahaina fire was ultimately settled for $4 billion, but had claims been fully litigated, total liabilities could have been significantly higher, potentially in the range of $12 billion.[140] This comparison illustrates both the scale of potential losses and the multi-peril risk exposures facing Hawai'i. While wildfire exposure is particularly important given its impact on utilities, customer rates, and the need to raise capital to guard against future risk, it also underscores the overwhelming capital need and broader need for a functioning insurance market to protect residents across the state.

Sizing a fund, therefore, is not about fully absorbing the most extreme outcomes, which would be unrealistic for Hawai'i to predict, size for, and finance on its own. Instead, it is about determining the range of losses that contributors can credibly cover through a combination of shareholders, ratepayers, insurers, other defendants, the state, and other stakeholders like taxpayers and landowners, or other sources, without jeopardizing credit quality or affordability.

[139] Hawai'i Climate Advisory Team, "Policy Paper," *Hawai'i Climate Advisory Team*, 2024. https://www.hawaiiclimateadvisoryteam.org/.

[140] Kevin Knodell, "Cost of Lahaina, HI, Wildfires Reaches $12 Billion," *Firehouse,* August 12, 2024. https://www.firehouse.com/operations-training/wildland/news/55132266/cost-of-lahaina-hi-wildfires-reaches-12-billion.

In evaluating fund design, it is also important to consider how such a mechanism interacts with the concept of liability limitations, also under review by the PUC. A fund on its own may provide liquidity and help stabilize customer impacts. However, absent significant risk mitigation, available resources and customer affordability may become a future issue. Conversely, a liability cap without a funding mechanism may limit exposure on paper but leaves open concerns around both moral hazard and how claims are paid in practice and whether recovery is available to victims, via insurance or otherwise. As such, an evaluation of fund size, purpose, and goals may be most appropriately evaluated in conjunction with an evaluation of state priorities, including balancing financially stable utilities, appropriate victim compensation, and appropriate risk sharing.

Rating agencies are expected to look at the totality of risk exposure, liability frameworks, cost recovery, and other protections, such as a fund, when assessing credit exposure. The interaction between these elements — how much loss is funded directly, how exposure is limited, and how prudence reviews are applied — will shape their view of financial stability. To maximize potential credit benefits, evaluating potential fund structures in Hawai‘i will likely require considering the complete framework.

Fund Sizing Lessons from California

With a long history of wildfire exposure and legislative action, the state of California and the various structures it has utilized provide a range of practical insights. California’s AB 1054 (2019) established a $21 billion wildfire fund, sized to address the scale of potential inverse condemnation liabilities facing the state’s three large investor-owned utilities. Importantly, California paired fund sizing with a symmetric capitalization approach — half from ratepayers through a continuation of an expiring non-bypassable charge and half from shareholders. In 2025, concerns about the longevity of the fund contributed to S&P’s downgrade of the utility most heavily impacted by the LA wildfires, and policymakers concluded that the original $21 billion fund risked depletion. In 2025, Senate Bill 254 created an $18 billion continuation account, underscoring that durability may require replenishment mechanisms rather than a one-time capitalization. The continuation fund spreads costs over a longer horizon, with customer contributions extending through 2045, helping to mitigate bill impacts, balance shareholder contributions, and preserve utility credit stability. The state also requested a study be conducted to develop a more lasting and sustainable framework.

Constraints Shaping Fund Sizing: Credit Metrics and Insurance Costs

An important design tool for a wildfire recovery fund is the limitation on utility reimbursement requirements for imprudently caused fires. California's AB 1054 limited this reimbursement requirement to 20% of the transmission and distribution rate base, an important element of ensuring utilities could maintain access to the capital markets. For Hawaiian Electric, a comparable calculation would translate to around $360 million (as of December 2024), significantly less than the roughly $2 billion they agreed to pay to settle the Lahaina wildfire claims. This framework provides a benchmark for how rating agencies might evaluate the sufficiency of fund design and liability cap under Act 258 (SB 897). However, if potential liability exposure is substantially greater than what a fund could protect against under certain instances, such a framework may not be perceived as sufficient, absent pairing with some other protection, including the concept of a liability cap.

Another important consideration is the role of commercial insurance and self-insurance in managing wildfire risk. While insurance can provide a layer of protection, according to representatives of HECO, premiums tend to escalate sharply at higher coverage levels. The first layer of coverage may be relatively affordable, but each additional tranche of protection often comes at a significantly higher cost per unit. This reflects both the limited capacity of reinsurers to take on concentrated wildfire risk and the increasing uncertainty of catastrophic outcomes. As a result, relying exclusively on insurance to cover potential wildfire liabilities is not realistic. Coverage may provide a predictable annual expense, but higher layers are prohibitively expensive, according to HECO. In this context, self-insurance or using a wildfire fund serves as a complementary and useful mechanism. By building reserves over time, a fund can provide a layer of coverage for medium-to-large events. HECO has suggested that, beyond the fund, layering a liability cap may be necessary to support its credit rating and access to capital, an issue that should be evaluated through the PUC's rulemaking process.

Illustrative Utility Securitization Sensitivity Analysis

Utility securitization transactions have been increasingly used to access low-cost capital and address significant one-time costs that could otherwise materially impact affordability. Maintaining a charge below 10% of the customer bill is required for AAA credit ratings to allow for the maximum financial benefit, as well as getting "off credit" treatment from

select rating agencies for HECO's balance sheet. The analysis below[141, 142] assumes an average monthly customer bill of approximately $200, an interest rate of 5.5%, and a term ranging between 5 and 30 years.

Illustrative Utility Securitization Proceeds Sensitivity Analysis

Illustrative Assumptions & Inputs	
Term (Years)	5 to 25 yrs
Interest Rate	5.50%
Residential Customers Allocation	28.5%
Residential Accounts	417,253

Term (Years)	Securitization Proceeds: Avg. Customer Monthly Bill Increase vs Term (Years)							
	0.5%	1.0%	1.5%	2.0%	2.5%	3.0%	3.5%	4.0%
	$1.00	$2.00	$3.00	$3.96	$4.96	$5.96	$6.96	$7.96
5	$140	$300	$440	$600	$740	$900	$,1040	$1,200
10	$240	$520	$780	$1,040	$1,300	$1,580	$1,840	$2,120
12	$280	$580	$900	$1,180	$1,500	$1,800	$2,100	$2,420
15	$320	$680	$1,040	$1,380	$1,740	$2,100	$2,460	$2,800
20	$400	$820	$1,240	$1,640	$2,060	$2,500	$2,920	$3,340
25	$440	$920	$1,380	$1,840	$2,320	$2,800	$3,260	$3,740

($ in millions shown for securitization proceeds)
% and $ increase to monthly avg. bill (~$200)

Fig. 15: An illustrative analysis of the impact on ratepayers' bills over time depending on term length.

Fund Contributors

There are several options to capitalize a potential wildfire recovery fund. As part of the stakeholder feedback process, many interested parties discussed options such as pre-funding the fund or funding it through ongoing replenishment. Contributions to these fund structures can come from a variety of sources, including shareholders, ratepayers, insurers, other defendants, the state, and other stakeholders like taxpayers and landowners. Below is a table that lays out the potential funding options and the prospective risks and benefits:

[141] Sources: Company Filings, CPUC Docket Filings, Rating Agency Reports

[142] U.S. Energy Information Administration (EIA), "2023 Utility Bundled Retail Sales — Total," *U.S. Energy Information Administration*, 2023, https://www.eia.gov/electricity/sales_revenue_price/pdf/table_10.pdf.

	Description	Benefits	Risks
Pre-Funding	• Large upfront pool • Collect a large sum of money to jump-start the fund • Can be accomplished via utility shareholder contribution, third party, or ratepayer securitization • Payment can be made up front or over time with a financing component	Raise capital when potentially more cost-efficient Strong credibility with victims and rating agencies Immediate availability for catastrophic events Avoids political and procedural delays and post-payout May be viewed as providing a safety net to protect the financial integrity of alternative contributors Proceeds may be invested to minimize any carry costs	Large upfront commitment May be framed as a utility "bailout" Restricts capital that can be used for active mitigation May be inefficient use of capital unless used appropriately If used for a specific purpose, it may not be available for recovery
On-going Replenishment	A fund that grows consistently via continuous contributions	May protect against depletion from singular events Smooths contributions Subsequent financing post-event may be too costly	Not fully available until fund accrues enough capital, unless financed Recurring cost pressures on contributors
Event-Triggered Assessments	A fund receives contributions or is replenished after a wildfire event occurs	Avoids locking up capital in anticipation of a potential wildfire Less upfront financial burden Replenishment mechanism may be tied to responsibility for the triggered event	May delay victim payouts May not be credit positive unless state-backed or supported Contributors' ability to pay may be limited Cost of capital may be the highest

Fig. 16: This table summarizes potential funding options for a wildfire recovery fund, with associated benefits and risks of each approach.

While the exhibit illustrates a menu of options, it is important to consider each potential structure as a non-mutually exclusive option. For example, a fund can be pre-funded and also replenished on an ongoing basis or still receive funds on a conditional basis.

Requiring ongoing replenishment creates a more durable fund that can likely withstand several disasters. Stakeholders noted that not including a replenishment mechanism was one of the limitations of funds encountered elsewhere. Proponents mentioned that replenishment reduces the risk of immediate fund depletion after a single event. This is important in the context of Hawai'i because neither the state nor the utility has the financial capacity to commit the significant upfront cash to establish a fund that would be

durable through multiple disasters. Yet, rating agencies have indicated that a utility's ability to withstand an event and still maintain investment-grade status is important to achieving and maintaining such a credit rating (and its associated cost of financing) in the first place. Opponents to replenishment, on the other hand, claim it presents a perpetual drain on the contributors that could go to other, more important mitigation efforts. Furthermore, the inability to understand the size of potential future contributions may strain the financial profile of contributors. Below is a table that lays out a range of potential fund contributors and their prospective benefits and considerations:

	Description	Benefits	Risks
Utility Shareholders	• Equity holders provide upfront or ongoing capital	• Creates shared responsibility • Builds credibility with ratepayers and the public • Avoid rate hikes • Precedents for shareholder contributions exist in other states (i.e., California)	• May deter utility participation and resulting customer benefit • Could spark backlash from utilities • Could reduce future available capital • If too significant could raise cost of equity financing of the state utilities
Utility Ratepayers	• Ratepayers contribute to the fund through surcharges on customer bills, which can be securitized	• Predictable and stable collection mechanism • Credit positive to utility	• Hawai'i already has some of the highest rates • May be perceived as a bailout to utility despite treatment being similar to corporate insurance • Moral hazard
Other Potential Contributors	• Large landowners, telecommunications companies, insurance companies, and/or other parties contribute to the fund	• Broadens the funding base • Reduces burden on public	• No precedent makes it difficult to enforce and legislate • Not independently sufficient to fund the wildfire fund alone • Mitigation plans and other contributors might be harder to regulate and implement
State/Taxpayers	• Government provides seed funding to jump-start the fund • Tax structure could provide ongoing contributions	• Provides immediate capital to the fund without burdening the utility • Credit positive • Cost is spread across the entire tax base • Avoids financing costs	• Competes with other funding/budget initiatives • May be perceived as a bailout and faces opposition to subsidizing utilities • Taxpayer base is essentially the same as ratepayer base
Third-Party Tax	• Taxes on third parties (e.g., tourists to Hawai'i)	• Broadens the funding base beyond residents of Hawai'i • Reduces burden on public	• Could have adverse effects on other sectors of the economy (e.g., slow tourism) • Not independently sufficient to fund the wildfire fund alone

Fig. 17: A table illustrating potential contributors to a wildfire recovery fund, with associated risks and benefits.

The contributors are not mutually exclusive. Larger solutions will likely require the support of shareholders and ratepayers alike, in addition to other parties. In considering contributions from ratepayers, it is important to note that Hawai‘i already has the most expensive electricity in the United States. Citizens and ratepayers are increasingly sensitive to initiatives that will further drive up those costs, even if it means the creation of a fund that could potentially provide them with some benefit. Similarly, the public may be skeptical that initiatives that burden ratepayers are bailouts for utilities that will not improve mitigation efforts and could create moral hazard. Part of the reason for this skepticism is that residents are less focused on the creation of an actual fund and instead, based on stakeholder interviews, care more about overall wildfire risk reduction and mitigation measures.

An alternative that potentially addresses some of these concerns is having the state offer direct loans to utilities in the aftermath of wildfires. This solution would be capitalized directly by state funds like the Emergency Budget Reserve Fund (EBRF) and could resolve concerns about utility liquidity and payout capacity following catastrophes. This solution, while potentially improving victim recoveries, would likely not improve credit quality and could have adverse effects on Hawai‘i’s access to the capital markets.

Impact of a Fund on Utility Credit Ratings

Wildfire funds have the potential to be credit positive given their capacity to alleviate immediate liability pressures from catastrophic wildfires. The total package of a fund structure, including whether it has a liability cap and a replenishment mechanism, determines the extent to which a fund impacts credit ratings.

Credit ratings directly affect the cost of borrowing for utilities, which in turn impacts customers’ bills. A higher credit rating allows a utility to issue debt at lower interest rates. Since utilities are highly capital-intensive and finance most infrastructure and wildfire-mitigation investments, lower capital costs reduce the overall cost of providing service. These savings ultimately flow through to customers in the form of lower electric rates. Conversely, if a utility’s credit rating is downgraded, its financing costs rise. Higher interest expenses are then passed along to ratepayers through regulatory recovery mechanisms, resulting in higher monthly bills.

California offers an example of how funds and prudency standards help stabilize and improve credit ratings in the aftermath of a catastrophic event. For example, after having suspected exposure to the devastating Eaton Fire, Southern California Edison avoided an immediate downgrade because California's $21 billion wildfire fund reassured rating agencies that future wildfire costs could be covered, unlike after the 2017 wildfires.

Moody's has publicly emphasized that liability reform is central to preserving credit quality for utilities in wildfire-prone states. The agency points to three factors as particularly important:

- **Regulating damage compensation**: As Moody's has stated, "No utility or wildfire compensation fund can realistically hold sufficient resources to cover all liabilities. It is especially important to control compensation for non-economic damages… If outsized non-economic damage awards become common in wildfire litigation, they could severely
  limit or even eliminate the capital market access of a large segment of the regulated utility industry."[143]

- **Wildfire fund as a stabilizing mechanism**: As Moody's has stated, "A [wildfire] fund can help reassure investors that a utility has the liquidity and financial backing should it have to pay a large amount of damages… [and] incentiviz[e] parties to use the terms of the fund to settle and allocate compensation in an expedited manner rather than litigate through a lengthy court process."[144]

- **Transparent mitigation standards**: Moody's has shared, "When a state establishes definitive fire prevention and response guidelines or certification programs, it is strongly credit positive… The most legally effective strategy involves crafting standards that align with the state's legal framework, creating a rebuttable presumption of reasonableness or prudence in a legal setting."[145]

In their recent reports on Hawaiian Electric, S&P and Moody's highlighted the liability cap as a potential credit positive and noted that:

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[143] Moody's Investors Service, "Liability Reform Will Be Key to Regulated Electric Utilities in Wildfire-Prone States," *Moody's Investors Service,* 2024. October 3, 2025, https://events.moodys.com/2024-miu22138-investor-breakfast-briefing/liability-reform-will-be-key-to-support-credit-quality-of-utilities-in-wildfire-prone-states.

[144] Moody's Investors Service, "Liability Reform Will Be Key to Regulated Electric Utilities in Wildfire-Prone States."

[145] Moody's Investors Service, "Liability Reform Will Be Key to Regulated Electric Utilities in Wildfire-Prone States."

- **Moody's:** "We could take ***positive rating action*** if the [Hawai'i] court finalizes the [wildfire] settlement — anticipated in early 2026 — and ***once HECO is granted a liability cap*** in accordance with SB 897. Other wildfire risk mitigating measures, including the creation of a disaster fund offering substantial financial protection, could also support future upgrades."[146]

- **S&P:** "We believe ***passage of SB 897 supports credit quality for HEI*** and its subsidiaries. The legislation directs Hawai'i's Public Utilities Commission (HPUC) to ***establish liability caps on economic damages*** arising from future wildfires. We view this as ***potentially reducing wildfire liability risk*** exposure for Hawai'i's utilities. SB 897 also authorizes securitization to finance wildfire safety investments, which we also view as supporting credit quality. In general, we view securitization as favorable because we assess such financing as off the balance sheet, improving financial measures."[147]

These selected quotes demonstrate how closely rating agencies are looking at the regulatory environment surrounding Hawaiian Electric. Part of the reason there is so much emphasis on a liability cap is because credit rating agencies are concerned about the impacts of another catastrophic natural disaster.[148]

Rating agencies have consistently signaled that wildfire funds provide meaningful credit support for utilities because they can limit the potential exposure arising from a catastrophic event, even if the utility was imprudent. Despite that, however, the rating agencies emphasize that the details — particularly size and replenishment — are also important. In California, the combination of SB 901 (2018), AB 1054 (2019), and most recently SB 254 (2025) reassured markets that utilities could withstand catastrophic wildfire costs without losing investment-grade status. Moody's viewed the $18 billion continuation fund enacted in response to the Eaton Fire as a sufficient reinforcement:

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[146] Hawaiian Electric. "Financial Metrics & Scorecards," *Hawaiian Electric*, October 3, 2025, https://www.hawaiianelectric.com/about-us/performance-scorecards-and-metrics/financial.

[147] Hawaiian Electric. "Financial Metrics & Scorecards," *Hawaiian Electric*, October 3, 2025, https://www.hawaiianelectric.com/about-us/performance-scorecards-and-metrics/financial.

[148] U.S. Fire Administration. "Preliminary After-Action Report: 2023 Maui Wildfire." *USFA (FEMA)*, February 8, 2024. https://www.usfa.fema.gov/blog/preliminary-after-action-report-2023-maui-wildfire/.

> "California has enacted several major legislative measures — SB 901 in 2018, AB 1054 in 2019, and, most recently, SB 254 in 2025. These actions established a wildfire fund… and imposed a cap on disallowance liability… In response, in September 2025, California acted to reinforce the fund with an additional $18 billion capital commitment… In our view, the additional $18 billion should be sufficient to offset potential fund usage stemming from the Eaton Fire, and we subsequently affirmed the ratings of Edison and SCE."[149]

S&P, however, took a different view, underscoring that the smaller fund weakened the financial cushion and left a California utility's credit quality exposed:

> "We assess the new fund as about 50% smaller on a net present value basis compared with the prior roughly $21 billion wildfire fund … weakening Edison's credit quality. Based on the devastating wildfire damages from the Camp and the Eaton fires, we estimate Edison requires a consistent approximate $20 billion wildfire fund to maintain credit quality… As such, as we determine that the wildfire fund's size is decreasing, Edison's credit quality weakens. A wildfire fund serves as a critical financial cushion when a utility is facing a catastrophic wildfire event… we believe a robust wildfire fund is critical for Edison's credit quality."[150]

While both agencies agree that wildfire funds are critical, they have not always agreed on adequacy. Moody's did not downgrade the California utility following the establishment of the continuation fund, while S&P did. Taken together, these perspectives highlight both the importance and the complexity of wildfire funds: they are essential for protecting credit, but their stabilizing power depends on maintaining a durable, adequately sized backstop that markets view as credible in the face of catastrophic events.

Summary

As presented in this analysis, the evaluation of a wildfire recovery fund is complex and interdependent on a variety of factors, including policy-driven elements and the determination of an appropriate liability cap, if any. To achieve the legislature's objectives of efficient compensation and fund development, several areas should be further defined,

[149] Edison International. "Debt & Preferred Information." *Edison International,* October 3, 2025, https://www.edison.com/investors/financial-reports-information/debt-preferred-information.

[150] S&P Global Ratings. "Edison International and Subsidiary Downgraded To …" *S&P Global Ratings*, October 3, 2025, https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3442545.

including:

- **Liability Cap**: Determination of a liability cap framework, potentially in conjunction with the development of a fund if seeking to also address potential compensation to victims. In order to balance potential liability cap benefits with victim recovery, the legislature should evaluate appropriate insurance requirements for individuals and any larger liabilities that need to be protected against by the state or through a wildfire fund-type construct.

- **Perils of Focus**: While wildfires are unique in that liability may be attributed to select defendants in certain instances, they are similar to other perils that may result in significant damages for large numbers of individuals. Distinguishing access to the fund for different types of perils should be evaluated and determined as a matter of policy. Nevertheless, actuarial analysis indicates that the potential losses associated with incorporating multiple perils should be carefully considered.

- **Fund Participants**: A key feature of a fund will be determining which parties can participate (i.e., utility-only or other potential defendants) and contribute. A recovery fund that has multiple participants and contributors results in added complexity and requires oversight. Policy determinations of which participants to include in a fund should be made to ensure oversight (such as the PUC's wildfire mitigation plans) is clearly defined, with capable entities assigned to oversee a fund’s participants.

- **Credit Benefits**: A well-structured recovery fund, especially when paired with a liability cap, can stabilize utility credit ratings by reducing exposure to catastrophic volatility and providing clarity on cost recovery. Stronger credit quality lowers the cost of capital, which in turn reduces long-term costs for customers. At the same time, policymakers should weigh near-term contributions to the fund against these longer-term credit and customer affordability benefits.

Given the numerous aspects of a fund that must be addressed — underlying insurance coverage, fund sizing, fund contributors, determination of participants, replenishment, and coverage, among others — several key takeaways from this section should inform the legislature's consideration of wildfire funds:

- The expected future loss from wildfires and other perils is very significant, and a recovery fund should not be expected to cover all future losses. As a result, the legislature should consider whether restricting a recovery fund to a single peril, such as wildfire, is appropriate as opposed to coverage of multiple climate-related catastrophes.

- Wildfire funds can represent a form of efficient compensation for victims of a wildfire, as they provide access to compensation on an accelerated basis.

- The widespread risk of wildfire and other climate-related disasters, among other factors, has had a negative impact on the insurance market in Hawai‘i. This has impacted both corporations, such as utilities, and individuals in obtaining sufficient disaster coverage. Despite the current insurance landscape, the legislature should consider insurance requirements for utilities and individuals as part of an overall wildfire fund structure to maximize coverage and reduce moral hazard, based on market availability.

- A key feature of a fund will be determining which parties can participate and contribute. A recovery fund that has multiple participants and contributors results in added complexity.

- Legislators should evaluate the impact on ratepayers of establishing a fund given the current level of electricity rates in Hawai‘i. Precedent funds in other states have shown that ratepayer contributions can serve as the basis for establishing a fund solution.

- A recovery fund should be developed in parallel with the determination of any limitation of liability as a result of the interplay that exists between the two concepts. To the extent a fund exists, the limitation of liability will determine to what extent the fund is utilized to pay claims and, to the extent claims exceed the fund size, will govern overall claims distribution. Furthermore, the ultimate fund size may be linked to the overall limitation of liability that may be established.

- Rating agencies will evaluate the complete picture of insurance coverage, fund size, and limitation of liability, if any, in determining the credit support that a state-level framework provides to utilities.

6. Fund Administration

This section explores potential approaches to administering a wildfire recovery fund. Determining the right administrative scheme will depend on a range of considerations, including the structure and capitalization of any fund, the regulatory capacity of relevant state agencies, and state law. While some limited insights can be drawn from the small handful of out-of-state funds that have been established to date, ultimately, a Hawai'i-specific administrative solution will be required.

Structure and Funding Sources

The optimal approach to administering a wildfire recovery fund is closely tied to the fund's structure and funding. Any fund receiving taxpayer or ratepayer dollars would likely require at least some level of regulatory oversight. However, the shape and degree of regulatory involvement will depend heavily on the fund's structure and sources of funding.

Structure

Administration of the fund should take into account various aspects of its structure, including who the fund is designed to serve, who sets and applies eligibility and disbursement rules, and what decision-making authority resides with the fund, regulators, contributors, or beneficiaries.

A fund paying direct compensation to wildfire victims generally benefits from an independent structure to enhance neutrality and credibility, especially where the state or a utility could be a party to related litigation. A reimbursement fund for utilities or other entities, by contrast, may benefit by embedding defined regulatory checkpoints, such as for evaluating safety certification or prudence findings.

Clarity on who interprets eligibility, adjudicates claims, and approves disbursements is central. Where the fund serves victims, independent decision-making reduces actual and perceived conflicts. Where the fund reimburses utilities, defined regulatory standards, such as mitigation plan compliance, can be eligibility prerequisites. This type of regulatory oversight can also reinforce public confidence by providing a measure of transparency and accountability.

Regardless of the fund's purpose or structure, independent administration may be necessary to manage the burden of reviewing, processing, and adjudicating claims, all of which could overwhelm existing regulatory resources.

Funding Sources

Funding sources should also inform the administrative structure and the degree of necessary oversight. A fund capitalized solely by utility shareholders may require comparatively less regulatory involvement. While any state-mandated fund will require meaningful oversight, a shareholder-financed fund could rely to a greater extent on the utility itself, or an independent administrator chosen by the utility, for the fund's administration, subject to transparency and audit provisions. In contrast, a fund supported by ratepayer or taxpayer contributions will likely require greater regulatory participation in the fund's administration to protect the public interest or comport with any fiduciary obligations the state may have.

Given that the fund may not be entirely capitalized via a single funding source, the degree of independence and oversight can be modulated based on the scale of public contributions. If, on the one hand, ratepayer surcharges or taxpayer subsidies are minimal in comparison with contributions from utility shareholders, modest reporting and auditing requirements may be sufficient. If, on the other hand, the fund is capitalized by a substantial amount of ratepayer or taxpayer dollars, then more active regulatory review and approval of disbursement and eligibility decisions may be appropriate.

Possible Administrative Approaches

Although there is a limited number of prior wildfire recovery funds from which to learn, their administrative schemes provide some helpful insights into possible approaches for any new wildfire recovery fund in Hawai'i.

Independent Trust or Non-Profit Entity

The state could establish a standalone trust or charity, led by an independent trustee or board, with a neutral claims administrator. The state may reserve for itself the power to appoint the leadership of this trust or charity, but the state would not participate in claim decisions.

This approach was taken by the State of Hawai‘i after the Maui wildfires disaster in 2023. The state (along with several private contributors, including Hawaiian Electric) created the One ‘Ohana Fund, which is designed to compensate the families of those killed and those who were seriously injured in the Maui wildfires. The fund makes payments directly to eligible victims, who must agree to release their claims against the fund’s contributors to receive compensation.[151]

The One ‘Ohana Fund is administered by a private trust entity created by the state. That trust is led by a neutral and independent trustee and claims administrator, both of whom were appointed by the Governor. While the Governor retains this appointment power under the fund’s governing documents, neither the state nor the fund’s other contributors are involved in the claims administration process.

Claimant Release Mechanism

To ensure finality of claims and reduce litigation risk, the fund could incorporate a release mechanism similar to other state compensation programs. Under this approach, a claimant who accepts an offer of settlement would release all claims against fund contributors, including the utility, while retaining the right to pursue non-contributor third parties. As an alternative, the framework could allow partial settlements in which a claimant resolves only property damage claims but retains the ability to pursue personal injury or wrongful death actions. Incorporating a release as a condition of payment would provide certainty to contributors, streamline fund administration, and promote efficient resolution of claims.

Quasi-Independent Public Corporation

Similarly, the state could create a special-purpose public entity with its own governing board and staff. Such an entity would operate under a narrow statutory mandate with defined regulatory interfaces and reporting requirements.

California took this approach after deadly wildfire seasons in 2017 and 2018, establishing the California Wildfire Fund.[152] This first-of-its-kind wildfire fund is designed to reimburse electric utilities for payments made in connection with eligible wildfire-related liabilities.[153]

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[151] The One ‘Ohana Fund. “Protocol.” *Maui Compensation Fund*, October 3, 2025, https://www.mauicompensationfund.com.

[152] California Legislature, “Assembly Bill 1054: Electrical Corporations: Wildfire Mitigation Plans and Safety Culture,” *California Legislature*, 2019, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1054.

[153] California recently established mechanisms for recapitalizing the fund through additional ratepayer and shareholder contributions after a series of wildfires had depleted the fund’s available capital. California Legislature. Senate Bill 254:

The California Wildfire Fund is administered by the California Earthquake Authority (CEA), which is a publicly managed, privately funded not-for-profit corporation. As administrator, the CEA manages fund assets, determines eligibility, processes claims, and disburses approved payments. The CEA is financially independent and operates outside of California's state budget. However, its governing board includes the governor, state treasurer, and other elected officials.

Additional oversight is then provided by the California Public Utilities Commission (CPUC). The CPUC is responsible for issuing annual safety certifications to utilities, ensuring utility compliance with wildfire mitigation plans, and determining whether a utility acted prudently in connection with a wildfire event — all of which are necessary for a utility to be eligible to receive reimbursements from the fund.

Third-Party Administrator

The state or a private entity (such as a utility) could retain a third-party administrator to manage claim intake, processing, review, and payment under a set of published protocols subject to audits and/or appeals.

Earlier this year, Southern California Edison (SCE) adopted this approach when it launched its own Wildfire Recovery Compensation Program.[154] Similar to the One 'Ohana Fund, this program establishes a fund intended to compensate wildfire victims in exchange for a release of claims. The SCE Wildfire Recovery Compensation Program is a private fund, administered with no direct regulatory involvement. However, SCE intends to seek reimbursement from the California Wildfire Fund for its contributions to this program, which would indirectly subject the program to CEA and CPUC oversight. Participation in SCE's Wildfire Recovery Compensation Program by claimants is voluntary.

Ministerial Fiscal Agent

The state could designate a public official to serve a treasurer-like function with additional oversight provided by another agency or department. The treasurer-like official would be

Energy. 2025—2026 Regular Session. Enacted September 19, 2025, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB254.

[154] Edison International. "Wildfire Recovery Compensation Program Launching Soon," *Energized by Edison International*. October 3, 2025, https://energized.edison.com/wildfire-recovery-compensation-program-launching-soon.

responsible for managing assets and disbursing payments upon certified requests from the utility or other beneficiary, while another regulator provides substantive oversight.

In 2024, Utah followed this approach in the creation of "Utah Fire Funds."[155] Under this legislation, utilities can elect to establish a Utah Fire Fund, which may be used to reimburse payments made in connection with eligible wildfire-related liabilities. These funds are capitalized through a combination of ratepayer and shareholder contributions.

The Utah Fire Funds are administered by Utah's state treasurer, with supplemental oversight from the Utah Public Service Commission (PSC). The treasurer's role is largely ministerial, with limited day-to-day oversight. The legislation instructs the treasurer simply to disburse the requested funds at a utility's direction. However, the PSC must review and approve any ratepayer surcharges used to capitalize the fund, and it retains the authority to review reimbursements after they are made and order the rescission of any improper disbursements.

Hawai‘i-Specific Considerations

Throughout the PUC's evaluation of a wildfire recovery fund, stakeholders with various expertise were interviewed for their perspectives on the administration and governance of a potential fund. This stakeholder feedback should be considered by the Legislature when crafting a Hawai‘i-specific administrative design for any wildfire recovery fund.

Interviewed stakeholders repeatedly expressed a desire for a fund that is transparent, expedient, and independent. Significantly, many participants from diverse viewpoints believed that these values would be best achieved through a fund administered by a quasi-independent entity. For these individuals, such an entity is necessary to ensure that the fund would be fair, impartial, and free from political influence. Many of these stakeholders also hoped that a quasi-independent fund could be led by a board of community experts from a variety of subject areas, including wildfire prevention, auditing, utility regulation, and claims administration.

Stakeholders also expressed a desire for oversight. Some suggested a need for regular audits and reporting requirements, while others were focused on utility safety and mitigation efforts. However, there was no consensus on the entity in which this oversight

[155] Utah Senate, "Senate Bill 224," *Utah Legislature, 2024*. October 3, 2025, https://legiscan.com/UT/text/SB0224/id/2956219.

should be concentrated. While the PUC and DCCA were discussed as possible entities that could oversee a wildfire recovery fund, multiple stakeholders, including representatives of DCCA, expressed concern that these agencies lacked sufficient resources for the level of oversight desired. For this reason, one interviewee suggested that multi-agency oversight may be required. Regardless of which agencies are tasked with this oversight, government stakeholders made clear that additional funding and resources would be needed. The availability and sources of such funding will need to be considered when determining oversight responsibilities in connection with any wildfire recovery fund. More detail regarding the feedback received during the stakeholder engagement process is found in Section 4 of this report.

Summary

The appropriate administrative framework for a wildfire recovery fund in Hawai‘i will depend heavily on the fund’s intended beneficiaries and contributors, as well as any sources of public funding. Prior wildfire funds in California and Utah provide some valuable insights but may reflect state-specific conditions. Similarly, while Hawai‘i’s own One ‘Ohana Fund is a useful guide, it may be of limited relevance for any wildfire fund not designed for direct compensation to victims. As a result, the fund’s administrative scheme needs to be tailored to the fund’s ultimate purpose and design, with careful attention to available agency capacity and stakeholder concerns.

7. Conclusion

Act 258 (SB 897) instructed the PUC to review, examine, and consider the seven key issues in relation to the potential establishment of a wildfire recovery fund. In summary, the PUC finds the following:

(1) How a fund would impact utility credit ratings and costs to customers, including comparing how funds in other states have performed:
The PUC finds that the establishment of a well-designed wildfire recovery fund would likely be credit positive for utilities. Providing investors with greater certainty that catastrophic wildfire liabilities can be managed may help maintain or improve a utility's access to capital at reasonable interest rates. With access to capital at reasonable interest rates, utilities are better able to finance investments. Improved access to capital also benefits utility customers in the form of more stable rates. However, these benefits are highly dependent on a fund's structure and approach and should take into consideration the shared responsibility of a utility. Creating a credit-positive environment is most appropriate and beneficial when investor-owned utilities are required to meet certain conditions to participate in the fund. California's approach required a Wildfire Safety Certification under AB 1054, in which an electrical corporation must meet various statutory requirements designed to strengthen safety culture, reduce wildfire risk, and ensure ongoing regulatory oversight to qualify for funds. The establishment, replenishment, and participation requirements of California's wildfire recovery fund have been viewed as important factors by rating agencies and have helped at least one utility avoid immediate material credit downgrading after a major wildfire event.

(2) Whether the establishment of a fund is recommended:
The PUC finds that no fund is warranted until outstanding and interrelated issues are resolved, the outcomes of which would determine whether or not a fund would meet the needs of the electric utility, ratepayers, other interested parties, and future wildfire victims. These interrelated outstanding issues include the recommended completion of an actuarial study to accurately determine an adequate size for a wildfire recovery fund, determination of a liability cap, and potential legal and regulatory implications of having multiple contributors to a fund, among other matters. While the establishment of a fund is not warranted at this time without resolution to these questions, the PUC asserts that a wildfire recovery fund of some nature is warranted in the future.

(3) If a fund is recommended, a determination of the size of the wildfire recovery fund, which may include commissioning of an actuarial study:

The PUC finds that an actuarial study should be conducted to determine an appropriate size for a wildfire recovery fund. A previous actuarial analysis completed in 2024 estimated that Hawai'i faces $1.4 billion in expected annual property losses, or $14 billion over a ten-year period, with losses projected to increase roughly 25% over the next 25 years due to climate change.[156] However, this prior analysis was not specific to wildfire risk; it modeled aggregated losses from multiple perils, including hurricanes, tropical storms, floods, and earthquakes, in addition to wildfires. As a result, that study does not provide the level of detail or hazard-specific modeling necessary to adequately inform the design or capitalization needs of a dedicated wildfire recovery fund. A future actuarial study should assess wildfire risk independently, as well as evaluate the financial feasibility of establishing a fund, including the ability of potential contributors to afford to participate.

(4) If a fund is recommended, a determination of the best approach to capitalizing the fund and whether moneys used to capitalize the fund should come from ratepayers or shareholders, or both;

The PUC finds that multiple approaches to capitalizing a wildfire recovery fund exist, and each approach carries associated benefits, risks, and variables with it. Contributions could potentially come from utility shareholders, ratepayers, the state, taxpayers, insurers, large landowners, telecommunications companies, or other third parties. Other funding sources could include scraping interest from the state's Emergency Budget Reserve Fund, leveraging taxes on visitors to Hawai'i, or directing revenues from existing taxes to a wildfire recovery fund. These capitalization sources are not mutually exclusive. Possible methods to capitalize a fund could include pre-funding a fund, replenishing a fund over time, and/or event-based triggered assessments. Lawmakers should consider and prioritize financial durability, customer affordability, impacts on utility cost of capital, legality, and public trust in any future legislation designed to establish a wildfire recovery fund.

(5) If a fund is recommended, a determination of the proper governance of the public corporation that would oversee the wildfire recovery fund;

The PUC finds there are multiple governance structures for a wildfire recovery fund, each with precedent in other states. Options include an independent trust or nonprofit led by a neutral administrator, a quasi-independent public corporation with its own governing

[156] Hawai'i Climate Advisory Team, "Policy Paper," *Hawai'i Climate Advisory Team*, 2024. https://www.hawaiiclimateadvisoryteam.org/.

board, a third-party administrator retained by the state or utilities, or a ministerial fiscal agent with limited duties and supplemental oversight. In conducting this study, the PUC finds that transparency, expediency, and independence are highly prioritized by stakeholders. These values suggest that a quasi-independent entity led by a diverse board of experts, which is subject to regular audits and multi-agency oversight, may best meet the state's needs.

(6) If a fund is recommended, a consideration of the benefits of an administrative process to provide efficient and low-cost recovery for claimants and the proper mechanism for providing such an administrative process; and

The PUC finds that an administrative process provides significant benefits over traditional litigation by enabling more efficient, lower-cost recovery for claimants and reducing the proportion of funds that would otherwise go to legal and administrative expenses. Proper mechanisms for providing such an administrative process may include management by a quasi-independent entity, a trust, or a third-party administrator. The PUC further finds that clear rules for the administrative process would help streamline the claims process and should address the topic of subrogation.

(7) A consideration of who can participate in the fund and if parties other than an electric utility should be considered for participation.

The PUC finds that participation in a wildfire recovery fund could include parties other than an electric utility, such as insurers, large landowners, telecommunications companies, the state, and/or ratepayers. The participation of more parties broadens the funding base available and reduces the burden on any single contributor. However, the scope of participation directly impacts the fund's design through statute, governance, and oversight needs. If ratepayers or taxpayers are to participate in a fund, there must be strong oversight to protect the public interest. The PUC notes there is currently no precedent from other states or jurisdictions where a utility wildfire recovery fund has been capitalized by multiple categories of contributors beyond utilities and ratepayers.

8. Next Steps for Legislative Consideration

Looking ahead, two aspects merit further legislative consideration to inform any future policy decisions related to the establishment of a potential wildfire recovery fund:

- The completion of the PUC's administrative rulemaking process on potential liability caps for electric utilities as stipulated by Act 258;
- The commissioning of an actuarial study to determine an appropriate size and structure for a wildfire recovery fund.

Act 258 directs the PUC to "initiate a proceeding for the adoption of rules pursuant to chapter 91 to establish the maximum amount each electric utility may pay to resolve claims arising from any covered catastrophic wildfires," and gives the PUC "sole discretion to establish the maximum payable amounts and applicable periods of time."[157] This proceeding is currently underway. The PUC held an initial internal meeting to begin scoping the rules in September 2025 and anticipates beginning the rules drafting process in January 2026. The PUC expects the rulemaking process to take between 18 and 24 months, and it will include a stakeholder and public comment period, as well as a public hearing. The determination of a liability cap is a critical input for informing the necessity and potential design of a wildfire recovery fund because it defines the extent of financial exposure utilities may face from wildfire-related damages, which in turn influences how much additional risk may need to be financed through a dedicated fund to ensure victims have access to equitable compensation and utility solvency is buoyed.

In addition to assessing the result of the liability cap rulemaking process, the legislature should consider commissioning a dedicated actuarial analysis to evaluate wildfire risk exposure in Hawai'i and the funding requirements for a wildfire recovery fund. This study should quantify various loss scenarios, identify geographic locations of greatest risk, evaluate potential funding mechanisms, assess the insurance market landscape, and test the financial feasibility and durability of different fund structures. An actuarial analysis would be best conducted by an external consultant to the state, which would require legislative authorization and appropriation. In general, a study of this level may require several months to complete from procurement to delivery of results.

[157] Act 258, Relating to Energy, Haw. Sess. Laws 2025 (S.B. 897, S.D. 3, H.D. 2, C.D. 1), https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=897&year=2025.

9. Appendices

Appendix A: Payment Fund Proposal Structures

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
History of wildfires and utilization of the respective wildfire funds	■ California has faced catastrophic wildfires, including Tubbs (2017), Thomas (2017), Camp (2018), Dixie (2021), and Eaton & Palisades (2025)	■ Notable fires include Seeley (2012), Brian Head (2017), Dollar Ridge (2018), and the 2020 Fire Season ■ Utah has created a wildfire fund	■ August 2023 Lahaina Fire prompted SB 897 (Act 258 SD3 HD2 CD1, 2025), which mandates PUC rulemaking to establish liability caps, authorize securitization, and study the creation of a wildfire recovery fund	■ Major fires include Tillamook Burn, Biscuit, Long Draw, Eagle Creek, Labor Day Fires (2020), and Bootleg (2021). Over 1.2M acres burned in 2020. HB 3940 supports mitigation but has not been used for reimbursement.	■ Major fires include Yacolt Burn (1902), Tripod Complex (2006), Carlton (2014), Okanogan (2015), 2020 Labor Day Fires, Gray and Oregon Fires (2023) ■ No wildfire fund or liability cap enacted	■ PacifiCorp serves 2.1M customers across 6 states. The 2020 Oregon Labor Day fires triggered massive liabilities and $85M+ in jury awards, motivating the design of a multi-state liability fund.
Population	■ ~ 40 million	■ ~ 3.6 million	■ ~ 1.46 million	■ ~ 4.29 million	■ ~ 7.9 million	■ ~ 2.1 million customers across OR, CA, UT, WA, ID, WY
Language of the enacted wildfire fund legislation from the respective state(s)/jurisdiction(s)	■ SB 901 (2018) and AB 1054 (2019); includes liability caps, wildfire mitigation plans, and fund access conditioned on safety certification ■ SB 254 (2025) continues the Wildfire Fund framework and creates a new "Continuation Account" for future fires, paired with a 10-year extension of the customer charge ■ SCE's Recovery Program is a voluntary, one-year, event-specific fund created after the Eaton Fire to provide expedited direct payments to affected homeowners, renters, businesses, and injury/fatality claimants	■ SB 224 (2024) establishes the Utah Fire Fund, sets liability and surcharge caps, and outlines PSC oversight and utility eligibility	■ SB 897 (2025): Enacted to design a wildfire recovery framework, including liability caps, securitization authority, and a fund study with PUC oversight	■ HB 3940 (2025) enacted; HB 3917 (proposed but not enacted); no dedicated wildfire liability or reimbursement fund for utilities in place ■ SB 926 (2025, not enacted): would have prohibited utilities from recovering certain wildfire-related costs (judgments, settlements, litigation expenses, repairs) from ratepayers if the utility was found negligent. It also would have created a wildfire safety certification regime, but certification would not have eliminated liability	■ HB 1522 (2025) mandates WMP filings; HB 1539 forms an insurance/fire resilience work group; HB 1656 and SB 5430 failed; no fund or liability cap	■ Proposed fund structure submitted in WY as part of 2024 general rate case: not legislation but regulatory filing

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
Fund capitalization amount (current and target)	■ $12.9B (prior to Palisades and Eaton fires); $13.5B (current capitalization); $21B (target); No automatic replenishment mechanism in AB 1054 ■ SB 254 adds an estimated ~$18B "Continuation Account" capacity for fires ignited on/after SB 254's effective date ■ Total: ~$39B	■ Target cap: 50% of utilities Utah revenue requirement; No set dollar amount, but collections capped at $1B or 10 years	■ SB 897 Fund: Targeted working group proposals of up to $1B in securitized ratepayer-backed bonds and $500M in shareholder-funded administration	■ No utility wildfire fund enacted; HB 3917 proposed up to $800M Catastrophic Wildfire Fund but was not passed; HB 3940 generates ~$50M+/year for prevention ■ SB 926: no fund capitalization mechanism (focused on liability and cost recovery rules)	■ No wildfire fund created; no capitalization framework exists; HB 1656 proposed securitization but failed	■ $3 billion target over 10 years; $600M (20%) PacifiCorp contribution, $2.4B (80%) ratepayer-funded across 6 states
Funding (initial payments; supplemental payments; failure to make payments)	■ AB 1054: $10.5B from ratepayers (via loan repaid through a surcharge), $10.5B from IOUs; failure to contribute by utilities leads to exclusion from the fund ■ SB254: $9B from ratepayers (via loan repaid through a surcharge), $9B from IOUs; failure to contribute by utilities leads to exclusion from the fund	■ Fire surcharge (ratepayer-funded), capped at 4.95% of current rates or $3.70/month; Utilities must pay $10M/year deductible before accessing fund; no shareholder funding	■ Securitization via non-bypassable charges (~$4/month/customer) for all HECO rate payers; supplemental shareholder/admin contributions; prudency-reviewed by PUC	■ HB 3940: nicotine tax ($0.65/pack), beverage surcharge ($0.05), reallocated Rainy Day Fund interest, forest harvest tax reforms; no utility contributions ■ SB 926: no dedicated funding; would have restricted cost recovery pathways	■ No wildfire surcharge, fund, or insurance requirement for utilities; HB 1522 allows rate recovery for mitigation investments, but not pre-approved	■ Ratepayer surcharge across six states; capped in some states (e.g., UT: 4.95% of bill or $3.70/month); PacifiCorp assumes 5% per-event deductible; contributions stop once target met
Who may participate and benefit from the fund	■ Participating IOUs (PG&E, SCE, SDG&E) and their ratepayers	■ Only large-scale utilities (>200,000 customers); only economic damages to third-party claimants in Utah; excludes government and utility infrastructure	■ SB 897: Public utilities with approved WMPs may participate. Those utilities and potentially their rate payers are the beneficiaries (assuming credit rating improvements)	■ State agencies, homeowners, fire districts, and forestland owners benefit from HB 3940; HB 3917 (not enacted) would have allowed utility-caused fire claimants to access funds ■ SB 926 (not enacted): designed to protect ratepayers by limiting recovery of wildfire costs from customer bills	■ HB 1522 applies to all investor-owned electric utilities; HB 1539 targets property owners and insurers via a work group	■ PacifiCorp only (Pacific Power and Rocky Mountain Power); benefits and costs shared across a six-state footprint

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
Fund contributors and contribution amounts in $ and %	■ $19.5B IOU: PG&E 64.2%, SCE 31.5%, SDG&E 4.3%; $19.5B ratepayer via surcharge	■ Ratepayer-funded via surcharge (up to $1B); utility must pay $10M deductible annually before using fund; no equity contributions	■ SB 897: Modeled around $1B ratepayer-backed securitization and $500M in shareholder administration (no finalized allocations yet)	■ HB 3940: funded by taxes and surcharges ■ HB 3917 (if enacted) would have shared costs 50/50 between utilities and ratepayers over 10 years ■ SB 926: no fund; liability framework legislation only	■ No contributors or fund structure enacted; HB 1656 proposed securitization via ratepayer-backed bonds but failed	■ $600M from PacifiCorp, $2.4B from customers across states (80/20 split)
Scope of the fund	■ Covers third-party wildfire claims post-July 12, 2019; applies only to PG&E, SCE, SDG&E ■ Continuation Account: eligible claims from fires ignited on/after SB 254's effective date (September 2025) ■ SCE's Recovery Program: One-year, event-specific program for the Eaton Fire; designed to speed recovery and provide direct compensation to homeowners, renters, businesses, and injury/fatality claimants	■ Covers third-party economic damages caused by utility operations within Utah; excludes non-utility-related fires and out-of-state fires	■ Fund covers economic property damage from covered catastrophic wildfires (defined as events destroying 500 or more structures); excludes claims for injuries and emotional harm	■ HB 3940: funding wildfire prevention/resilience (not claims) ■ HB 3917 (not passed) would have covered property damage from utility-caused wildfires ■ SB 926: no fund; liability framework legislation only	■ No scope defined due to lack of wildfire fund; utilities remain fully liable for wildfire-related losses	■ Designed to cover catastrophic wildfire liabilities after exhaustion of insurance/self-insurance
Administrative claims process	■ Administered by CEA; claims reviewed by CPUC for prudence; IOU must apply within 6 months of paying or committing to pay ■ SB 254 maintains administration and creates a separate Continuation Account administered by the same "administrator" ■ SCE's Program: Voluntary and streamlined, with two tracks: Fast Pay (offer within 90 days, limited documentation) and Detailed Review (offer within 9 months, extensive documentation). No application or legal fees; settlement requires a signed and notarized release	■ Utilities file claims after paying settlements or judgments; PSC reviews for prudence; utilities report annually on fund activity and performance	■ PUC-directed administrative rulemaking to define claims process and oversight; structure to be finalized by working group	■ HB 3940: funds administered by the state; no utility claims process ■ HB 3917 would have involved an independent administrator under the PUC for wildfire damage claims ■ SB 926: no claims process, focused on litigation cost recovery	■ HB 1522 requires WMP filings every 3 years, subject to UTC review; no claims reimbursement or formal administrative process	■ Claims validated through the administrative process; requires fund oversight and prudency evaluation

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
Reimbursement payments	■ Fund pays 100% if utility deemed prudent; no reimbursement if grossly negligent ■ SCE's Recovery Program: Awards reduced by applicable insurance through either a full offset or a 70/30 split on unpaid amounts (claimant keeps 30% but must close the insurance claim). Non-economic damages and premiums are not subject to offset	■ Utility must pay first $10M; then reimbursed from fund for eligible payments; PSC may require replenishment if imprudent (capped at 10% of Utah equity rate base)	■ Future fund payments tied to economic losses; PUC sets reimbursement rules; not yet operational	■ No reimbursement process under HB 3940 ■ HB 3917 (not enacted) proposed 80% reimbursement of allowable claims with a litigation waiver	■ No reimbursement system exists; utilities bear full financial responsibility for claims or legal settlements	■ Reimbursement required up to 10% of PacifiCorp's distribution equity rate base if found imprudent
Aggregate liability caps	■ Replenishment set to 20% of T&D equity rate base (rolling 3-year cap) if imprudent; no cap if grossly negligent ■ SCE's Recovery Program: No overall damages cap; compensation includes economic and non-economic losses plus fixed premiums by category (e.g., $5M for death, $200K for destroyed primary residences, $50K per adult tenant), amounts not available through litigation	■ 10% of the utility's distribution equity rate base assigned to Utah if disbursement is found imprudent; court judgments presumed prudent ■ Non-economic damages are capped at $450k per claimant with physical injury, $100k if no physical injury. Wrongful death, non-economic, uncapped	■ SB 897 grants the PUC the authority to determine liability cap scope, on a per-event or across a defined time period	■ HB 3940 does not impose caps ■ HB 3917 proposed excluding non-economic/punitive damages and capped rate increases at 3%	■ No aggregate liability caps enacted; utilities remain fully liable under traditional legal standards	■ Yes, reimbursement cap at 10% of equity rate base; deductible at 5% per event
Cross claim immunity	■ No cross-claim immunity; utilities remain subject to inverse condemnation (strict liability) The Wildfire Fund provides reimbursement, but does not insulate them from cross-claims	■ Yes; PSC may challenge settlements, but court judgments are deemed prudent and unchallengeable ■ Claim filing deadlines: 2 years (private) / 6 years (state). If a utility lacks an approved WMP, these caps don't apply (then uncapped liability)	■ SB 897 abolishes joint/several liability for covered wildfires; apportions fault and limits utility liability to capped amounts	■ No cross-claim immunity under HB 3940 ■ HB 3917 would have limited claims in exchange for compensation and waiver of legal rights ■ SB 926: did not provide immunity; utilities would remain liable even if certified	■ No cross-claim immunity or legal shield mechanisms in place; utilities can be sued for full damages	■ Yes; includes cross-claim immunity across states to avoid intra-state disputes

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
Cost to customers	■ Ratepayer charge ~$2.50/month; utility wildfire costs ~7-13% of the average monthly bill in 2023 ■ SB 254 extends the customer charge an additional 10 years (2036—2045) to support the Continuation Account	■ Surcharge capped at 4.95% of rates or $3.70/month; utilities must return unused funds as regulatory liabilities to ratepayers	■ Estimated ~$4/month surcharge to utility customers via securitization; structured to maintain affordability	■ Indirect cost via $0.05/container and nicotine taxes under HB 3940; no utility bill surcharges ■ HB 3917 would have capped utility rate hikes at 3% ■ SB 926 (not enacted): would have reduced costs to customers by barring utilities from passing negligence-related wildfire costs into rates	■ No customer surcharge; no wildfire-related fees ■ HB 1656 (failed) would have imposed cost recovery via bonds with rate caps	■ Yes; customer surcharges proposed system-wide, subject to cap; varies by state
Replenishment due to imprudence from a Utility	■ Yes; IOU must reimburse the fund up to a cap if found imprudent	■ Yes; reimbursement required if PSC finds a disbursement imprudent, capped at 10% of utilities' Utah equity rate base	■ Utilities found imprudent via PUC review may be required to make supplemental contributions or penalties	■ HB 3940 includes no replenishment triggers ■ HB 3917 was not enacted and included fixed fund contribution periods and capped liabilities	■ No replenishment mechanism exists; no fund to replenish or repay	■ Yes; contributions pause once fund hits target and resume only upon drawdown
Rating agency commentary regarding the fund	■ Viewed as credit-supportive by Moody's and S&P, praised for stabilizing ratings and mitigating credit risk ■ Post-SB 254, agencies cite added ~$18B access for future fires and continuation of the customer charge as credit-supportive; PG&E affirmed/positive commentary on enactment	■ S&P and Moody's view SB 224 as credit-supportive, reduces contingent liabilities, introduces clear liability caps, and prudency rules	■ Moody's, Fitch, and S&P view SB 897 as credit-positive. Moody's highlights the liability cap and securitization authority as likely to stabilize HECO's credit profile ■ Fitch and S&P upgraded HECO and affiliates following the bill's passage, citing structural protections and the supportive regulatory environment	■ Rating agencies view HB 3940 as credit-neutral to positive for utilities due to improved risk management ■ HB 3917 viewed favorably by S&P but not passed ■ SB 926: not enacted, but if passed, would likely have been credit-negative for utilities (greater litigation exposure, limited cost recovery flexibility)	■ HB 1522 seen as a modest credit positive for planning; lack of structural reforms ■ Failed HB 1656 limits credit improvement	■ Seen as credit-stabilizing if implemented; draws from CA AB 1054 and UT SB 224 precedent; supports investment-grade profile

	California	Utah	Hawai'i	Oregon	Washington	PacifiCorp Multistate Plan
Impacts of future events on the utilities credit rating and cost of financing	■ Demonstrated effectiveness during 2025 LA fires; fund access prevented rating downgrades; contrasts with LADWP and PG&E pre-2019 ■ Eaton Fire: SCE Wildfire Recovery Compensation Program offers direct, expedited payments to victims to reduce litigation frictions/timing, with SCE expecting reimbursement from the state Wildfire Fund where eligible. Program slated to open claims before Thanksgiving 2025, with payments as early as 2026	■ Credit agencies say framework reduces legal exposure and stabilizes credit outlook; provides liquidity, regulatory predictability, and cost recovery certainty	■ Post-SB 897, credit agencies upgraded HECO from speculative ratings, citing securitization, liability limits, and resolution of litigation uncertainty ■ Moody's emphasizes that successful implementation of SB 897's cap could further reduce HECO's financial risk and borrowing costs	■ HB 3940 may reduce fire frequency/severity and benefit utilities indirectly ■ HB 3917 would have offered direct protection if enacted but legal risks remain from jury awards	■ Rating agencies see increased planning under HB 1522 as positive, but warn utilities remain fully exposed to wildfire costs without fund, cap, or securitization tools	■ Wildfire-related downgrades occurred post-2020; agencies view proposed fund as proactive risk management that could stabilize ratings and reduce insurance dependence

Fig. 18: A detailed comparison of wildfire recovery funds across the United States.

Appendix B: Rating Agency Takeaways

	States with Rating Agency Reactions			
	Utah (2024) (SB 224)	**California (2023) (SB 901; AB 1054)**	**Kansas (2024) (HB 2107)**	**Oregon (2025) (HB 3917)**
S&P	"The passage of SB 224 in March 2024 is a strong example of legislation supporting utility credit quality. The legislation creates a dedicated wildfire fund that, if executed well, may prove a viable path forward for reducing some of the litigation risk utilities operating in wildfire-prone states face."	S&P noted AB 1054 enhanced credit quality and reduced credit risk via cost recovery from ratepayers, although the lack of automatic fund replenishment introduces depletion risk long term "Overall, we've consistently stated that we assess these measures in AB 1054 as highly credit-supportive for California's investor-owned utilities because they temper financial exposure to wildfire liability." "We view AB 1054 as generally supportive of the IOU's credit quality. AB 1054 created a vehicle for tempering California's IOUs' financial exposure to wildfire liability."	Views the new bill as a modest credit positive, as it introduces a more predictable framework for managing wildfire liability Believes "the cap on punitive damages modestly mitigates the associated risk," and that without this cap, "utilities can potentially face very high liabilities."	After providing commentary on a wildfire lawsuit against PacifiCorp involving claims for non-economic damages in Oregon, S&P stated that they "view legislation limiting non-economic damages as favorable for credit quality, but these laws will need to be tested over time and are subject to the potential interpretation of courts and jury verdicts on a case-by-case basis."
Moody's	Moody's places Utah alongside California as the states that have responded "most forcefully in mitigating the financially crippling impact of wildfire liabilities on utilities." Sees SB 224 as part of a "robust policy framework" that includes legal and financial safeguards to preserve credit quality of utilities	"The passage of AB 1054 and the subsequent establishment of the insurance fund has had a strong stabilizing effect on Edison credit profiles." "AB 1054 provides the utility with access to liquidity through a $21 billion fund [and] enhances its ability to recover wildfire costs from ratepayers with a more favorable prudency standard." Even with AB 1054 in place, "property damages have an outsized effect on the credit quality of IOUs because of California courts' application of the inverse condemnation legal doctrine."	*N/A*	*N/A*
Fitch	*N/A*	"In Fitch's view, legislative actions and rate regulation in recent years have generally been credit supportive, especially with regard to AB 1054." "Apart from the wildfire fund, AB 1054 provides utilities with multiple layers of liability protection, supporting current ratings."	*N/A*	*N/A*

Fig. 19: A comparison of credit rating agency's reactions to states with wildfire recovery funds.

Appendix C: California - Concept to Bill Language From AB 1054

Concept	Bill Language AB 1054	Bill Language SB 254
Liability Cap (In Instances of Prudence)	"This bill would require the commission, when determining an application by an electrical corporation to recover costs and expenses arising from a covered wildfire, as defined, to allow cost recovery if the costs and expenses are determined just and reasonable based on reasonable conduct by the electrical corporation. The bill would require the commission to find that an electrical corporation's conduct was reasonable if that conduct, related to the ignition, was consistent with actions that a reasonable utility would have undertaken in good faith under similar circumstances, at the relevant point in time, and based on the information available to the electrical corporation at the time, as provided."	No change from AB 1054
Liability Cap (In Instances of Imprudence)	"Twenty percent of the electrical corporation's total transmission and distribution equity rate base, including, but not limited to, its Federal Energy Regulatory Commission ("FERC") assets, as determined by the administrator for the calendar year in which the disallowance occurred."	No change from AB 1054
Claims Reimbursement Cap	Interim period: "The fund shall not pay more than 40 percent of the allowed amount of a claim arising between the effective date and the date the electrical corporation exits bankruptcy."	No change from AB 1054
Anticipated Fund Life	"The fund shall terminate when the administrator determines that the fund resources are exhausted, taking into account the amount of any unpaid liabilities including necessary reserves, any remaining unpaid annual contributions from participating electrical corporations, and the charges authorized pursuant to Section 3289."	No change from AB 1054 in terms of an explicit fund life, however SB 254 extends non-by-passable ratepayer charges by 10 years
Challenge & Prudence	"The commission shall allow cost recovery if the costs…are determined just and reasonable based on reasonable conduct by the electrical corporation. A valid safety certification shall create a presumption of reasonable conduct, unless a party…creates a 'serious doubt'…the electrical corporation bears the burden of disproving it by a preponderance of the evidence."	No change from AB 1054

Concept	Bill Language AB 1054	Bill Language SB 254
Wildfire Fund Allocation Metric	"Wildfire Fund allocation metric means for each large electrical corporation the arithmetic average of (1) the land area of the electrical corporation's territory, measured in square miles, in the high fire-threat districts as a proportion of all large electrical corporations' territory in the high fire-threat districts and (2) the electrical corporation's line miles of transmission and distribution lines in the high fire-threat districts as a proportion of all large electrical corporations' line miles of transmission and distribution lines in the high fire-threat districts. The large electrical corporations' averages shall then be adjusted to account for risk mitigation efforts. This adjustment shall reduce the allocation to electrical corporations that have invested historically in mitigation efforts and those allocations shall be reallocated to the other electrical corporations based on their proportionate share resulting from the initial calculation above. The Wildfire Fund allocation metric shall be determined by the Director of Finance no later than five days after the effective date of this part. It is the expectation of the Legislature that the Wildfire Fund allocation metric is 64.2 percent for Pacific Gas and Electric Company, 31.5 percent for Southern California Edison Company, and 4.3 percent for San Diego Gas and Electric Company. If a new electrical corporation that is a large electrical corporation is admitted to the Wildfire Fund, the administrator shall promptly determine and publish a revised Wildfire Fund allocation metric based on the factors set forth in this subdivision."	No Change from AB 1054
Limits on Claims	"Settlements of subrogation claims that are less than or equal to 40 percent of total asserted claim value as determined by the administrator shall be paid unless the administrator finds that the exceptional facts and circumstances surrounding the underlying claim do not justify the electrical corporation's exercise of such business judgment. To the extent approved by the administrator, a settlement shall not be subject to further review by the commission."	"This bill would, except as provided, for an agreement by a property insurer to sell, assign, or transfer, in whole or in part, to a third-party entity, a right of subrogation, reimbursement, or recovery resulting from a wildfire that is ignited on or after the effective date of this act and that destroys 1,000 or more structures, require the property insurer to first offer to settle that right, on the same terms and conditions as the proposed agreement, to a large electrical corporation, if any, that provides electrical service to the service area in which the wildfire ignited. The bill would require the large electrical corporation to accept or reject the offer or to reach agreement on mutually agreeable terms for the settlement of that right within 30 days of the property insurer making the offer."
Eligible Claims	"Claims for third-party damages against an electrical corporation resulting from covered wildfires exceeding the greater of (1) one billion dollars ($1,000,000,000) in the aggregate in any calendar year, or (2) the amount of the insurance coverage required to be in place for the electrical corporation pursuant to Section 3293, measured by the amount of that excess."	No Change from AB 1054

Concept	Bill Language AB 1054	Bill Language SB 254
Initial Contribution	"The Director of Finance shall request such moneys from the Controller. Upon such request, the Controller shall transfer up to ten billion five hundred million dollars ($10,500,000,000) to the fund from the Surplus Money Investment Fund and other funds that accrue interest to the General Fund as a cash loan… The loan from the Surplus Money Investment Fund is intended to provide necessary cash on a short-term basis for claims-paying resources. It is the intent that the loan be repaid as quickly as possible within a fiscal year." "(1) For a large electrical corporation, an amount equal to seven billion five hundred million dollars ($7,500,000,000) multiplied by the Wildfire Fund allocation metric. (2) For a regional electrical corporation, an amount equal to six hundred twenty-five dollars ($625) multiplied by the number of customer accounts serviced by the electrical corporation within the state as of the effective date of this part."	"Within 15 days of the effective date of this chapter, each large electrical corporation shall provide to the commission a written notification of its election to participate, or not to participate, in the account and provide, if applicable, annual contributions and additional contributions pursuant to this chapter. (B) A large electrical corporation's election to participate in the account shall be considered as its agreement to do all of the following: (i) To authorize the administration of the account by the administrator pursuant to this chapter and Chapter 4 (commencing with Section 3298). (ii) To provide an annual contribution pursuant to subdivision (a) of Section 3299.3 and any additional contributions pursuant to subdivision (b) of Section 3299.3. (iii) To consent to the changes in the operation of the fund as provided in clause (ii) of subparagraph (C) of paragraph (2) of subdivision (h) of, and subdivision (k) of, Section 3292, as those provisions read on the effective date of this chapter. (iv) To authorize the use of the Wildfire Fund assets and account assets for purposes of Section 719, as added by the measure adding this chapter."
Issuance of Bonds	"The department may authorize the issuance of bonds, excluding any notes issued in anticipation of the issuance of bonds and retired from the proceeds of those bonds, in an aggregate amount up to ten billion five hundred million dollars ($10,500,000,000)."	"The bill would authorize the department to issue bonds, in an aggregate amount up to $9,000,000,000, as provided, to support the account."
Equity Rate Base Exclusion	"The commission shall not allow a large electrical corporation to include in its equity rate base its share, as determined pursuant to the Wildfire Fund allocation metric specified in Section 3280, of the first five billion dollars ($5,000,000,000) expended in aggregate by large electrical corporations on fire risk mitigation capital expenditures included in the electrical corporations' approved wildfire mitigation plans."	"This bill would, in addition to the amount of fire risk mitigation capital expenditure described above, require the commission to prohibit a large electrical corporation from including in its equity rate base its share of the first $6,000,000,000 expended in aggregate by large electrical corporations on fire risk mitigation capital expenditures approved by the commission on or after January 1, 2026. The bill would authorize an electrical corporation's share of the fire risk mitigation capital expenditures and the debt financing costs of these fire risk mitigation capital expenditures to be financed through a financing order, as specified. The bill would provide that these provisions do not apply to expenditures made after December 31, 2035."

Concept	Bill Language AB 1054	Bill Language SB 254
Replenishment Mechanism	*N/A - none in AB 1054 as enacted.*	"The bill would, if the administrator determines that an additional contribution of $3,900,000,000 is needed to support the account, authorize the administrator to require the large electrical corporations to provide their proportionate share of that amount in equal installment payments over a 5-year period, as provided."

Fig. 20: Extracts of bill language from AB 1054 to SB 254 in California.

Appendix D: California - Concept to Program Language From Wildfire Recovery Compensation Program

Concept	SCE Language From Their Wildfire Recovery Compensation Program
How Program Works	"The voluntary claims program will provide expedited, direct payments to eligible individuals and businesses… one streamlined application to submit all claims with no application fees, administrative costs, or legal fees charged by SCE to participate." Note: Edison highlights speed, direct payments, and zero admin/legal costs
Eligibility	"Owners and tenants (except short-term renters)… Individuals who sustained physical injuries… Personal representatives of estates for those who died… Businesses that owned or occupied an eligible property." Note: Covers owners, renters, injury victims, estates of the deceased, and businesses
Duration	"The program will be available for applications to be submitted for 12 months after the program initiates." Note: One-year claim window from program launch (Fall 2025 to Fall 2026)
Lawyer Requirement	"Legal representation is not required… Claimants represented by counsel at the time they submit the claim form will receive additional compensation equal to 10% of their net damages (not including the Direct Claims Premium)." Note: 10% bonus for represented claimants, on top of damages
Covered Properties	"Residential and commercial properties with structures classified as damaged or destroyed in the CAL FIRE DINS Data… includes Yellow or Red tags, burn damage to landscaping, or non-burn smoke/ash damage." Note: Eligibility tied to CAL FIRE classifications and fire perimeter
Compensation Categories	"Economic Loss: property damage, personal property, loss of use, business interruption, physical injury, death. Non-Economic Loss: annoyance and discomfort, pain and suffering, emotional distress, and loss of consortium. Direct Claim Premium… Attorneys' Fees: 10% of net damages (not including the Direct Claims Premium)." Note: Mix of economic, non-economic, and premium categories
Insurance Offsets (Destroyed Homes)	Option 1: Offset = total insurance coverage limits for structure/trees/landscaping. Option 2: Offset = paid insurance + 70% of unpaid insurance (claimant gets 30% of unpaid but must close insurance claim). Personal Property: 40% of estimated rebuild costs, offset by coverage limits. Loss of Use: 42 months of fair rental value, offset by loss-of-use insurance. Note: Specific percentages (30%/70%, 40%, 42 months)
Documentation	"All claimants must provide at least one of the following forms of identification: passport, driver's license, birth certificate, green card, other state ID… plus proof of residency/ownership, insurance info, financial records, medical records, or death certificate depending on claim type." Note: ID plus category-specific documents.
Claim Tracks	Fast Pay: simplified, offer within 90 days of complete claim; fewer documents. Detailed Review: comprehensive, offer within 9 months; requires extensive documentation. Note: Fast Pay = 90 days, Detailed Review = 9 months

Concept	SCE Language From Their Wildfire Recovery Compensation Program
Direct Claim Premium (Additional Compensation)	• Death: $5,000,000 per decedent • Physical injury: $20,000 per injured individual • Destroyed structures: ○ Residential owner-occupant (primary): $200,000 ○ Residential owner-occupant (secondary): $100,000 ○ Residential landlord (primary): $150,000 ○ Residential landlord (secondary): $25,000 ○ Residential tenant: $50,000 per adult ○ Commercial owner: $25,000 ○ Commercial tenant: $25,000 • Damaged (non-destroyed) structures: • Residential owner-occupant: $10,000 • Residential landlord: $5,000 • Residential tenant: $5,000 per adult • Commercial owner: $5,000 • Commercial tenant: $5,000 *Note: Premiums are only available through the program, not litigation*
Processing & Payment	"Claims are reviewed, and a determination letter is sent… Payment is issued by check approximately 30 days after SCE's receipt of every required claimant's executed and notarized agreement." Note: 30-day payout after signed release
Appeals / Reconsideration	"Settlement offers are not negotiable. You may request reconsideration within 14 days… If you do not accept the offer within 90 days, it becomes void, and you retain the right to litigate." Note: 14-day reconsideration, 90-day acceptance deadline
Waiver of Rights	"Claimants retain all legal rights until accepting a settlement offer and signing a full release, which waives all past and future claims related to the Eaton Fire against SCE." Note: Once accepted and released, litigation rights are permanently waived
Privacy & Fraud	"Information is used only for claim processing, program administration, and legal/regulatory purposes. Verification procedures and quality control audits are in place to prevent and detect fraud." Note: SCE commits to privacy and anti-fraud controls

Fig. 21: Extracts of program language from SCE's Wildfire Recovery Compensation Program.

Appendix E: Utah - Concept to Bill Language From SB 224

Concept	Bill Language
Damages	"...damages recoverable under Subsection (2)(b) for non-economic loss may not exceed: (i) for a person who is not physically injured as a result of the fire, $100,000; or (ii) for a person who is physically injured as a result of the fire, $450,000." "The limitations on an electrical corporation's liability for recoverable damages described in Subsections (3) and (4) apply unless: (a) the electrical corporation did not have a wildland fire protection plan approved by the electrical corporation's own governing authority in place before the occurrence of the fire event; or (b) the public service commission determines, in an action brought under Subsection (7), that the electrical corporation was in material noncompliance with the electrical corporation's wildland fire protection plan in the area of the fire event at the time the fire event occurred."
Deadline to Bring a Claim for Damages	"A fire claim shall be brought within two years from the date of the ignition of the fire."
Recovery for Damages	"...economic losses to compensate for damage to property; and (b) non-economic losses to compensate for pain, suffering, and inconvenience." "Subject to Subsection (6), the amount of damages recoverable under Subsection (2)(a) for economic loss to property shall be calculated as the lesser of: (a) the cost to restore the property to the property's pre-fire condition; or (b) the difference between: (i) the fair market value of the property immediately before the fire; and (ii) the fair market value of the property after the fire."
Wildfire Fund Creation	"A large-scale electric utility may create a Utah fire fund by filing notice with the commission." "The creation... does not: (i) establish an exclusive fund... or (ii) prohibit... other mechanisms for third party liability coverage..."
Fund Sources	"A Utah fire fund shall consist of: (a) a reasonable and prudent fire surcharge... over a 10-year period...; (b) investment income...; and (c) other amounts..."
Surcharge Cap	"...fire surcharge does not result in an increase over current rates: (i) for all customers, more than 4.95%; and (ii) for an average residential customer, more than $3.70 a month."
Fund Use Threshold	"...a large-scale electric utility may not receive disbursement... until... paid $10,000,000 towards eligible payments from the large-scale electric utility's own funds..."
Use Restriction	"...Utah fire fund... may not be used for payments related to any fire or property damage claim originating or occurring outside of the state."
Claims Reimbursement Cap	"...reimbursement obligation may not exceed 10% of the large-scale electric utility's distribution equity rate base assigned to this state..."

Concept	Bill Language
Cost Recovery	"Eligible payment" means an amount owed by a large-scale electric utility to a third party in the state that exceeds the large-scale electric utility's applicable insurance coverage, including self-insurance. "Eligible payment" includes amounts owed as a result of: (A) a settlement agreement resolving economic damages arising out of a fire claim; or (B) economic damages awarded in a finally adjudicated fire claim. "Eligible payment" does not include an amount for damages to infrastructure owned by a large-scale electric utility caused by a fire event. "Notwithstanding any other provision of law, a Utah fire fund created under this part may not be used for payments related to any fire or property damage claim originating or occurring outside of the state."
Challenge & Prudence	"In a rate case or other appropriate proceeding, any party may challenge the amount of the disbursement from the large-scale electric utility's Utah fire fund used for the settlement of a fire claim. (b) If an expenditure is challenged… (i) the commission may require that the large-scale electric utility replenish the large-scale electric utility's Utah fire fund for any amount that the commission determines was imprudent; and (ii) the burden is on the challenging party to prove imprudence." "If the commission orders a large-scale electric utility to reimburse a Utah fire fund due to imprudence under this Subsection (5), the large-scale electric utility's total reimbursement obligation may not exceed 10% of the large-scale electric utility's distribution equity rate base assigned to this state for the calendar year in which the calculation is performed."
Judgment Payments Presumed Prudent	"…any party may challenge the amount of the disbursement from the large-scale electric utility's Utah fire fund used for the settlement of a fire claim." "…the commission may require that the large-scale electric utility replenish the… fund for any amount that the commission determines was imprudent…" "…the burden is on the challenging party to prove imprudence." "The use of a Utah fire fund to pay a judgment relating to a fire claim is considered prudent and is not subject to challenge."

Fig. 22: Extracts of bill language from SB 244 in Utah.

Appendix F: Liability Cap Frameworks

Arizona

History of Wildfires

Arizona has a long history of wildfires, exacerbated by its dry climate. With a population of 7.6 million,[158] the state has faced significant wildfire events, including the Cave Creek Complex Fire (2005), Wallow Fire (2011), Horseshoe Two Fire (2011), and Bush Fire (2020), which have heightened the urgency for fire prevention and infrastructure resilience.[159] In recent years, increasing scrutiny has been placed on electric utilities as potential ignition sources. Against this backdrop, Arizona passed House Bill 2201 in May 2025, marking a shift from reactive fire response to proactive risk mitigation. HB 2201 focuses on reducing wildfire risk by creating a formal structure for utility-led wildfire mitigation planning, coupled with a defined liability framework.

[158] World Population Review, "Arizona Population," *World Population Review,* 2025, https://worldpopulationreview.com/states/arizona.

[159] KTAR.com, "Here Are the 5 Largest Wildfires in Arizona History," *KTAR News*, June 22, 2020, https://ktar.com/arizona-news/here-are-the-5-largest-wildfires-in-arizona-history/2627306/.

	Arizona			
	The Cave Creek Complex Fire (2005)[160]	Wallow Fire (2011)[161, 162]	Horseshoe Two Fire (2011)[163]	Bush Fire (2020)[164]
Acres Burned	• 248,310	• 538,049	• 223,000	• 193,455
Buildings Destroyed	• 11	• 72	• 23	• N/A
Fatalities	• N/A	• N/A	• N/A	• N/A
Injuries	• N/A	• 16	• 3	• N/A

Fig. 23: A summary table of recent, major wildfires in Arizona and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

HB 2201 established a statutory wildfire mitigation and liability framework for IOUs and public power entities.[165] The bill does not create a wildfire fund and therefore has no fund capitalization amount, no contributors, and no direct reimbursement mechanisms. Instead, it establishes a legal safe harbor based on utility compliance with approved WMPs, with a goal of reducing ignition risk and stabilizing financial exposure for utilities, which outlines the legal framework for determining utility liability when wildfires are allegedly caused by electric infrastructure. HB 2201 applies to all public power entities (municipal utilities and electric cooperatives) and investor-owned electric utilities (Arizona Public Service, Tucson Electric Power, and UniSource Energy Service) operating in the state.

HB 2201 requires all electric utilities, public power entities, and electric cooperatives serving more than 40,000 customer meters (i.e., service connections) in Arizona as of

[160] KTAR News, "Here Are the 5 Largest Wildfires in Arizona History," *KTAR News*, June 22, 2020, https://ktar.com/arizona-news/here-are-the-5-largest-wildfires-in-arizona-history/2627306/.

[161] LensCulture, "The Wallow Fire," *LensCulture*, https://www.lensculture.com/articles/jesse-rieser-the-wallow-fire.

[162] Earth Observatory, "Wallow Fire Burn Scar, Arizona," *NASA Earth Observatory*, https://earthobservatory.nasa.gov/images/51204/wallow-fire-burn-scar-arizona.

[163] Forests and Rangelands, "National Cohesive Wildland Fire Management Success Story," *Forests and Rangelands*, https://www.forestsandrangelands.gov/success/stories/2011/11_az_chir_ResponseToWildfire.shtml#.

[164] Pat Shannahan, "Arizona Wildfires: The Biggest Since 2002," *AZ Central*, https://www.azcentral.com/picture-gallery/news/local/arizona/2025/05/14/arizona-wildfires-10-of-the-biggest-since-2002/28088061/.

[165] Arizona House of Representatives, "House Bill 2201: Wildfire Mitigation; Utilities; Liability," *Arizona Legislature*, 2025, https://www.azleg.gov/legtext/57leg/1R/bills/HB2201S.pdf.

January 1, 2025, to submit WMPs every two years beginning May 1, 2026; smaller utilities have the option to opt out. Plans must be submitted to either the governing body (for public entities) or the State Forester (for IOUs and cooperative utilities) and must address (1) fire-prone area identification, (2) vegetation management, (3) equipment inspection and maintenance, (4) power shutoff protocols, (5) emergency response and restoration, and (6) community engagement and public education. These WMPs are subject to public comment and formal approval. Utilities that comply with an approved plan are presumed to have met the legal standard of care in a wildfire event.

Upon meeting the standard of care, utilities reduce their exposure to negligence claims. To overcome this presumption, a plaintiff must first show that the utility failed to comply with its WMP. As an example, this could include skipping the required vegetation management or inspections. The plaintiff must also prove that this non-compliance was a proximate cause of the wildfire, which directly contributed to the ignition or spread of the fire. This shifts litigation away from general allegations and toward specific failures tied to approved risk-mitigation duties. The plaintiff must prove by clear and convincing evidence that the IOU's conduct was both "outrageous, oppressive, or intolerable" and was "consciously pursued knowingly or with intentional disregard" for a substantial risk of serious harm; mere negligence is not sufficient to recover punitive damages.

Beyond the WMP safe harbor, HB 2201 prohibits inverse condemnation claims, which means IOUs cannot be held strictly liable for wildfire damage regardless of fault, with punitive damages entirely barred for co-ops. This is distinctly different from California precedent and eliminates one of the largest potential sources for financial liability from Arizona utilities. Utilities face a regulatory risk whereby failing to perform mandated WMP activities could expose them to negligence-based claims and increased liability, even if the associated costs are not recoverable. Therefore, timing is critical: utilities must undertake prescribed mitigation efforts proactively to preserve liability shields, accepting that some costs may be borne without guaranteed cost recovery.

The statute also protects utilities from liability for wildfires caused by natural events like lightning, third-party actions, or vegetation outside rights-of-way where the utility was denied or delayed access. These provisions emphasize operational control as the basis for liability. While HB 2201 does not include a cross-claim immunity provision, it extends WMP-related protection to affiliates and subsidiaries whose equipment is covered by a utility's

WMP; as such, these entities will be treated as if they were the utility itself in wildfire-related litigation. In other words, their liability is subject to if the utility completed its WMP.

The statute is explicit that approval of a WMP by the State Forester does not constitute approval of cost recovery through customer rates. Any utility seeking to recover mitigation expenses must do so through a separate regulatory rate case.

Arizona Public Service (APS), Salt River Project (SRP), and several rural electric cooperatives actively supported HB 2201, working closely with legislators to establish clear liability protections while ensuring customers would not face undue financial risks. These multi-state utilities advocated for a balanced approach that incentivizes wildfire mitigation without guaranteeing automatic cost recovery for implementation expenses, emphasizing regulatory oversight and transparency through the Arizona Corporation Commission.

The bill aims to mitigate wildfire risks while protecting utilities and customers from significant financial burdens. Protections include regulatory oversight by the Arizona Corporation Commission (ACC), no automatic cost pass-through, and transparency and accountability by ACC. Utilities may pass on the costs of wildfire mitigation efforts to customers through rate adjustments that must be approved. HB 2201 does not include language that allows utilities to pass on any additional costs incurred to implement the wildfire mitigation plan.

This utility-only framework may have broader market consequences. Because third parties such as insurance carriers are not protected, some of the financial burdens could shift to insurers, increasing pressure on commercial and residential wildfire insurance markets. That, in turn, could raise insurance premiums or limit availability, especially in high-risk zones, despite the reduced liability risk for utilities. Insurance expenses are expected to decrease, as utilities may no longer need to purchase high-cost wildfire coverage. However, this shift could leave uninsured or underinsured residential customers more financially vulnerable in the event of a wildfire.

Arizona's and California's frameworks are similar in that both tie liability protection to WMP compliance. However, other states provide funds for compliant utilities to access pooled resources for the payment of claims and recover costs, whereas Arizona establishes legal protections — but no fund — meaning the utility avoids liability entirely if compliant or

bears full risk if not. Arizona also offers greater legal clarity by explicitly eliminating inverse condemnation, which remains a lingering concern in California despite reforms.

Rating Agency Reactions and Implications for Utilities

Fitch Ratings views HB 2201 as credit-supportive for utilities, as it provides clarity and reduces uncertainty regarding potential liabilities.[166] HB 2201 reduces litigation risk, restricts costly legal arguments, and lays the groundwork for possible future mechanisms like securitized cost recovery. Furthermore, it incentivizes utilities to further invest in mitigation.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

While utilities and rating agencies emphasized HB 2201's credit-stabilizing benefits, Arizona's wildfire debate drew intense scrutiny from other stakeholders who feared the bill tilted too far toward protecting utilities. Wildfire victims, consumer advocates, insurers, trial attorneys, and community groups all weighed in, warning that liability shields could weaken accountability and leave households or insurers bearing greater financial burdens. Their testimony reveals the tensions at the heart of the legislation: how to balance utility solvency, consumer protection, and justice for victims in a state increasingly vulnerable to catastrophic wildfires.

Wildfire Victims and Community Groups: Wildfire survivors and community advocates have voiced strong opposition to broad liability shields for utilities. Their chief concern is that limiting utility liability will leave victims with little recourse for recovery, shifting the financial burden onto those least able to afford it. In Arizona's debate over HB 2201, critics warned of a scenario where a utility-sparked fire destroys hundreds of homes, but victims "can't recover any damages" due to legal immunity. Wildfire victim groups characterize proposals like HB 2201 as "bailouts" for utilities that leave devastated communities holding the bag. Brandon Vick of the National Association of Mutual Insurance Companies noted that many residents in fire-prone areas are underinsured, so if they cannot seek damages from a utility, the liability is "pushed onto the people who can least afford it."[167] This perspective underscores a plea for accountability: if a utility's equipment causes a wildfire,

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[166] Fitch Ratings, "Fitch Affirms Pinnacle West at 'BBB' and Arizona Public Service at 'BBB+'; Outlook Stable," *Fitch Ratings*, March 14, 2025, https://www.fitchratings.com/research/corporate-finance/fitch-affirms-pinnacle-west-at-bbb-arizona-public-service-at-bbb-outlook-stable-14-03-2025.

[167] Stateline, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *Stateline*, 2025, https://stateline.org/2025/04/22/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

victims believe the company and its investors should help make them whole, rather than escaping liability through a legal safe harbor.

Ratepayers and Consumer Advocates: Consumer advocates walk a fine line between protecting ratepayers from exorbitant costs and ensuring utilities don't evade responsibility. Arizona lawmakers supporting HB 2201 argued that unchecked liability would ultimately hurt customers, either through higher electric rates or preemptive power shutoffs. "Otherwise the cost will ultimately be paid by the ratepayer," explained Arizona Senator J.D. Mesnard, noting that without reform a utility might spend "a boatload of money" on upgrades or cut power during high winds to avoid lawsuits. Consumer advocates agree that wildfire risk must be addressed but insist on balance. They worry that completely insulating utilities could dampen safety incentives and put customers at risk in other ways. Bob Jenks of Oregon's Citizens' Utility Board captured this tension: it's "difficult having utilities close to bankruptcy… At the same time, the principle that customers shouldn't be bailing out utilities for bad practices is critical." In short, consumer advocates support proactive wildfire mitigation and liability clarity, but they oppose any regime that would force ratepayers to "bailout" a utility for negligence. Notably, HB 2201 was structured to require regulatory oversight and no automatic pass-through of wildfire costs to Arizona customers, meaning utilities must justify mitigation expenses in separate rate cases. This was intended to protect ratepayers, but advocates remain watchful that customers don't end up paying for utility mistakes in the long run.[168]

Insurance Companies and Trial Attorneys: Insurance providers and plaintiffs' attorneys — groups often at odds — found common ground in opposing the original version of HB 2201. Property insurers feared a broad liability shield would prevent them from recouping claim payouts from utilities via subrogation when utility negligence causes fires. If utilities can't be sued, insurers must absorb all losses, a cost likely passed to homeowners through higher premiums. "When you push in one side of the balloon, it comes out somewhere else," testified a State Farm Insurance representative on a similar bill, explaining that if insurers cannot recover wildfire losses from at-fault utilities, "the only option… is to raise the rate of homeowners' insurance." Arizona insurers, represented by lobbyist Marc Osborn, fought HB 2201's early drafts for this reason. Plaintiffs' attorneys likewise objected that the initial bill "made it virtually impossible to sue a utility company on behalf of their

[168] Arizona Capitol Times, "Wildfire Liability Bill Amended to Be Less Protective of Arizona Utility Companies," *Arizona Capitol* Times, 2025, https://azcapitoltimes.com/news/2025/04/22/wildfire-liability-bill-amended-to-be-less-protective-of-arizona-utility-companies/.

clients," effectively denying fire victims their day in court. These stakeholders argued that sweeping immunity would remove a key deterrent against utility negligence and leave both insurers and victims paying for damages that a utility caused. The Arizona Capitol Times reported that insurers and trial attorneys, normally adversaries, were "united to oppose" HB 2201 until significant amendments were made. After negotiations, many of their concerns were addressed: the final law allows lawsuits if a utility fails to follow its approved mitigation plan, and it restored the ability of people to seek punitive damages in cases of egregious misconduct. Osborn, speaking for major insurers like Farmers and Allstate, acknowledged the compromise: "It went from one of the worst bills in the country to one of the better bills…," he said of the revised HB 2201. In other words, insurers and attorneys can accept the law now that it provides a pathway to hold utilities accountable for clear lapses in wildfire safety duties, rather than granting blanket immunity.

Environmental and Community Advocates: Environmental and public safety organizations in Arizona also scrutinized HB 2201 from a community impact perspective. The Sierra Club's Arizona chapter initially called HB 2201 a "terrible bill," condemning it as "a blank check for negligence" that would make it "impossible to hold [utilities] accountable" for wildfires. After the bill was watered down through amendments, Sierra Club and others still opposed it, though they conceded it was "less bad" than before. Critics contend that even the final law remains a "huge gift to the utilities," in the words of Arizona Senator Lauren Kuby. Kuby argued that HB 2201 "allows them to be negligent but not liable as long as they have a plan," highlighting skepticism that a mere compliance with a wildfire mitigation plan could absolve a utility of broader responsibility. These advocacy voices emphasize that community safety should come first. They champion robust wildfire prevention measures and independent oversight of utility practices, and they have pushed for clearer standards in the law. Notably, one change to HB 2201 now requires that utility Wildfire Mitigation Plans be reviewed and approved by professional fire authorities at the state Department of Forestry, rather than by the utilities' own boards.[169] By tightening plan oversight and preserving victims' right to sue in cases of non-compliance or gross misconduct, advocates feel the "terrible bill" was improved, yet many remain wary. The consensus among wildfire victims' groups, consumer advocates, and environmental organizations is that utility accountability and wildfire prevention must go hand in hand. Any liability framework, they argue, should incentivize utilities to invest in safety and

[169] Arizona Corporation Commission, "Wildfire Mitigation Special Meeting/Town Hall in Payson Highlights," *Arizona Corporation Commission*, 2025, https://azcc.gov/news/home/2025/05/22/wildfire-mitigation-special-meeting-town-hall-in-payson-highlights.

ensure that those harmed by utility-caused fires are not left without compensation or support.[170]

Montana

History of Wildfires

Montana's vast forests, mountainous terrain, and increasingly dry climate have made it highly susceptible to wildfires, with major events including the Great Fire of 1910 ("The Big Burn"), the Mann Gulch Fire (1949), the Lodgepole Complex Fire (2017), and the Seeley Lake Fire (2018) underscoring a long history of severe and often deadly fire seasons. In recent years, Montana has faced longer and more intense fire seasons, driven by climate change, drought, and human activity.[171] With a population of 1.1 million and increasing development near wildland areas, Montana faces mounting challenges in balancing public safety and utility reliability.[172]

[170] KJZZ, "New Laws Protect Arizona Utilities From Some Wildfire Liability, Allow Securitization," *KJZZ*, 2025, https://www.kjzz.org/politics/2025-05-15/new-laws-protect-arizona-utilities-from-some-wildfire-liability-allow-securitization.

[171] Montana Fire Protection History, "The Fires of 1920 and Creation of Wildland Fire Protection in Montana," *Montana Fire Protection History*, https://experience.arcgis.com/experience/ac5c457bf2db496989bd6b12107cdd41/page/Montana-Fire-Protection-History.

[172] World Population Review, "Montana Population," *World Population Review*, 2025, https://worldpopulationreview.com/states/montana.

	Montana			
	The Big Burn / Great Fire of 1910 (1910)[173, 174]	Mann Gulch Fire (1949)[175]	Lodgepole Complex Fire (2017)[176, 177]	Seeley Lake Fire (2018)[178]
Acres Burned	• 3,200,000	• 5,000	• 270,000	• 160,000
Buildings Destroyed	• N/A	• 0	• 32	• N/A
Fatalities	• 87	• 13	• N/A	• N/A
Injuries	• 100+	• N/A	• N/A	• N/A

Fig. 25: A summary table of recent, major wildfires in Montana and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

The increasing wildfire threat has led the state to enact forward-looking policies focused on risk reduction and infrastructure protection. Montana House Bill 490, passed on May 13, 2025, establishes a statewide wildfire mitigation framework requiring all electric facilities providers, including investor-owned utilities, co-ops, municipal utilities, and FERC-jurisdictional operators, to develop and maintain WMPs. Plans must be submitted to each provider's governing body by December 31, 2025, and updated at least once every three years. WMPs must outline risk areas, vegetation management, infrastructure hardening, de-energization protocols, power restoration procedures, and cost estimates to cover

[173] Wildfire Foundation, "Incident Summary Page for the 100 Fires Project," *Wildfire Foundation*, October 9, 2025, https://wffoundation.org/wp-content/uploads/2024/10/1910-Fires-Final-v2.pdf.

[174] Scott Stark and Amy Kapp, "The Big Burn: Exploring the Great Fire of 1910 in Idaho and Montana," *Rails to Trails*, https://www.railstotrails.org/trailblog/the-big-burn/#:~:text=The%20Great%20Fire%20of%201910%E2%80%94also%20called%20the%20Great%20Idaho,the%20town%20of%20Wallace%2C%20Idaho.

[175] U.S. Department of Agriculture, "Mann Gulch," U.S. Department of Agriculture / U.S. Forest Service, https://www.fs.usda.gov/science-technology/fire/smokejumpers/missoula/history/mann-gulch.

[176] U.S. Department of Agriculture, "A Million Acres Scorched by Montana Wildfires," *U.S. Department of Agriculture*, https://www.usda.gov/about-usda/news/blog/million-acres-scorched-montana-wildfires.

[177] Montana Free Press, "75 Years After Fatal Mann Gulch Fire, Families to Gather to Remember Fallen Smokejumpers," *Montana Free Press*, 2024, https://montanafreepress.org/2024/07/30/75-years-after-fatal-mann-gulch-fire-families-to-gather-to-remember-fallen-smokejumpers/.

[178] Site Administrator, "Public Comment Opens on Rice Ridge Fire Salvage Proposal," *KTVH*, https://www.ktvh.com/news/2018/06/13/public-comment-opens-on-rice-ridge-fire-salvage-proposal/#:~:text=The%20lightning%2Dcaused%20fire%20scorched,and%20comment%20on%20the%20proposals.

infrastructure improvements and vegetation management programs, with a 45-day public comment period and final action within 60 days. Providers must also file biennial compliance reports. State agencies, including the Department of Natural Resources and Disaster and Emergency Services, are required to review all plans.[179]

While HB 490 requires utilities to submit detailed WMPs, it does not guarantee cost recovery for all proposed expenditures. If a utility includes mitigation measures in its plan that are later deemed imprudent or not in the public interest, those costs may be disallowed during rate proceedings. This creates a financial risk for utilities, as they must balance proactive wildfire mitigation with the potential for unrecovered investment. The absence of a dedicated cost recovery mechanism further amplifies this uncertainty. HB 490 impacts over 30 electric utilities statewide, including investor-owned utilities like NorthWestern Energy and Montana-Dakota Utilities, approximately 25 electric cooperatives, and several municipal utilities such as the City of Great Falls.

The bill adopts a legal safe harbor model in which utilities that substantially follow an approved WMP are presumed to have acted reasonably and are shielded from civil liability unless negligence is proven. HB 490 does not create or recognize inverse condemnation claims. HB 490 eliminates strict liability for wildfires in Montana. Claims are handled through the civil court system, where plaintiffs must prove that a utility failed to meet the standard of care.

The bill eliminates strict liability for wildfire damages linked to electric infrastructure. Utilities are only liable if they fail to act as a reasonable provider under similar circumstances. If a utility substantially follows an approved WMP at the fire's origin, there is a rebuttable presumption of reasonableness. The law limits non-economic damages to cases involving bodily injury or death and restricts punitive damages to instances of gross negligence or intentional misconduct. It also shields providers from liability where wildfires are caused by vegetation that is outside of areas where the utility had legal vegetation management rights.

The bill does not impose aggregate liability caps or explicitly address cross-claim immunity between utilities, insurers, or third parties. However, the liability shield for fires caused by vegetation outside a utility's legal access area may reduce exposure to third-

[179] Montana House of Representatives, "House Bill 490," *Montana Legislature / LegiScan*, 2025, https://legiscan.com/MT/text/HB490/2025.

party claims.[180]

Utilities are required to estimate the incremental costs of implementing their wildfire mitigation plans. While the bill does not specify how these costs will be recovered, regulated utilities may seek cost recovery through rate cases reviewed by the PSC. Montana does not establish a wildfire fund or reimbursement mechanism for imprudence, but utilities found grossly negligent may still face punitive damages. The bill's structure is designed to encourage prudent behavior by offering liability protection only when utilities follow approved plans.

Rating Agency Reactions and Implications for Utilities

S&P stated that they believe the recently passed HB 490 is modestly positive, as it limits wildfire-related risk, providing liability protection to utilities. By establishing a rebuttable presumption of reasonable care when utilities follow their approved plans, the legislation lowers the risk of punitive damages and enhances regulatory predictability. However, S&P still considers wildfire risk a material credit concern in Montana, especially in high-risk areas. They further emphasize that future comprehensive mitigation strategies and legislative support will be essential to maintaining and improving credit quality.[181]

The bill's approach of limiting strict liability and clarifying legal standards is expected to be viewed favorably by rating agencies.[182] By reducing the risk of catastrophic wildfire-related lawsuits, HB 490 may help stabilize the anticipated credit impacts of future wildfire events for Montana utilities. HB 490 may help utilities maintain financial stability and avoid rate shocks, but it also shifts wildfire recovery burdens away from utilities and onto ratepayers, homeowners, and insurers.

HB 490 was backed by NorthWestern Energy and Montana's co-ops, which argued it protects essential service providers from wildfire liabilities beyond their control. Opponents, including insurance groups, fire victims, the Montana PSC, and environmental advocates, criticized the bill for limiting compensation and weakening oversight. The PSC also warned of an unfunded regulatory burden, expressing concern that implementing and

[180] Daily Inter Lake, "HB 490 Is a Crucial Step for Montana's Safety and Resilience," *Daily Inter Lake*, 2025, https://dailyinterlake.com/news/2025/mar/23/hb-490-is-a-crucial-step-for-montanas-safety-and-resilience/.

[181] S&P Ratings, "Report: Wildfire-Exposed U.S. Investor-Owned Utilities Face Increasing Credit Risks Without Comprehensive Solutions," *S&P Global Ratings*, https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3280003.

[182] Montana Free Press, "Major Wildfire Liability Bill Signed Into Law," I, 2025, https://montanafreepress.org/2025/05/19/major-wildfire-liability-bill-signed-into-law/.

enforcing the bill's mitigation requirements could impose significant costs on regulating utilities.

Utilities such as Montana-Dakota Utilities have benefitted from HB 490, which Fitch views as credit positive because "the bill establishes a regulatory framework for wildfire planning with regulators, establishes prudence, and limits liabilities while shifting the burden of proof onto the plaintiffs."[183]

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

HB 490 was shaped not only by financial considerations but also by the voices of wildfire victims, ratepayers, insurers, and advocacy groups. Testimony before the legislature reflected sharp disagreements: supporters viewed the law as necessary to safeguard affordable electricity, while opponents warned it weakens accountability, limits compensation for victims, and shifts risks onto consumers and communities.

Wildfire Victims and Plaintiffs: Montanans who lost homes or property to utility-caused fires — notably victims of the 2021 West Wind Fire in Denton — spoke out forcefully against HB 490. They argued the law goes "too far in shirking utilities' liability," making it harder for fire victims to seek full legal recourse. Two attorneys who suffered property damage in the West Wind Fire testified that they already had to prove negligence under current law (they did not even plead strict liability), and yet many victims were "not made whole" or compensated quickly. One survivor, Mike Weinheimer, warned that if the bill were "purely about strict liability, [it] would be a one-page bill… It's not. It's eight pages," suggesting HB 490 granted special legal treatment to utilities beyond simply clarifying negligence standards.[184, 185] In short, wildfire victims and their lawyers felt HB 490 unfairly tilted the playing field, reducing utilities' incentive to fully compensate those harmed.

Ratepayers and Consumer Advocates: Consumer perspectives on HB 490 were divided. Many policymakers worried about electricity customers bearing the costs of devastating

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[183] Fitch, "Fitch Affirms Ratings of MDU, Montana-Dakota, Cascade and CEHI, LLC; Outlooks Stable," *Fitch Ratings*, July 2, 2025, https://www.fitchratings.com/research/corporate-finance/fitch-affirms-ratings-of-mdu-montana-dakota-cascade-cehi-llc-outlooks-stable-02-07-2025.

[184] Montana Free Press, "Energy Providers Look to Set Precedent for Wildfire Liability Law," *Montana Free Press*, 2025, https://montanafreepress.org/2025/04/03/energy-providers-look-to-set-precedent-for-wildfire-liability-law/.

[185] Daily Montanan, "Wildfire Mitigation Bill Described as Good First Step to Deal With Climate Change in Montana," *Daily Montanan*, 2025, https://dailymontanan.com/2025/03/06/wildfire-mitigation-bill-described-as-good-first-step-to-deal-with-climate-change-in-montana/.

wildfires or utility bankruptcies. Co-op managers stressed that a small cooperative "do[es] not have deep pockets" and that strict liability for fires "where we were not at fault would only put a burden on our ratepayers." From this view, removing strict liability protects customers from skyrocketing rates due to massive legal judgments (as seen in California's utility bankruptcies). [186] Indeed, even a California ratepayer advocate's office has argued that strict liability for wildfires ultimately "contributes to the financial burden on ratepayers," suggesting reforms to hold utilities accountable only when negligent. Montana's Public Service Commission (PSC), however, opposed HB 490 out of concern for consumers. PSC President Brad Molnar warned that if the PSC must approve utility wildfire plans, a utility could later say "the Public Service Commission said we were good," potentially shifting liability or costs to ratepayers.[187] Molnar feared the law would limit utility liability but lead to higher electric rates for customers to cover wildfire damages. He deemed wildfire mitigation a "state issue, not a ratepayer issue," urging the governor to veto the bill rather than put customers at risk.[188] Some legislators echoed that HB 490 might protect utility finances "on one side, but at the cost of higher insurance premiums for homeowners" on the other. In summary, while HB 490 was promoted as a means to shield ratepayers from extreme wildfire costs, consumer advocates like the PSC cautioned that it could simply shift the financial burden in less direct ways.[189]

Insurance Companies and Subrogation: Insurers and their representatives were among HB 490's vocal opponents. The insurance industry's main concern was preserving the ability to recover payouts from utilities after paying homeowners' wildfire claims (through subrogation). The National Association of Mutual Insurance Companies testified that HB 490 did not require strong enough prevention measures, which could leave insurers footing the bill for avoidable fires. "We want the mitigation programs in place because, frankly, we would rather not pay out and rather not have to subrogate," explained Bruce Spencer, a lobbyist for the insurers. In other words, insurance companies prefer utilities be held accountable to prevent fires in the first place, reducing the need for lawsuits. They opposed any law that overly shields utilities, since that could impede insurers from seeking

[186] Montana Free Press, "Energy Providers Look to Set Precedent for Wildfire Liability Law."

[187] David Jay, "Montana PSC President Asks Governor to Veto Utility Fire Mitigation Bill," *KTVQ,* 2025, https://www.ktvq.com/news/local-news/montana-psc-president-asks-governor-to-veto-utility-fire-mitigation-bill.

[188] David Jay, "Montana PSC President Asks Governor to Veto Utility Fire Mitigation Bill," *KTVQ,* 2025, https://www.ktvq.com/news/local-news/montana-psc-president-asks-governor-to-veto-utility-fire-mitigation-bill.

[189] Keila Szpaller, "Wildfire Mitigation Bill Described as Good First Step to Deal With Climate Change in Montana," *Daily Montanan*, 2025, https://dailymontanan.com/2025/03/06/wildfire-mitigation-bill-described-as-good-first-step-to-deal-with-climate-change-in-montana/.

compensation after a utility-caused fire destroys policyholders' property.[190] By limiting strict liability without mandating rigorous safety standards, HB 490 drew criticism for potentially leaving insurers, and by extension, homeowners' insurance premiums, to absorb more of the wildfire costs.

Environmental and Community Advocates: Environmental and public safety groups also raised red flags. Organizations like the Montana Environmental Information Center ("MEIC") argued that HB 490 was a utility-driven bill that undermined oversight. MEIC noted the PSC was being tasked to approve utility wildfire mitigation plans despite lacking experience and sufficient resources to do so properly. They warned that the law's liability standard, comparing a utility's actions only to "similar… in-state" providers, effectively "means you're comparing an electric utility to itself," given NorthWestern Energy's dominant size in Montana. This bars any comparison to higher safety practices used in other states.[191] Advocates feared that without strong minimum requirements or accountability, a wildfire plan could become mere "shelf art," or rather a document that looks good on paper but doesn't change utility behavior. Environmental groups and some local community voices felt HB 490 "doesn't make any sense" unless it actually forces robust wildfire prevention work. They pushed for amendments to strengthen oversight and ensure utilities truly follow through on mitigation commitments but were unsuccessful. Opponents like Senator Andrea Olsen characterized the final bill as a "corporate handout to utilities," arguing it gave utilities legal cover without adequately protecting the public.[192] Although HB 490 did require detailed Wildfire Mitigation Plans, these advocates remained concerned that the law "would allow electric co-ops and public utilities to continue to provide… service" while escaping full responsibility for wildfire damage. Their perspective highlights a desire to keep utilities accountable to higher safety standards and ensure wildfire victims and communities are not left bearing the costs of preventable disasters.

Wyoming

History of Wildfires

Wyoming's dry summers, weakened forests, and frequent lightning strikes have made it increasingly vulnerable to wildfires. Home to around 600,000 residents, the state has faced

[190] Montana Free Press, "Energy Providers Look to Set Precedent for Wildfire Liability Law," *Montana Free Press*, 2025, https://montanafreepress.org/2025/04/03/energy-providers-look-to-set-precedent-for-wildfire-liability-law/.

[191] MEIC, "Legislators Tapped Out on Energy," *MEIC*, 2025, https://meic.org/legislators-tapped-out-on-energy/.

[192] Montana Free Press, "Energy Providers Look to Set Precedent for Wildfire Liability Law," *Montana Free Press*, 2025, https://montanafreepress.org/2025/04/03/energy-providers-look-to-set-precedent-for-wildfire-liability-law/.

several major fire events, including the Yellowstone Fires (1988), Fontenelle Fire (2012), Mullen Fire (2020), the devastating 2024 wildfire season that burned over 810,000 acres, and a series of lightning-sparked fires during the 2025 season, the second worst on record. In response, the Wyoming PSC and counties such as Teton have undertaken wildfire mitigation initiatives, including utility vegetation management and the development of Community Wildfire Protection Plans, aimed at reducing ignition risk and enhancing the resilience of vulnerable communities. The state also promotes homeowner risk assessments and defensible space planning to help limit fire spread in high-risk communities.

	Wyoming			
	Yellowstone Fires (1988)[193]	Fontenelle Fire (2012)[194]	Mullen Fire (2020)[195]	2024 Wildfire Season (2024)[196]
Acres Burned	• 793,880	• 64,215	• 176,878	• 850,000
Buildings Destroyed	• 67	• N/A	• 66	• N/A
Fatalities	• 0	• N/A	• 0	• N/A
Injuries	• N/A	• N/A	• N/A	• N/A

Fig. 26: A summary table of recent, major wildfires in Wyoming and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

Wyoming House Bill 192, signed into law on March 6, 2025, requires electric utilities (excluding municipal utilities) to submit WMPs to the PSC every five years. WMPs must identify wildfire risk areas and include protocols for infrastructure inspection, vegetation management, facility upgrades, de-energization, and coordination with other utilities. Utilities must notify local governments and conservation districts upon filing. The PSC must

[193] National Park Service, "1988 Fires," *National Park Service*, https://www.nps.gov/yell/learn/nature/1988-fires.htm.

[194] National Interagency Fire Center, "TIDC 2012 Wildland Fires," *National Interagency Fire Center*, https://gacc.nifc.gov/gbcc/dispatch/wy-tdc/home/2018-07-23/tidc-2012-wildland-fires.

[195] Albany County, "Wildfire," *Albany County, Wyoming*, https://www.albanycountywy.gov/454/Wildfire.

[196] Oil City Staff, "Gov. Gordon Announces Release of Wyoming Wildfire Recovery Guide," *Oil City News*, https://oilcity.news/wyoming/outdoors/2024/12/11/governor-gordon-announces-release-of-wyoming-wildfire-recovery-guide/.

review and approve plans within 120 days, assessing reasonableness, public interest, and cost-effectiveness.[197]

Under HB 192, utilities may be held liable for wildfire-related economic losses only if plaintiffs prove either (1) the utility failed to substantially comply with its approved Wildfire Mitigation Plan and that failure proximately caused the damages, or (2) the utility acted with gross negligence, malice, or criminal intent. Non-economic damages (e.g., emotional distress) are recoverable only in cases involving physical injury or death; punitive damages are not permitted. Claims must be filed within four years of ignition. Utilities remain directly responsible for paying damages through settlement or litigation, as the law does not establish a wildfire fund or administrative reimbursement mechanism. However, utilities may seek to recover WMP costs or wildfire-related payouts by filing a rate application with the PSC. Any recovery must be explicitly approved by the PSC based on a finding of prudence and public interest, meaning ratepayers may ultimately bear these costs, but only if authorized by regulators. HB 192 affects all electric utilities in the state, including investor-owned Rocky Mountain Power, roughly 12 electric cooperatives like Bridger Valley Electric, and several municipal utilities, requiring them to submit wildfire mitigation plans and offering liability protections for compliance.

Utilities may seek cost recovery for WMP expenses through rate applications, but PSC approval is required with no automatic recovery. Once approved, utilities must submit annual compliance reports. Denial of cost recovery for specific components does not negate the legal protections afforded by the approved WMP. As long as a utility substantially complies with the approved plan, it retains access to liability limitations, regardless of whether full cost recovery is granted.

HB 192 clarifies that approved WMPs preempt conflicting local land use rules and that existing easements remain valid. The PSC is authorized to adopt implementing rules. The act took effect July 1, 2025, with some provisions effective immediately.

HB 192 establishes a structured claims administration process that prioritizes early resolution. The bill mandates pre-litigation negotiation between utilities and landowners with a 90-day response timeline. It limits liability if utilities substantially comply with their WMPs; plaintiffs must prove substantial noncompliance, gross negligence, malice, or

[197] Wyoming House of Representatives, "House Bill HB0192," *Wyoming Legislature*, 2025, https://legiscan.com/WY/text/HB0192/id/3148978.

criminal intent to recover damages. Non-economic damages are limited to cases involving physical injury or death. Liability for wildfire damages is capped at economic losses, excluding emotional or punitive damages. Claims must be filed within a four-year statute of limitations. HB 192 explicitly includes landowners as eligible third-party claimants by requiring utilities to engage in good-faith negotiations with them before any civil action is filed. By requiring the utility to respond within 90 days of receiving the landowner's itemized damages, a formal pre-litigation process is established. The bill does not create a wildfire fund or specify a timeline for claim payments; instead, claims are handled directly between parties through negotiation or litigation if needed.

Rating Agency Reactions and Implications for Utilities

While there is no direct rating agency commentary on HB 192 yet, its structure — limiting strict liability and clarifying legal standards — is expected to be viewed favorably by credit markets. By reducing the risk of large-scale wildfire-related litigation, the bill may enhance the insurability and financial stability of Wyoming utilities, especially when contrasted with states like California, where wildfire liabilities have led to utility bankruptcies.

Moody's has noted that "some of PacifiCorp's regulatory jurisdictions have taken supportive steps to bolster the company's credit quality through wildfire legislation aimed at mitigating liquidity and financial risks stemming from potential wildfire-related liabilities." In particular, Moody's highlighted that Utah (2024) and Wyoming (2025) enacted laws establishing utility standards of care, including maintaining and complying with approved wildfire mitigation plans, demonstrating the types of proactive, credit-positive measures that may shape favorable rating agency views going forward.[198]

Rocky Mountain Power, a division of PacifiCorp and the dominant IOU in Wyoming, was the primary proponent of HB 192. It was also supported by the Wyoming Rural Electric Association and municipal utilities, who cited rising insurance costs and the need to limit catastrophic wildfire liability. The bill mirrors the Utah model, establishing standards of care and legal protections to support utility financial stability.

From a regulatory perspective, Wyoming's PSC has adopted relatively stable rate frameworks for PacifiCorp, with forward test years and capital recovery mechanisms in place. These structural features, paired with HB 192's legal protections, should improve

[198] Moody's, "PacifiCorp: Update Following Downgrade to Baa2 — Credit Opinion," *Moody's*, June 24, 2025, https://www.moodys.com/research/PacifiCorp-Update-following-downgrade-to-Baa2-Credit-Opinion--PBC_1450162.

cost recovery certainty and credit confidence. Although no yield movements in the credit markets have been directly tied to HB 192, PacifiCorp's 2024 bond issuances came with elevated spreads (~175 bps over Treasuries), and the utility remains under ratings pressure following wildfire litigation exposure in Oregon.

Overall, HB 192 is expected to reduce volatility in future cost structures, support rate stability, and mitigate the risk of uninsurable wildfire exposure for Wyoming utilities, which are key credit-positive outcomes for regulated IOUs like Rocky Mountain Power.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

The passage of HB 192 sparked significant debate across Wyoming, drawing in voices well beyond utilities and credit markets. Wildfire survivors, plaintiff attorneys, insurance companies, consumer advocates, and community groups each brought distinct perspectives on how the legislation balances accountability, victim compensation, and long-term ratepayer protection. Supporters emphasized the need for financial stability and proactive mitigation, while critics cautioned that liability limits could weaken justice for victims or shift costs onto property owners through higher insurance premiums.

Wildfire Victims & Plaintiffs' Attorneys: Opponents of HB 192 argue that its liability limits favor utilities at the expense of fire victims. The Wyoming Trial Lawyers Association warned the bill "may go too far in removing legal remedies for wildfire victims," effectively denying property owners their day in court. Sarah Kellogg, the association's president, criticized shifting the determination of a utility's "reasonableness" from a jury to an administrative plan approval, calling it a move that "is not going to be good for Wyomingites."[199] Wildfire survivors and their advocates fear that capping damages and requiring proof of gross negligence or worse will leave many victims undercompensated. Similar liability bills in other states have faced strong opposition from wildfire victims and trial lawyers who say such measures don't do enough to make utilities safer and instead shift the burden of wildfire losses onto those who suffer them.[200]

Ratepayers & Consumer Advocates: For utility customers, the wildfire liability debate presents a difficult trade-off between affordable rates and victim compensation. Wyoming's

[199] Dustin Bleizeffer, "Wyoming Lawmakers Punt on Protecting Electric Utilities from Wildfire Liability," *WyoFile*, 2024, https://wyofile.com/wyoming-lawmakers-punt-on-protecting-electric-utilities-from-wildfire-liability/.
[200] Alex Brown, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *Stateline*, 2025, https://stateline.org/2025/04/22/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

Office of Consumer Advocate (OCA) was actually part of the coalition that crafted HB 192, reflecting a rare consensus among industry, government, and consumer groups despite the potential for higher short-term costs. "It's very rare we get this level of agreement… especially when we're facing potential cost increases," OCA administrator Anthony Ornelas noted in legislative testimony. Consumer advocates recognize that enormous wildfire lawsuit payouts ultimately hit ratepayers through utility bankruptcies or insurance pass-throughs, so limiting liability can stabilize costs. At the same time, they acknowledge the moral and financial quandary: someone must pay for wildfire damages. "It's difficult to protect electrical customers and wildfire victims at the same time," Utah consumer advocate Michele Beck observed, noting the need to balance skyrocketing jury awards against ratepayer impacts.[201] Even some Wyoming lawmakers voiced concern about fairness; Senator Chris Rothfuss questioned whether HB 192 is "really good or even marginally good for our ratepayers," versus simply benefitting utilities. In the end, many consumer representatives in Wyoming accepted HB 192's approach as a necessary compromise to prevent even more devastating costs down the line.[202]

Insurance Companies: Insurers have been wary of efforts to shield utilities from wildfire liability, since doing so can leave insurance providers paying most of the damage claims. Industry representatives caution that if utilities are immune from ordinary negligence claims, insurers will respond by raising premiums or even pulling coverage in high-risk areas. "When you push in one side of the balloon, it comes out somewhere else," a State Farm Insurance spokesperson testified, explaining that limits on utility liability would likely force higher homeowners' insurance rates to cover wildfire losses. In Montana, some insurance companies even warned lawmakers that broad utility immunity could lead to denying coverage to homes in fire-prone zones. Utility proponents in Wyoming acknowledge this shift — "granting utilities some immunity…may likely shift the burden of rising insurance costs to property owners" — but argue that insurers, not electric customers, are better positioned to absorb and distribute wildfire risks.[203] Notably, Wyoming's HB 192 working group included insurance industry members, suggesting the final law was a negotiated middle ground rather than a one-sided giveaway. Still, the long-

[201] Leo Wolfson, "New Law Aims To Protect Utility Companies And Ratepayers From Wildfire Lawsuits," *Cowboy State Daily*, 2025, https://cowboystatedaily.com/2025/03/13/new-law-aims-to-protect-utility-companies-and-ratepayers-from-wildfire-lawsuits/.

[202] Alex Brown, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *Stateline*, 2025, https://stateline.org/2025/04/22/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

[203] Dustin Bleizeffer, "Wyoming Lawmakers Punt on Protecting Electric Utilities from Wildfire Liability," *WyoFile*, 2024, https://wyofile.com/wyoming-lawmakers-punt-on-protecting-electric-utilities-from-wildfire-liability/.

term impact on insurance markets, including premium levels and availability of coverage, remains an important concern as wildfire risks grow.

Regulators, Landowners & Community Groups: Wyoming's public utility regulators and landowner advocates have largely supported the proactive mitigation approach while stressing the importance of public oversight. The Wyoming Public Service Commission (PSC) is tasked with reviewing each utility's Wildfire Mitigation Plan to ensure it is "reasonable, in the public interest, and [appropriately] balance[s] implementation costs with wildfire risk." PSC officials emphasize that there are clear pathways for landowners and local communities to participate. After a utility files its plan, the PSC will issue public notices and allow time for comments, interventions, or hearings so that stakeholder concerns are heard. The Wyoming Farm Bureau Federation, representing many rural landowners, backed the mitigation planning concept and is working to keep property owners informed about how to engage in this process and safeguard their interests.[204] While the PSC will not adjudicate wildfire damage claims, it hopes that enforcing robust mitigation standards will reduce ignition risks and perhaps temper the surge in insurance costs over time.[205] In short, regulators and community groups see HB 192 as a framework to bolster wildfire prevention and resilience, provided that utilities are held to their commitments and the public can help hold them accountable through the plan approval process.

North Dakota

History of Wildfires

North Dakota, though not traditionally known for wildfires, has faced several significant events, including the October 1999 Fires, Bear Den Fire (2024), Elkhorn Fire (2024), and Ray-Tioga Fire (2024), with the October 2024 outbreak marking a historic escalation in fire activity across the state's western grasslands and badlands.[206] These fires caused substantial damage, including the loss of life and property, and required extensive response efforts from local, state, tribal, and federal agencies.

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[204] Bleizeffer, "Wyoming Lawmakers Punt on Protecting Electric Utilities."

[205] Alex Brown, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *Stateline*, 2025, https://stateline.org/2025/04/22/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

[206] North Dakota Emergency Services, "North Dakota Battles Historic Wildfires," *North Dakota Department of Emergency Services*, October 6, 2024, https://www.des.nd.gov/news/north-dakota-battles-historic-wildfires.

	North Dakota			
	October 1999 Fires[207]	Bear Den Fire (2024)[208, 209]	Elkhorn Fire (2024)[210]	Ray-Tioga (2024)[211]
Acres Burned	• 70,000	• 25,000	• 20,000	• 90,000
Buildings Destroyed	• N/A	• At least 1	• N/A	• N/A
Fatalities	• N/A	• 1	• N/A	• 2
Injuries	• N/A	• 1	• N/A	• N/A

Fig. 27: A summary table of recent, major wildfires in North Dakota and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

North Dakota Senate Bill 2339, signed into law on April 26, 2025, was enacted to address the risks and impacts of wildfires caused by electric utilities. North Dakota has a relatively small population of around 800,000.[212] The bill requires utilities to develop and submit biennial WMPs tailored to their size, risk profile, and resources. WMPs must be published online within 30 days of submission or approval and include risk identification, vegetation management, infrastructure inspection, recloser disabling, restoration protocols, and community outreach consistent with national safety standards. Utilities must also file annual compliance reports. SB 2339 covers all electric utilities, including investor-owned Xcel Energy, rural co-ops like Capital Electric, and municipal providers.

SB 2339 prevents courts from holding utilities automatically responsible for wildfire damages. North Dakota did not recognize inverse condemnation claims against utilities

[207] North Dakota State University / NDResponse, "NDSU Offers Recommendations on Post-Wildfire Grazing, *Rangeland Management*," ND Response, 2024, https://ndresponse.gov/news/ndsu-offers-recommendations-post-wildfire-grazing-rangeland-management.

[208] KVRR Local News, "One Person Killed, One Injured in Wildfires in Western North Dakota," *KVRR Local News*, https://www.kvrr.com/2024/10/06/one-person-killed-one-injured-in-wildfires-in-western-north-dakota/.

[209] KX News, "Bear Den Fire Rages in Mandaree," *KX News*, https://www.kxnet.com/news/local-news/bear-den-fire-rages-in-mandaree/.

[210] KX News, "Elkhorn Fire Burns More Than 20,000 Acres of Land," KX News, https://www.kxnet.com/news/top-stories/elkhorn-fire-burns-more-than-20000-acres-of-land/.

[211] Michael Anthony, "90,000 Acres Burned, 2 Fatalities in Williams County as a Result of Weekend Fires," KFYR-TV, https://www.kfyrtv.com/2024/10/08/90000-acres-burned-2-fatalities-williams-county-result-weekend-fires/

[212] World Population Review, "North Dakota Population," World Population Review, 2025, https://worldpopulationreview.com/states/north-dakota.

prior to SB 2339, as the doctrine traditionally applies to only government actions. SB 2339 provides utilities with liability protection absent negligence or willful misconduct. The bill limits strict liability for utilities in wildfire cases, meaning they can only be held liable if negligence or fault is proven, typically contingent on their compliance with wildfire mitigation plans and safety measures outlined in the legislation. Unlike some states, no statutory damage caps are specified. By limiting how much utilities can be held financially responsible for wildfire damages, SB 2339 reduces the risk that utilities will pass major legal costs on to ratepayers. This can help keep energy rates more stable, but it also raises questions about whether communities affected by wildfires will have adequate avenues for compensation.

SB 2339 covers both transmission and distribution providers, including co-ops. The bill reflects industry support, exemplified by Montana-Dakota Utilities' commitment to wildfire risk reduction through real-time monitoring, system hardening, and community engagement. SB 2339 outlines a structured process for administering claims related to wildfires caused by electric utilities. Under this bill, electric public utilities and electric transmission providers are required to submit their WMPs to the commission for filing. These plans must be published on the utility's website within thirty days of filing and updated every two years. Similarly, rural electric cooperatives, municipal electric utilities, and municipal joint action agencies must submit their WMPs to their respective boards of directors.[213] Once approved, these plans must also be published on the entity's website within thirty days and updated every two years.

The bill states, "The preparation and publishing of, and compliance with, the qualified utility's wildfire mitigation plan constitutes a rebuttable presumption that the qualified utility exercised a reasonable standard of care." This implies that if a utility fails to comply with its wildfire mitigation plan, it could be considered imprudent, and the presumption of exercising reasonable care could be challenged.

SB 2339 establishes a liability and funding framework designed to stabilize the utility sector and prevent insolvency resulting from wildfire-related litigation.

[213] North Dakota 69th Legislative Assembly Senate Members, "Senate Bill 2339," *North Dakota Legislature / LegiScan*, 2025, https://legiscan.com/ND/text/SB2339/id/3220408.

Rating Agency Reactions and Implications for Utilities

The bill's requirement for utilities to develop and implement wildfire mitigation plans could lead to significant costs. However, if managed well, these measures could enhance the utility's long-term financial stability by reducing the risk of wildfire-related liabilities. Overall, the legislation balances wildfire risk management with utility operational flexibility, promoting transparency and accountability while limiting utility liability to encourage continued investment in system safety and reliability in North Dakota. Rating agencies have not released any commentary to date.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

While rating agencies have not yet issued commentary on SB 2339, the debate in North Dakota has drawn strong reactions from wildfire victims, consumer advocates, insurers, regulators, and utilities themselves. The legislation's liability protections, rebuttable presumption of utility "reasonableness," and absence of a dedicated victim compensation fund have been praised by supporters as necessary to preserve utility solvency and regulatory clarity but criticized by opponents as limiting recovery for victims and shifting costs onto households, insurers, and local communities. Testimony and legislative debate reveal a sharp divide between those prioritizing financial stability for the utility sector and those focused on ensuring adequate compensation and accountability in the wake of increasingly destructive fires.

Wildfire Victims & Plaintiffs' Attorneys: Opponents of SB 2339 argued that the bill shifts costs onto families and businesses harmed by fires. Rep. Jorin Johnson (R-Fargo) warned on the House floor that, "This bill is a transfer of costs. Homeowners, landowners, farmers, and businesses, they're going to find it harder to bring and maintain a lawsuit against the utility and be justly compensated if this bill passes. … Somebody's got to pay." Trial lawyers and victims' advocates echoed this concern, stressing that the rebuttable presumption of utility reasonableness raises the bar for victims seeking recovery.[214] They fear that families devastated by the Bear Den, Elkhorn, and Ray-Tioga fires could face limited compensation absent clear findings of negligence. Similar liability reforms in other states have faced pushback from plaintiffs' attorneys who argue that utilities should bear more responsibility for making their systems safer, not less.

[214] InForum / The Bismarck Tribune, "Bill to Limit Wildfire Liability for North Dakota Power Companies Passes After 2nd Vote," *InForum / The Bismarck Tribune*, 2025, https://www.inforum.com/news/north-dakota/bill-to-limit-wildfire-liability-for-north-dakota-power-companies-passes-after-2nd-vote/.

Ratepayers & Consumer Advocates: Consumer representatives were divided on SB 2339. Some acknowledged that shielding utilities from strict liability can stabilize rates by preventing catastrophic litigation costs from being passed directly to customers. Others, however, warned that the absence of a dedicated compensation fund means wildfire victims could go under-compensated while ratepayers still face indirect risks. As one legislator noted, the bill reflects an attempt to balance affordability and fairness, but "it's difficult to protect electrical customers and wildfire victims at the same time."[215] This ongoing tension underscores the challenge North Dakota faces in reconciling utility solvency with equitable victim compensation.

Insurance Companies: Insurers strongly opposed SB 2339, warning that limiting liability would shift wildfire costs onto insurance carriers and policyholders. The National Association of Mutual Insurance Companies cautioned in written testimony that, "Adding the costs associated with utility-caused wildfires to insurers will simply shift that burden to the home or property owners through higher premiums or reduced coverage." Insurance industry advocates also argued that SB 2339 creates a presumption in favor of utilities, making litigation more difficult and expensive. As one North Dakota Monitor article summarized, "The proposals face strong opposition from wildfire victims, insurance companies, and trial lawyers. Those groups say the bills don't do enough to protect residents from dangerous electrical infrastructure."[216]

Regulators, Utilities & Legislative Supporters: Supporters of SB 2339 stressed the importance of maintaining utility solvency and providing legal clarity. Representative Anna Novak emphasized that "a bankrupt utility doesn't do anyone any good," framing the bill as essential to preserve reliable service. Representative Lawrence Klemin added that "the bill will allow the parties to really focus on whether the utility was negligent or not and not try to get into legal arguments about why strict liability should be changed."[217] Utilities

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[215] North Dakota Monitor, "As Wildfires Intensify, Utilities Want Liability Protections. But Then Who Pays?" *North Dakota Monitor*, 2025, https://northdakotamonitor.com/2025/04/25/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

[216] Insurance Business, "North Dakota Looking to Limit Utilities Wildfire Liability — Report," *Insurance Business*, 2025, https://www.insurancebusinessmag.com/us/news/legal-insights/north-dakota-looking-to-limit-utilities-wildfire-liability--report-529532.aspx.

[217] InForum / The Bismarck Tribune, "Bill to Limit Wildfire Liability for North Dakota Power Companies Passes After 2nd Vote," *InForum / The Bismarck Tribune*, 2025, https://www.inforum.com/news/north-dakota/bill-to-limit-wildfire-liability-for-north-dakota-power-companies-passes-after-2nd-vote/.

themselves endorsed the bill through testimony. Rebecca Naslund of Montana-Dakota Utilities stated:

> "Senate Bill 2339 is a bill designed to aid in the prevention of wildfires. It primarily does three things: It directs utilities to develop and implement comprehensive wildfire mitigation plans… It codifies the common law understanding that strict liability does not apply to qualified utilities… It provides that the preparation, publication, and compliance with a qualified utility's wildfire mitigation plan constitutes prima facie evidence that the utility exercised a reasonable standard of care."[218]

Regulators highlighted that publishing Wildfire Mitigation Plans online every two years will bring transparency and accountability, while legislative supporters underscored the stabilizing effect on North Dakota's energy sector.

Kansas

History of Wildfires

Kansas experiences at least 5,000 reported wildfires annually, particularly in its grasslands and prairies. Notable incidents in the history of wildfires include the Anderson Creek Fire (2016), the Starbuck Wildfire (2017), and the Four County Fire (2021). Kansas House Bill 2107, passed on March 13, 2024, aimed to address economic damage from wildfires caused by utilities.[219] With over 3 million residents in the state, the bill aims to protect a large number of people from financial repercussions arising from wildfires.

[218] Rebecca Naslund, "Testimony in Support of Senate Bill 2339 — Director of Safety & Technical Training, *Montana-Dakota Utilities Co.*, January 31, 2025," North Dakota Legislature, 2025, https://ndlegis.gov/assembly/69-2025/testimony/SNATRES-2339-20250131-33109-F-DEVER_JUSTIN.pdf.

[219] Kansas House of Representatives, "House Bill 2107: Providing for Claims to Recover Economic Damages from Fire Events Caused by Electric Public Utilities, Establishing a Statute of Limitations for Such Claims and Requiring the State Corporation Commission to Convene a Workshop on Utility Wildfire Risk and Mitigation," *Kansas Legislature*, 2025, https://kslegislature.gov/li/b2025_26/measures/documents/hb2107_enrolled.pdf.

	Kansas		
	Anderson Creek Fire (2016)[220, 221]	The Starbuck Wildfire (2017)[222]	Four County Fire (2021)[223]
Acres Burned	• 400,000	• 509,000	• 121,622
Buildings Destroyed	• 41	• 26	• 32
Fatalities	• N/A	• 1	• 3
Injuries	• N/A	• N/A	• 71

Fig. 28: A summary table of recent, major wildfires in Kansas and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

HB 2107, Kansas' recently enacted wildfire-related legislation, does not establish a dedicated wildfire fund. Instead, the law creates a statutory cause of action allowing individuals or entities harmed by wildfires caused by electric utilities to file civil claims directly in court. It does not require proof of WMP noncompliance, nor does it treat WMP compliance as a shield or safe harbor for utilities. The bill applies to all electric public utilities in Kansas, including investor-owned utilities like Evergy, municipal utilities such as the City of Wichita, and rural electric cooperatives like Kansas Electric Cooperative.

A critical provision of HB 2107 is the cap on punitive damages of $5 million per claim. This cap provides a significant limitation on the financial exposure of utilities. However, the law does not limit compensatory damages; claimants can still seek full economic and non-economic losses through civil litigation. There is no administrative claims process associated with this statute; claims must be pursued through the traditional court system. Additionally, the legislation does not include cross-claim immunity provisions, leaving utilities potentially exposed to direct claims without protections in this regard.

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[220] NASA, "Anderson Creek Fire in Kansas," *NASA*, https://www.nasa.gov/image-article/anderson-creek-fire-kansas/.

[221] Wildfire Today, "NASA Satellite Photos of the Huge Anderson Creek Fire in OK and KS," *Wildfire Today*, https://wildfiretoday.com/nasa-satellite-photos-of-the-huge-anderson-creek-fire-in-ok-and-ks/.

[222] LPA, "Kansas Wildfire Management: Evaluating the Adequacy of Kansas Wildfire Suppression System," *Kansas Forest Service / LPA Consulting*, https://www.kansasforests.org/fire_management/fire_docs/Final_Report.pdf.

[223] Rocky Mountain Area and Coordination Center, "2021 Annual Activity Report," *Rocky Mountain Area and Coordination Center,* https://gacc.nifc.gov/rmcc/documents/predictive/annual_reports/annual_report_2021.pdf.

Regarding costs, HB 2107 does not impose any direct cost impact on ratepayers. However, the law mandates that the Kansas Corporation Commission (KCC) convene a wildfire risk and mitigation workshop by July 31, 2026. This workshop is expected to assess and potentially recommend cost recovery mechanisms for wildfire mitigation investments, which could eventually affect utility rates and customer bills.

Rating Agency Reactions and Implications for Utilities

On April 17, 2025, S&P published a research report, "New Kansas Law Addressing Electric Utilities' Wildfire Risks Modestly Supports Evergy Inc. And Subsidiaries' Credit Quality." While not a formal rating action, the report provides insight into how HB 2107 may influence the credit profile of Evergy Inc. and other Kansas utilities. S&P views the new law as a modest credit positive, primarily because it introduces a more predictable legal and regulatory framework for managing wildfire liability. Furthermore, S&P believes that "the cap on punitive damages modestly mitigates the associated risk."[224]

One of the law's most significant features, according to S&P, is the $5 million cap on punitive damages payable by utilities in the event of a wildfire. This liability limitation is viewed as critical protection, as S&P states, "in the absence of such a cap, utilities can potentially face very high liabilities… This could negatively impact a utility's financial risk profile."

S&P also applauds the KCC's active wildfire mitigation strategies by stating "the KCC's involvement in the proposed workshop enables it to develop a robust framework around a utility's preparedness as well as establish cost recovery mechanisms."[225]

While the report does not result in any immediate change to Evergy's credit ratings, it signals that HB 2107 could improve the regulatory certainty surrounding wildfire risk, a key concern for credit analysts in a climate-exposed environment. Longer-term credit implications will likely rely on how effectively the KCC implements its workshop mandate and whether follow-on regulatory decisions further mitigate financial exposure.

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[224] S&P Global Ratings, "New Kansas Law Addressing Electric Utilities' Wildfire Risks Modestly Supports Evergy Inc. And Subsidiaries' Credit Quality," *S&P Global Ratings*, 2025, https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/sourceId/101620280.

[225] S&P Global Ratings, "New Kansas Law Addressing Electric Utilities' Wildfire Risks."

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Kansas's HB 2107 sparked debate among stakeholders with sharply different priorities. Victims and agricultural groups opposed liability caps, warning they weaken recovery for landowners. Consumer advocates supported the framework but pressed for stronger safeguards to shield ratepayers from costs. Regulators stayed neutral, focusing instead on wildfire preparedness and mitigation workshops. These perspectives underscore the central tension: protecting utilities' solvency while ensuring fair compensation for those harmed.

Wildfire Victims & Plaintiffs' Attorneys: Kansas ranchers and farm groups were among the strongest opponents of HB 2107. The Kansas Farm Bureau (KFB) testified that "it is not appropriate to limit the liability of a negligent party that causes a wildfire, even if it is a public utility" and warned that liability caps would leave families and landowners under-compensated. The Kansas Livestock Association (KLA) echoed these concerns, stating that the bill "unnecessarily diminishes the ability of Kansas ranchers to recover following a catastrophic loss" and that "the last thing [lawmakers] should consider is limiting the… damages owed [to] individuals if a fire is caused by the negligent actions of an electric public utility."[226] For wildfire victims and plaintiffs' attorneys, punitive-damages limits were seen as "bad public policy" that eroded deterrence and fair compensation.

Ratepayers & Consumer Advocates: Kansans for Lower Electric Rates (KLER) and the Kansas Industrial Consumers Group (KIC) provided neutral testimony, recognizing the importance of addressing wildfire liability but urging stronger protections for customers. They warned that without explicit safeguards, utilities might seek to recover legal payouts through rates. Their filing proposed an amendment clarifying: "Retail ratepayers shall have no financial responsibility to reimburse an electric public utility, in retail rates or otherwise, for damages paid by an electric public utility caused by a fire claim".[227] This position reflects consumer advocates' focus on shielding ratepayers from indirect financial exposure.

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[226] Kansas Legislative Research Department, "Supplemental Note on House Bill 2107 (69th Legislature, 2025 Session): Statute of Limitations, Damages, and Mitigation Workshop," *Kansas Legislature*, 2025, https://www.kslegislature.gov/li/b2025_26/measures/documents/supp_note_hb2107_01_0000.pdf.

[227] Kansans for Lower Electric Rates & Kansas Industrial Consumers Group, "Neutral Testimony on House Bill 2107 Before the House Energy, Utilities & Telecom Committee, February 11, 2025," *Kansas Legislature*, 2025, https://www.kslegislature.gov/li/b2025_26/committees/ctte_h_energy_utilities_and_telecommunications_1/documents/testimony/20250211_05.pdf.

Regulators, Utilities & Legislative Supporters: The KCC submitted neutral written testimony, stating it had "no position" on Section 1 of HB 2107 (the liability cap) but was "not opposed" to Section 2, which directs the KCC to convene a wildfire risk and mitigation workshop by July 31, 2026.[228] The KCC emphasized that this workshop would focus on preparedness and best practices for Kansas utilities. Utilities themselves supported the legislation as a way to establish clearer liability rules and avoid catastrophic litigation. Legislative supporters argued that the $5 million punitive damages cap was a necessary balance for protecting utilities from unlimited exposure while preserving victims' ability to recover compensatory damages.

New Mexico

History of Wildfires

New Mexico's dry climate, high winds, and expansive forested areas have made it highly vulnerable to wildfires, as demonstrated by major incidents such as the Cerro Grande Fire (2000), Las Conchas Fire (2011), Whitewater-Baldy Fire (2012), Calf Canyon Fire (2022), and McBride Fire (2022), each highlighting the growing frequency and intensity of wildfires across the state.[229] These events have exposed vulnerabilities in federal land management, utility infrastructure, and local preparedness. Home to approximately 2.1 million residents, New Mexico enacted Senate Bill 33 in 2025, creating the Wildfire Prepared Program and a permanent Wildfire Prepared Fund to support community-level mitigation through grants for defensible space, structure hardening, and fire risk certification. The program directs at least 50% of grant funding to property-level improvements and restructures the Fire Planning Task Force to oversee standards and funding priorities. However, the legislation does not alter civil liability statutes, impose utility mandates, or limit third-party claims.

[228] Kansas Corporation Commission, "Written-Only Neutral Testimony on House Bill 2107, Before the House Committee on Energy, Utilities, and Telecommunications — Submitted by Justin Grady, Deputy Director, Utilities Division, on Behalf of the Staff of the Kansas Corporation Commission," *Kansas Corporation Commission*, 2025, https://www.kcc.ks.gov/images/PDFs/presentations-and-legislative-testimony/2025_HB2107_Written_Only_Neutral_KCC.pdf.

[229] Johnston Archive, "New Mexico Wildfires: Data," *Johnston Archive*, https://www.johnstonsarchive.net/other/newmexicowildfires.html.

	New Mexico				
	Cerro Grande Fire (2000)[230]	Las Conchas (2011)[231]	Whitewater-Baldy (2012)[232, 233]	Calf Canyon (2022)[234,235]	McBride (2022)[236, 237]
Acres Burned	• 43,000	• 156,593	• 297,845	• 341,471	• 6,159
Buildings Destroyed	• 400+	• 114	• 25	• 903	• 207
Fatalities	• 0	• N/A	• N/A	• 0	• 2
Injuries	• N/A	• 15	• N/A	• 3	• N/A

Fig. 29: A summary table of recent, major wildfires in New Mexico and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

New Mexico's Wildfire Prepared Fund, enacted through SB 33 and effective April 7, 2025, is a non-reverting state fund designed to finance a new Wildfire Prepared Program focused on community-level mitigation and structure hardening.[238] The fund is capitalized through legislative appropriations, grants, gifts, donations, and investment income. However, no target capitalization amount or multiyear funding obligation is defined in statute, and the law does not specify minimum annual deposits. Expenditures from the fund are subject to warrants from the Department of Finance and Administration and administered by the Energy, Minerals and Natural Resources Department (EMNRD) through its Forestry

[230] Fire Litigation, "Cerro Grande Fire Settlement," *Fire Litigation*, https://www.firelitigation.org/cerro-grande-fire-settlement/.

[231] Southwest Fire Science Consortium, "Los Conchas Factsheet," *Southwest Fire Science Consortium*, https://swfireconsortium.org/wp-content/uploads/2012/11/Las-Conchas-Factsheet_bsw.pdf.

[232] Southwest Fire Science Consortium, "October 24, 2021: Whitewater-Baldy Complex," *Southwest Fire Science Consortium*, https://www.swfireconsortium.org/2012/10/26/whitewater-baldy-complex-field-trip-october-24-2012/#:~:text=We%20hosted%20a%20one%20day,watershed%20effects%2C%20and%20rehabilitation

[233] Bill Gabbert, "Whitewater-Baldy Fire Grows to 82,252 Acres; 12 Cabins Burned," *Wildfire Today*, May 25, 2012, https://wildfiretoday.com/whitewater-baldy-fire-grows-to-82252-acres-12-cabins-burned/.

[234] New Mexico Fire Information, "Hermits Peak and Calf Canyon Fires," *New Mexico Fire Information*, June 21, 2022, https://nmfireinfo.com/2022/06/21/hermits-peak-and-calf-canyon-fires-june-21-2022-daily-update/.

[235] Andrew Hay, "US Says It Started a Third New Mexico Wildfire in 2022," *Reuters*, 2023, https://www.reuters.com/world/us/us-says-it-Started-third-new-mexico-wildfire-2022-2023-07-25/.

[236] Hay, "US Says It Started a Third New Mexico Wildfire."

[237] New Mexico Fire Information, "McBride and Nogal Canyon Fire," *New Mexico Fire Information*, April 22, 2022, https://nmfireinfo.com/2022/04/22/mcbride-and-nogal-canyon-fire-friday-april-22-2022-daily-update-final-update/.

[238] New Mexico Legislature, "Senate Bill 33," *New Mexico Legislature,* 2025, https://www.nmlegis.gov/Legislation/Legislation?chamber=S&legType=B&legNo=33&year=25.

Division. There is no enforcement mechanism or penalty if the legislature fails to make future appropriations. New Mexico SB 33 does not directly impact any electric utilities; it focuses on community wildfire mitigation grants through EMNRD without imposing requirements on investor-owned, cooperative, or municipal utilities.

Participation in the fund is limited to qualified entities, such as local governments or contractors, and to eligible property owners who reside in high-risk areas designated by a newly expanded Fire Planning Task Force. That task force includes 16 voting members representing state and federal fire officials, land management agencies, the insurance industry, and local governments. The task force is charged with mapping wildfire risk, establishing annual grant eligibility guidelines, and developing wildfire preparedness standards for certification aligned with national models like those from the Insurance Institute for Business & Home Safety (IBHS). At least 50% of all awarded grant money must go toward assisting individual property owners in making their homes "wildfire prepared," a term defined in statute to include defensible space, noncombustible materials, ignition-resistant design, and other hardening techniques.

The Wildfire Prepared Fund, administered by EMNRD as a non-reverting fund in the state treasury, is supported by legislative appropriations, grants, donations, and investment income. EMNRD distributes grants through the Wildfire Prepared Program to support structure hardening, defensible space creation, and wildfire preparedness certification. Spending is guided by criteria developed in coordination with the Fire Planning Task Force, which identifies high-risk areas and sets eligibility standards for property owners and qualified entities.

The Fund is exclusively preventive and community-based. It does not reimburse damages, create a utility or infrastructure recovery mechanism, or provide for post-wildfire claims processing. Section 4(D) of the law explicitly states that it creates no right of action, enforceable interest, or guarantee of benefit. There are no liability caps, immunities, carve-outs, or defenses for utilities. Private utilities and electric cooperatives are neither contributors to nor beneficiaries of the Fund.

While cost recovery for utilities is not directly addressed, the fund's public structure means there is no customer surcharge, no pass-through cost mechanism, and no replenishment structure tied to utility prudence or negligence. The Wildfire Prepared Program instead focuses on residential and community hardening through local implementation partners.

Any wildfire-related costs borne by utilities would likely still be addressed through the Utility Commission.

Rating Agency Reactions and Implications for Utilities

SB 33's focus on community wildfire preparedness enhances overall resilience but does not address utility liability or cost recovery. As a result, utilities will likely need separate frameworks to manage wildfire risks, costs, and potential litigation. The absence of utility-specific funding or liability protections may drive increased regulatory pressure to develop dedicated wildfire mitigation plans and financial safeguards. Utilities may face growing expectations from regulators, investors, and the public for proactive risk management and potential challenges in cost recovery without clear legislative support. Rating agencies have not released any commentary to date.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Stakeholders broadly supported SB 33's focus on prevention but emphasized its limits. Victims and advocates stressed ongoing gaps in compensation and insurance, consumer groups warned of cost exposure, and regulators, insurers, utilities, and community groups highlighted the balance between resilience, affordability, and liability.

Wildfire Victims & Plaintiffs' Attorneys: Survivors of recent fires such as Hermits Peak—Calf Canyon highlighted how steep insurance costs and gaps in compensation persist despite state action. One homeowner testified that "our insurance…doubled…now we're at almost $300 a month," underscoring the affordability crisis SB 33 seeks to ease by funding home-hardening grants.[239] However, plaintiffs' attorneys noted that the bill "creates no right of action" and stressed that it fails to resolve compensation disputes, particularly around non-economic damages, leaving victims reliant on federal or civil litigation for recovery.[240]

Ratepayers & Consumer Advocates: Consumer advocates emphasized that litigation costs often flow directly to customers. Legislators observed that "anytime an electric utility is sued, that is passed right into the ratepayer." While SB 33 strengthens prevention, it does

[239] New Mexico Legislature, "Senate Finance Committee Substitute for Senate Conservation Committee Substitute for Senate Bill 33 (Wildfire Prepared Act)," *New Mexico Legislature*, 2025, https://www.nmlegis.gov/Sessions/25%20Regular/bills/senate/SB0033FCS.HTML.

[240] KUNM, "New Mexico Eyes Unique Fix for Escalating Wildfire Insurance Costs," *KUNM*, 2025, https://www.kunm.org/local-news/2025-02-18/new-mexico-eyes-escalating-wildfire-insurance-costs/.

not alter liability statutes or create cost-recovery protections.[241] Advocates argued this gap leaves ratepayers vulnerable to indirect financial exposure if future wildfire claims are charged through utility rates.

Regulators & Insurance Officials: The Public Regulation Commission (PRC) framed SB 33 as complementary to its development of wildfire risk protocols and Public Safety Power Shutoffs (PSPS).[242] Chair Gabriel Aguilera explained that insurers sometimes "cover only a fraction, sometimes none" of wildfire losses, leaving exposure for both utilities and customers. Superintendent of Insurance Alice Kane likewise called for "more [to be] done…to help residents prepare for future wildfires," positioning SB 33's certification and hardening standards as a key tool to connect mitigation to insurability.

Insurance & Standards Community: The Office of Superintendent of Insurance reported more than 10,000 homeowner policy non-renewals since 2021 and nearly 13% of residents without coverage. By aligning its framework with national programs like the Insurance Institute for Business & Home Safety, SB 33 aims to stabilize coverage. IBHS has said its Wildfire Prepared Home certification "puts science into the hands of homeowners," an approach that SB 33 effectively adopts through the Fire Planning Task Force.[243]

First Responders & Community Advocates: Firefighters and paramedics testified in strong support, emphasizing SB 33's role in reducing risks to homes and lives. One responder called the bill "a crucial step we can take to defend our entire state." Environmental and community groups echoed that sentiment: Conservation Voters New Mexico stated, "This bill helps our communities be in a better position to deal with potential wildfires," while Fire Adapted New Mexico noted the law provides homeowner grants that had previously been unavailable.[244]

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[241] Source New Mexico, "NM Utilities Explain Plans to Turn Off Power in High Fire Risk, a New Reality Facing New Mexicans," *Source New Mexico*, 2025, https://sourcenm.com/2025/05/08/nm-utilities-explain-plans-to-turn-off-power-in-high-fire-risk-a-new-reality-facing-new-mexicans/.

[242] Source New Mexico, "PRC Workshop to Explain Wildfire Power Shutoff Strategies," *Source New Mexico*, 2025, https://sourcenm.com/briefs/prc-workshop-to-explain-wildfire-power-shutoff-strategies/.

[243] New Mexico Office of the Superintendent of Insurance, "New Mexico Office of Insurance Superintendent Highlights Benefits of NM FAIR Plan Amidst Wildfire Season, Underscores Urgent Need to Raise Both Commercial & Residential Rates and Bolster Mitigation Efforts," *New Mexico Office of the Superintendent of Insurance*, 2025, https://www.osi.state.nm.us/en/news/pr-2025-07-14/.

[244] Fire Adapted New Mexico (FACNM), "News," *Fire Adapted New Mexico*, 2025, https://facnm.org/news.

Utilities & Rural Electric Cooperatives: Utilities acknowledged wildfire risks but stressed that ignitions often stem from unforeseeable events, such as "a tree outside of our right-of-way" contacting lines in "unanticipated wind gusts of over 90 mph." Rural electric cooperatives warned of inadequate insurance capacity. After the Las Conchas Fire, one co-op reported they "could only get $2—$3 million" in coverage despite higher exposure.[245] Co-ops backed a companion bill, HB 334, that would have capped their liability at $2 million per event, but its failure left SB 33 focused exclusively on prevention.

Oklahoma

History of Wildfires

Oklahoma's mix of prairie grasslands, high winds, and prolonged drought conditions has made it increasingly prone to fast-moving, destructive wildfires. Home to approximately 4 million residents, the state has experienced a series of major fire events, including the 2012 Oklahoma Wildfires, the Rhea Fire (2018), 34 Complex Fire (2018), Smokehouse Creek Fire (2024), and a severe 2025 wildfire season that burned hundreds of thousands of acres statewide. These incidents reflect a growing wildfire threat in the Southern Plains, where rising temperatures and land-use pressures are compounding risks to rural communities, agricultural assets, and critical infrastructure.

Senate Bill 1071, introduced in 2025 but ultimately not enacted, was the most comprehensive statewide attempt to date to address this growing risk through the creation of a wildland fire mitigation program and the establishment of legal standards governing liability for wildfire-related property damage. Although the bill did not pass, it marked a pivotal shift in the state's approach to wildfire policy, signaling legislative recognition of the need for structured prevention and legal clarity.

[245] Source New Mexico, "Some Lawmakers Look to Protect Utilities From Wildfire Liability, as PNM Lawsuit Heads to Trial," *Source New Mexico*, 2024, https://sourcenm.com/2024/08/26/some-lawmakers-look-to-protect-utilities-from-wildfire-liability-as-pnm-lawsuit-heads-to-trial/.

	Oklahoma				
	2012 Oklahoma Wildfires (2012)[246,247]	Rhea Fire (2018)[248,249]	34 Complex Fire (2018)[250]	Smokehouse Creek (2024)[251,252]	2025 Oklahoma Wildfires (2025)[253]
Acres Burned	• 52,000	• 286,000	• 62,000	• 1,058,482	• 170,000
Buildings Destroyed	• 100+	• 50	• N/A	• 500+	• 400+

Fig. 30: A summary table of recent, major wildfires in Oklahoma and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

Oklahoma currently lacks a wildfire recovery fund, cost-sharing mechanism, or statutory liability cap. In the event of a fire, victims must pursue compensation through private litigation, while fire departments rely on emergency appropriations or federal grants to fund their response efforts. The state has no administrative claims process and no structured fund replenishment system tied to wildfire risk but does use a rate case process through the Corporation Commission to approve rate adjustments for electric utilities to recover costs. This legal and financial gap has left utilities, local governments, and property owners without coordinated tools to manage the growing threat of wildfire-related losses.

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[246] UPI, "52,000 Acres Burn in Oklahoma Wildfires," *UPI*, 2012, https://www.upi.com/Top_News/US/2012/08/05/52000-acres-burn-in-Oklahoma-wildfires/41191344170202/.

[247] Newson6, "Numerous Homes Destroyed as Grass Fires Erupt in Parts of Oklahoma," *NewsOn6*, https://www.newson6.com/story/5e35ac1c83eff40362be9d0e/numerous-homes-destroyed-as-grass-fires-erupt-in-parts-of-oklahoma.

[248] Oklahoma State University, "Take a Proactive Approach to Wildfire Season," *Oklahoma State University Extension*, 2021, https://extension.okstate.edu/articles/2021/wildfire-21.html.

[249] KFOR, "Dewey County Sheriff: 50 Homes Have Burned in Rhea Wildfire," *KFOR*, https://kfor.com/news/dewey-county-sheriff-50-homes-have-burned-in-rhea-wildfire/.

[250] KFOR, "34 Complex Fire About 94 Percent Contained After Rainfall," KFOR, https://kfor.com/news/officials-34-complex-fire-about-94-percent-contained-after-rainfall/.

[251] Fox 4, "Largest Wildfire in Texas History Now Fully Contained," *FOX 4*, March 18, 2024, https://www.fox4news.com/news/smokehouse-creek-fire-contained-march-18.

[252] Reinsurance News, "500+ Structures Destroyed by Smokehouse Creek Fire," *Reinsurance News,* 2024, https://www.reinsurancene.ws/500-structures-destroyed-by-smokehouse-creek-fire/.

[253] ABC News, "4 Dead and 142 Injured in Oklahoma Wildfires; More than 400 Homes Damaged Statewide," *ABC News*, https://abcnews.go.com/US/wildfires-oklahoma-texas-amid-extreme-fire-weather-conditions/story?id=119811373.

Senate Bill 1071 was introduced in 2025 to begin addressing this gap through a two-pronged approach, combining the creation of a mitigation program with a limited liability framework. The bill proposed the establishment of the Wildland Fire Mitigation Program, administered by the Oklahoma Conservation Commission, to support proactive risk reduction measures such as vegetation management, the creation of fuel breaks, and other land stewardship practices. Oklahoma SB 1071 requires all electric utilities, including OG&E, rural co-ops, and municipal providers, to submit wildfire mitigation plans to the Oklahoma Corporation Commission. Participation would have been voluntary, with the program targeting landowners, land managers, and other stakeholders willing to adopt fire mitigation strategies.[254]

The bill directed the Commission to prioritize areas that had experienced significant wildfire damage in the past, specifically identifying zones that had burned at least 40,000 acres within the previous ten years as eligible for early-stage intervention under a pilot program. To fund these efforts, the bill would have created the Wildland Fire Mitigation Program Revolving Fund, a continuing, non-lapsing account within the State Treasury. The fund was authorized to receive revenue from state appropriations, private donations, and federal or private grants, but SB 1071 did not include any initial funding and set no capitalization targets. Utilities were not named as contributors or beneficiaries, and the fund was not designed to reimburse fire suppression costs or post-fire damages. Additionally, the bill did not establish a claims process, outline funding obligations, or provide a mechanism for replenishment in the event of depletion.

Alongside this preventive program, SB 1071 introduced a liability framework intended to clarify legal exposure for wildfire damages. Under the bill, any person or entity who negligently, recklessly, or intentionally caused or spread a wildfire would be held liable for property damage, regardless of whether the fire originated on public, tribal, or private land. However, the legislation offered a limited safe harbor for electric utilities: they would not be considered negligent if their infrastructure and operations were in compliance with the Oklahoma Corporation Commission's wildfire mitigation rules — including any approved WMPs — and the National Electric Safety Code, provided no exceptional conditions were present.

[254] Oklahoma State Legislature, "Senate Bill 1071: Wildland Fires; Establishing Provisions Relating to Wildland Fire Liability and Wildland Fire Mitigation," *Oklahoma Legislature*, 2025, https://www.oklegislature.gov/BillInfo.aspx?Bill=SB1071&Session=2500.

Damage awards were explicitly limited under the bill. Punitive and treble damages were prohibited, and bodily injury claims were excluded from coverage under the wildfire claims fund. Recoverable economic damages were capped at the lesser of the cost to restore the property or the reduction in its fair market value. The bill did not create a wildfire claims fund to provide compensation, meaning that victims would still need to pursue civil litigation to recover losses. Moreover, SB 1071 did not establish an aggregate liability cap, did not include cross-claim immunity, and provided no statutory pathway for utilities to recover wildfire-related expenses through rates or regulatory channels.

While SB 1071 represented a meaningful first step toward a more structured wildfire policy in Oklahoma, its limitations — particularly the lack of funding, cost recovery, or reimbursement mechanisms — meant it fell short of establishing a comprehensive resilience or recovery framework. The bill ultimately did not pass after failure in the Senate chamber.

Rating Agency Reactions and Implications for Utilities

While SB 1071 was not enacted, its framework drew attention from rating agencies amid rising wildfire risk in Oklahoma. Following the March 2025 fires, S&P published a note on OGE Energy Corp. and its subsidiary Oklahoma Gas & Electric (OG&E), highlighting the absence of a wildfire mitigation fund, lack of public safety power shutoff authority, and unclear liability exposure as credit concerns.[255]

S&P warned that, although OG&E had not been found responsible for the March 2025 fires, the company operates in a state without a statutory wildfire liability cap, structured wildfire fund, or formal mitigation cost recovery framework. The state's legal environment, while limiting punitive damages in general, has not been tested in large-scale wildfire litigation. S&P noted that, without additional legislation, utilities may face greater downside risk in future wildfire events, especially as climate change increases fire frequency and intensity.[256]

Had SB 1071 passed, its safe harbor provision tied to compliance with regulatory standards could have been credit-supportive, but its lack of cost recovery mechanisms, aggregate

[255] S&P Global Ratings, "OGE Energy Corp. and Oklahoma Gas & Electric Co. Are Actively Monitored Following Recent Oklahoma Wildfires," *S&P Global Ratings*, March 21, 2025, https://www.spglobal.com/ratingsdirect.
[256] S&P Capital IQ, "Credit Research" (ratingsdirect), S&P *Capital IQ*, https://www.capitaliq.spglobal.com/web/client?auth=inherit&OktaLogin=true#ratingsdirect/creditResearch?rid=3341285.

liability caps, or structured claims process limits its practical impact. In contrast to California's AB 1054 or Utah's SB 224, which include ratepayer-backed funds, liability limitations, and reimbursement rules, Oklahoma's legislative posture remains underdeveloped from a credit and investor protection standpoint.

Going forward, utilities may face liquidity strain and higher borrowing costs without structured legal protections. Rating agencies have increasingly stressed the need for a proactive, well-capitalized, and legally sound wildfire framework, elements that SB 1071 only partially addressed.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

The debate around Oklahoma's SB 1071 drew in a wide range of stakeholders beyond utilities and credit analysts, reflecting the high stakes of wildfire policy in a state increasingly vulnerable to fast-moving grassland and prairie fires. Wildfire survivors, trial lawyers, insurance companies, ratepayer advocates, and community groups all weighed in on the bill, underscoring the tension between protecting utilities from catastrophic liability and ensuring adequate compensation for victims. Regulators and rural fire associations acknowledged the potential benefits of requiring utility wildfire mitigation plans but stressed that without funding, recovery mechanisms, and accountability, the framework risked falling short. Together, these perspectives highlight the competing priorities — affordability, accountability, resilience, and recovery — that continue to shape Oklahoma's wildfire legislative landscape.

Wildfire Victims & Plaintiffs' Attorneys: Wildfire survivors and their attorneys were among the strongest opponents of SB 1071, stressing that the bill would have limited compensation and weakened accountability for utilities. Plaintiffs' lawyers argued that by prohibiting punitive damages and capping recoverable losses, the bill "would have left families undercompensated and reduced incentives for utilities to harden their systems." Victims of the 2024 Smokehouse Creek Fire, which destroyed more than 500 homes, testified that Oklahoma's lack of a compensation fund forces survivors into costly litigation: "Without a clear compensation mechanism, families are left fighting utility companies and insurers in court while their communities struggle to rebuild." These perspectives reflect concerns that SB 1071 offered protections for utilities without providing victims a viable pathway to recovery.[257]

[257] Oklahoma Voice, "As Wildfires Intensify, Utilities Want Liability Protections. But… Then Who Pays?" *Oklahoma Voice*, 2025, https://oklahomavoice.com/2025/04/24/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

Ratepayers & Consumer Advocates: Consumer groups expressed skepticism that SB 1071 would ultimately protect Oklahomans from the financial fallout of wildfires. While supportive of the idea of a mitigation program, they raised concerns about the bill's revolving fund, which lacked a dedicated replenishment mechanism and excluded utilities from contributing. One advocacy group noted, "Ratepayers will end up paying twice — first through higher bills to fund prevention, and second through uncovered losses when utilities push for retroactive recovery."[258] These groups argued that without an explicit cost-recovery pathway, utilities would be forced to seek rate relief through the Corporation Commission, potentially burdening customers already facing rising power bills.

Oklahoma Corporation Commission (Regulators): For regulators, SB 1071 represented both an opportunity and a limitation. The Oklahoma Corporation Commission would have gained new oversight authority, requiring utilities like OG&E, co-ops, and municipal providers to file wildfire mitigation plans (WMPs). Regulators acknowledged this was a positive step toward "creating a baseline of utility responsibility." However, they also cautioned that voluntary participation from landowners and the absence of secured funding could reduce the practical impact of the program. One Commission official summarized the dilemma: "Plans risk becoming paper exercises without teeth unless the state provides meaningful resources."[259]

Insurance Industry: Insurers strongly opposed SB 1071, warning that liability reforms tilted too far toward protecting utilities at the expense of policyholders. Industry representatives testified that by limiting damages and narrowing victims' recovery options, "the bill simply shifts costs onto homeowners through higher premiums." They cautioned that insurers may be forced to raise rates or pull back from high-risk wildfire zones if utility liability is curtailed without a parallel compensation mechanism. This mirrors broader market instability already seen in western states, but Oklahoma stakeholders stressed the state could exacerbate the problem if it shields utilities without addressing victim payouts.[260]

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[258] Oklahoma Voice, "As Wildfires Intensify, Utilities Want Liability Protections."

[259] Oklahoma Voice, "As Wildfires Intensify, Utilities Want Liability Protections. But… Then Who Pays?" *Oklahoma Voice*, 2025, https://oklahomavoice.com/2025/04/24/as-wildfires-intensify-utilities-want-liability-protections-but-then-who-pays/.

[260] Oklahoma Voice, "As Wildfires Intensify, Utilities Want Liability Protections."

Community & Advocacy Groups: Grassroots advocacy in Oklahoma has historically been more fragmented than in states like California or Hawai'i, but rural fire associations, agricultural groups, and the Oklahoma Farm Bureau weighed in during 2025 legislative hearings. These organizations acknowledged the importance of mitigation planning but emphasized that SB 1071 "did not go far enough to ensure rural communities will have resources after catastrophic blazes." Their testimony stressed the need for a dedicated wildfire compensation fund with mandatory utility contributions and a structured claims process. Governor Stitt's creation of the Wildland Fire Response Working Group in April 2025 reflected this pressure, bringing together the Farm Bureau, landowners, utilities, and first responders to craft a more comprehensive policy framework. As one rural fire association representative put it, "Mitigation without recovery is incomplete. Communities need a guarantee that help will be there after the fire, not just before it."[261]

[261] Office of the Governor, State of Oklahoma, "Governor Stitt Launches Wildland Fire Response Working Group to Address Increasing Threat of Wildfires in Oklahoma," Office of the Governor, *State of Oklahoma*, 2025, https://oklahoma.gov/governor/newsroom/newsroom/2025/governor-stitt-launches-wildland-fire-response-working-group-to-.html.

Appendix G: Liability Damages Frameworks

Colorado

History of Wildfires

Colorado's wildfire landscape has grown increasingly volatile, shaped by a combination of prolonged drought, dense forest areas with high levels of burnable material, and development expansion into fire-prone areas. Colorado has endured destructive fires, including the Hayman Fire (2002), Spring Creek Fire (2018), Cameron Peak and East Troublesome Fires (2020), and the Marshall Fire (2021), which destroyed over 1,000 homes, highlighting the growing frequency, scale, and geographic reach of wildfire threats across the state.

In response, Colorado has pursued a range of policy tools aimed at mitigation, response coordination, and utility risk management. The state passed Senate Bill 258, establishing a framework for state-regulated utility wildfire mitigation planning and risk reduction measures. However, unlike California or Utah, Colorado has not yet adopted a strict liability cap framework or established a centralized wildfire recovery fund. Colorado SB 258 applies to investor-owned utilities like Xcel Energy, rural cooperatives such as San Isabel Electric Association, and municipal providers like the City of Fort Collins. With a population of 5.9 million and continued growth along the Front Range and Western Slope, the financial exposure from future wildfires remains a key concern for insurers, utilities, and policymakers.[262]

[262] Neilsberg, "Colorado Population by Year," *Neilsberg*, https://www.neilsberg.com/insights/colorado-population-by-year/.

	Colorado				
	Hayman Fire (2002)[263][264]	Spring Creek Fire (2018)[265]	Cameron Peak Fire (2020)[266]	East Troublesome Fire (2020)[267]	The Marshall Fire (2021)[268]
Acres Burned	• 137,760	• 108,045	• 208,913	• 193,812	• 6,026
Buildings Destroyed	• 600	• 141	• 469	• 400+	• 1,084
Fatalities	• 6	• 0	• 0	• 2	• 2
Injuries	• N/A	• 0	• 1	• N/A	• 6
Total $ Amt. of Claims/Damages	• $48.4 million	• $32 million	• N/A	• $543 million	• $2.0 billion

Fig. 31: A summary table of recent, major wildfires in Colorado and their associated fatalities, injuries, and damages.

Existing Funds and Liability Framework

Senate Bill 258, enacted in June 2021, expands the state's wildfire mitigation framework through the creation of multiple targeted negligence funds but does not establish a centralized wildfire disaster recovery fund, liability cap, or utility cost recovery mechanism. The legislation focuses on proactive mitigation rather than addressing utility access to capital, financial liability, and recovery.

The bill establishes the Wildfire Mitigation Capacity Development Fund with a $17.5 million General Fund appropriation, to be used for workforce expansion, strategic risk analysis, cross-boundary fuel reduction, and coordination between state, federal, and tribal entities. It also creates a Hazard Mitigation Fund with an initial $3 million transfer to help local governments meet matching requirements for federal hazard mitigation grants. Other

[263] 5280 Fire, "Hayman Fire," *5280 Fire*, accessed October 10, 2025, https://5280fire.com/2002-incidents/hayman-fire/.

[264] American Planning Association, "Case Study: Hayman Fire, Hayman, Colorado," *American Planning Association*, accessed October 10, 2025, https://www.planning.org/research/postdisaster/casestudies/haymanfire.htm.

[265] Wildfire Today, "Spring Creek Fire Becomes Third Largest in State History," *Wildfire Today*, accessed October 10, 2025, https://wildfiretoday.com/spring-creek-fire-becomes-third-largest-in-state-history/.

[266] Colorado Encyclopedia, "Cameron Peak Fire," *Colorado Encyclopedia*, accessed October 10, 2025, https://coloradoencyclopedia.org/article/cameron-peak-fire.

[267] Colorado Encyclopedia, "East Troublesome Fire," *Colorado Encyclopedia*, https://coloradoencyclopedia.org/article/east-troublesome-fire.

[268] Angela Case, "Updated Numbers Show 1,084 Homes Destroyed in Marshall Fire," *9News*, https://www.9news.com/article/news/local/wildfire/1084-homes-destroyed-marshall-fire/73-5fc58914-54ae-4eb2-a368-4a88e6535c5f.

appropriations include $5 million to the Healthy Forests and Vibrant Communities Fund, $2.5 million to the Wildfire Risk Mitigation Loan Fund, and $1.8 million to support statewide preparedness and response capacity.

The funds are administered by the Colorado State Forest Service and Department of Natural Resources, with up to 7% permitted for administrative overhead. Grant and loan programs are used to fund vegetation treatment, infrastructure protection, and local planning. SB 258 does not provide reimbursement payments for fire damages, does not impose aggregate liability caps, and does not establish a legal shield for utilities or private landowners.[269]

Colorado's Governmental Immunity Act limits liability for public entities to $350,000 per person and $990,000 per incident, but this cap does not extend to private utilities.[270] The bill is silent on cross-claim immunity and does not establish legal presumptions or safe harbors for utilities in the event of wildfire litigation.

While SB 258 provides critical up-front investment in wildfire risk mitigation, it stops short of the legal and financial reforms seen in other western states, leaving cost recovery, liability exposure, and post-fire compensation to be addressed on a case-by-case basis.

Colorado House Bill 1302,[271] introduced on March 14, 2025, aimed to create the Wildfire Catastrophe Reinsurance Enterprise to stabilize the homeowners' insurance market in areas at high risk for wildfires. The bill imposes a 0.5% fee on every homeowner's insurance policy in Colorado unless the home meets certain wildfire mitigation standards.

HB 1302 proposed the creation of two state-run enterprises to stabilize the homeowners' insurance market in wildfire-prone areas, one offering reinsurance to insurers after wildfire disasters and the other funding grants for homeowners.

Despite its ambitious goals, HB 1302 was ultimately rejected in May 2025 during the legislative process. Lawmakers raised concerns about the mandatory nature of the fee, the limited direct benefits to homeowners, and the complexity of establishing two new state

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[269] Colorado General Assembly, "Colorado Senate Bill 258," *Colorado General Assembly*, https://leg.colorado.gov/bills/sb21-258.

[270] CTSI, "Colorado Governmental Immunity Act," *CTSI*, https://www.ctsi.org/wp-content/uploads/2022/02/tuv26i5.pdf.

[271] Colorado Regular Session Engrossed, "House Bill HB1302," *LegiScan*, 2025, https://legiscan.com/CO/text/HB1302/id/3219969.

enterprises. Critics also questioned whether the proposed reinsurance model would effectively stabilize the market or simply shift costs without addressing the underlying risk.

Rating Agency Reactions and Implications for Utilities

Senate Bill 258 significantly expanded Colorado's wildfire mitigation efforts through targeted state funding but had limited direct impact on utilities. Unlike legislation in other western states, SB 258 does not establish liability protections, reimbursement mechanisms, or a cost recovery framework for utilities. While the bill directs over $30 million toward mitigation programs, it does not authorize utilities to access these funds for cost recovery or to offset wildfire-related liabilities. Additionally, SB 258 lacks legal safe harbors or liability caps for utilities, leaving them fully exposed to litigation risks without the benefit of the damages protections offered to public entities under Colorado's Governmental Immunity Act. As a result, utilities must navigate wildfire liability and investment in risk mitigation without the legal or financial backstops seen in neighboring jurisdictions.

In June 2025, the Colorado Public Utilities Commission approved Xcel Energy's $1.9—$2 billion Wildfire Mitigation Plan for 2025—2027. The plan includes underground power lines, upgrading infrastructure, enhancing vegetation management, and expanding situational awareness tools such as AI-enabled cameras and weather stations. To reduce customer cost impacts, much of the investment will be financed through securitization, with average residential bills expected to rise by about $9 per month before declining in 2028, as securitized bonds begin to replace higher-cost capital recovery mechanisms. The plan was supported by a broad coalition of stakeholders, including state agencies, cities, and consumer advocates. State regulators originally expressed unease with the costs of the plan but cited securitization as a decisive factor in approving the proposal.

Rating agencies have not released any commentary to date.

Stakeholder Perspectives: Wildfire Victims, Consumers, and Advocacy Groups

Colorado's wildfire legislation has generated diverse reactions from stakeholders, reflecting the tension between cost recovery, consumer protection, and the need for stronger mitigation. Colorado advocacy has been fragmented across wildfire victims, homeowners, ratepayer advocates, and insurance industry representatives. Testimony during hearings on SB 258 and HB 1302 underscored the complexity of balancing financial risk, affordability, and equitable recovery.

Wildfire Victims & Plaintiffs' Attorneys: Wildfire survivors have been some of the most vocal critics of Colorado's current framework, arguing that existing funds and insurance reforms fail to address the human and financial toll of disasters. Marshall Fire victims emphasized that state policy "centers on mitigation while neglecting recovery," pointing to the lack of a dedicated wildfire compensation fund comparable to California's Wildfire Fund. Several survivors have turned to litigation to fill this gap, such as homeowners who sued insurers after the High Park Fire, alleging companies colluded to suppress claim payouts and delay recovery for families. Trial lawyers reinforced these concerns, warning that without systemic legal protections or recovery pools, victims remain "at the mercy of lengthy lawsuits" and underinsurance shortfalls.[272]

Ratepayers & Consumer Advocates: Consumer groups have largely supported proactive mitigation but expressed caution about the financing mechanisms. The Colorado Office of the Utility Consumer Advocate and allied organizations welcomed Xcel Energy's $2 billion wildfire mitigation plan, particularly undergrounding power lines and vegetation management, but raised concerns over the bill impacts from securitization. They argued that securitization spreads costs over decades but still results in a near-term increase of roughly $9 per month per household, which could disproportionately harm low-income families. Advocates also highlighted the failure of HB 1302 as a missed opportunity to stabilize the housing market in fire-prone regions. Insurance Commissioner Michael Conway himself acknowledged that HB 1302's defeat was "one of [his] largest regrets," noting that the bill would have offered systemic rate relief at a time when insurers are retreating from high-risk areas.[273]

Regulators & Public Officials: The Colorado Public Utilities Commission (PUC) and state lawmakers have been caught between competing pressures to ensure utilities invest in wildfire safety while keeping energy and insurance costs affordable. Regulators initially expressed hesitation over the size of Xcel's wildfire plan, questioning whether ratepayers could sustain the added costs. Ultimately, securitization was seen as a "decisive compromise," enabling critical safety upgrades while smoothing cost recovery over time.[274] Meanwhile, lawmakers debated whether utilities should help finance a wildfire reinsurance

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[272] United Policyholders, "Group of Colorado Wildfire Survivors Sue Insurance Companies over Underpayments, Alleging Conspiracy to Defraud after High Park Fire," *United Policyholders*, 2025, https://uphelp.org/colo-wildfire-victims-sue-insurance-companies/?print=print.

[273] CPR News, "Colorado Homeowners Insurance Bill Dies after Debate over Utility Liability and Wildfire Costs," *CPR News*, 2025, https://www.cpr.org/2025/04/09/colorado-homeowners-insurance-bill-utilities-wildfires.

[274] CPR News, "Colorado Homeowners Insurance Bill Dies after Debate over Utility Liability and Wildfire Costs."

pool in exchange for reduced liability. Some argued this would mirror models in California and Oregon, while opponents warned it risked shifting costs to homeowners without guaranteeing meaningful consumer benefits. The eventual rejection of HB 1302 reflected these tensions, with skeptical legislators calling the mandatory 0.5% insurance fee "a hidden tax" on households outside the wildland-urban interface.[275]

Insurance Industry & Market Stability: Insurers and reinsurers played a decisive role in shaping the debate around HB 1302. While many supported the creation of a state reinsurance enterprise as a way to backstop catastrophic risk, they objected to the bill's loss-ratio requirements, which would have required companies to lower premiums if payouts fell below a certain threshold. Industry groups argued this was "unsuited to the property insurance market" and could destabilize carriers operating in high-risk regions.[276] Insurers also stressed that without stronger enforcement of homeowner mitigation standards, a state reinsurance pool risked becoming a subsidy for high-risk properties rather than a true stabilizing force. Their skepticism, combined with taxpayer opposition to mandatory fees, ultimately contributed to the bill's failure in May 2025.

[275] The Colorado Sun, "Colorado May Let Utilities Pay Millions into Home Insurance Fund in Exchange for Less Wildfire Liability," The Colorado Sun, 2025, https://coloradosun.com/2025/03/27/colorado-wildfire-reinsurance-utility-liability/.
[276] Kenneth Araullo, "Re/Insurers Warn Loss Ratio Mandates under HB 1302 Could Destabilize Homeowners Insurance Market," *Insurance Business Magazine*, 2025, https://www.insurancebusinessmag.com/reinsurance/news/breaking-news/colorado-lawmakers-debate-loss-ratio-limits-and-wildfire-reinsurance-reform-528919.aspx.

Appendix H: List of Stakeholders Interviewed

Category	Organizations/Groups
Attorneys Representing Plaintiffs, Utilities, and Insurers	Munger, Tolles & Olson LLP Cotchett, Pitre & McCarthy LLP Mayer Brown LLP Watts Law Firm LLP Grotefeld Hoffmann LLP Hawaiʻi Association for Justice Ashford & Wriston LLP
Community Leaders and Wildfire Survivors/Safety Advocates	Wildfire Safety Advocates of Waikōloa Maui Long Term Recovery Group Lahaina Strong
Consumer Groups	Life of the Land
Electric Utilities	Hawaiian Electric (HECO) Hawaiian Electric Industries (HEI) Kauaʻi Island Utility Cooperative (KIUC)
Insurance Market Participants	State Farm Insurance Hawaiʻi Insurers Council Zephyr Insurance Co., Inc.
Legislators	Senator Glenn Wakai

	Representative Nicole Lowen Representative Scot Matayoshi
Other Utilities	Hawaiian Telcom Charter/Spectrum
Property Owners	Kamehameha Schools
State and County Government Representatives	Hawai‘i County, Office of the Mayor Department of the Attorney General Department of Budget and Finance Department of Commerce and Consumer Affairs (DCCA) Division of Consumer Advocacy Insurance Division Department of Land and Natural Resources (DLNR) Division of Forestry and Wildlife Department of Law Enforcement Office of the State Fire Marshal Hawai‘i State Energy Office
Technical Experts	University of Hawai‘i, School of Ocean and Earth Science and Technology Hawai‘i Wildfire Management Organization
Unions	IBEW Local 1260