



# Fiscal Note

## Legislative Council Staff

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### BILL 5: UTILITY WILDFIRE MITIGATION PLANS

**Prime Sponsors:**

**Fiscal Analyst:**

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**Fiscal note status:** This fiscal note reflects the bill draft requested by the Wildfire Matters Review Committee.

### Summary Information

**Overview.** The bill creates the Wildfire Mitigation Plan Certification Enterprise in the Department of Public Safety and establishes program requirements.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- Local Government
- Statutory Public Entity
- School Districts

**Appropriations.** For FY 2026-27, the bill requires an appropriation of \$800,244 to the Department of Regulatory Agencies. The Colorado Wildfire Mitigation Plan Certification Enterprise Cash Fund is continuously appropriated to the Department of Public Safety.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue (Cash Funds)	\$2,529,347	\$3,095,767
State Expenditures (Cash Funds)	\$2,496,285	\$3,091,627
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$929,347	\$1,495,767
Change in State FTE	14.5 FTE	20.4 FTE

## Summary of Legislation

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The bill creates the Colorado Wildfire Mitigation Plan Certification Enterprise in the Division of Fire Prevention and Control in the Department of Public Safety to establish a wildfire mitigation planning program and framework for electric utilities.

### Board

The enterprise is governed by a five-member board, which includes representatives of non-rate-regulated electric utilities and the Colorado Forest Health Council, as well as emergency management and wildfire mitigation experts.

### Fee Collection

Beginning in FY 2026-27, the bill directs the enterprise to determine and impose a fee on certain electric utilities that submit a wildfire mitigation plan or annual report. Starting in FY 2027-28, the board may increase the fee annually to adjust for inflation.

Fee revenue collected by the division on behalf of the enterprise is credited to the Colorado Wildfire Mitigation Plan Certification Enterprise Cash Fund and continuously appropriated to the enterprise. The fund also consists of any revenue bonds issued by the board, gifts, grants, or donations made to the enterprise, and appropriations made by the General Assembly.

### Wildfire Mitigation Plans

Starting on September 1, 2026, the enterprise and the Public Utilities Commission (PUC) in the Department of Regulatory Agencies must review and approve, deny, or modify wildfire mitigation plans submitted by electric utilities. These plans must conform to utility practices and include the electric utility's:

- service territory and methods of wildfire risk assessment;
- situational awareness program;
- procedures and schedules to inspect and operate transmission and distribution infrastructure;
- procedures to perform vegetation mitigation;
- proposed implementation strategies to reduce the risk of facilities causing a wildfire;
- plan to coordinate with other electric utilities;
- safety power shut-off plan and procedures to restore power;
- community outreach and public awareness efforts;
- emergency response procedures; and
- additional wildfire mitigation tactics.

Electric utilities must also submit an annual report to the PUC or enterprise for compliance determination, and resubmit wildfire mitigation plans every five years.

## Cost Recovery

For rate-regulated electric utilities with an approved wildfire mitigation plan, the bill authorizes the recovery of investments and expenditures made to implement the plan through adjusted base rates and surcharges on a utility customer's bill.

## Liability

An electric utility with an approved wildfire mitigation plan is deemed not liable for wildfire-related damages arising from the utility's electric facility, transmission, or distribution activities so long as the utility complied with the approved plan. The bill also set conditions for economic, noneconomic, and punitive damages, and a three-year statute of limitations.

## State Revenue

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The bill increases state revenue by about \$2.5 million in FY 2026-27 and \$3.1 million in future years from fee revenue to the Colorado Wildfire Mitigation Plan Cash Fund and the Fixed Utility Fund, as shown in Table 2 below. Additional revenue may be received from the issuance of bonds, interest income, or gifts, grants, and donations to the enterprise, as discussed below.

**Table 2**  
**Fee Revenue Impacts**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Colorado Wildfire Mitigation Plan Cash Fund	\$1,600,000	\$1,600,000
Fixed Utility Fund	\$929,347	\$1,495,767
<b>Total Revenue</b>	<b>\$2,529,347</b>	<b>\$3,095,767</b>

## Colorado Wildfire Mitigation Plan Cash Fund

### Fees on Electric Utilities

Colorado law requires legislative service agency review of measures that create or increase any fee collected by a state agency. The bill requires DPS to collect fees, on behalf of the enterprise, from non-rate-regulated electric utilities that submit wildfire mitigation plans and annual reports. The fiscal note assumes that 20 utilities will submit annual plans and reports to the enterprise and pay an average annual fee of around \$80,000. This fee is assumed to increase state revenue to the Colorado Wildfire Mitigation Plan Certification Enterprise by about \$1.6 million per year starting in FY 2026-27.

These proposed fees are estimates only; actual fees will be set administratively by DPS based on cash fund balance, estimated enterprise costs, and the number of electric utilities subject to the fee. The fiscal note assumes that the enterprise will set fee rates to cover operating expenditures in DPS, as outlined in the State Expenditure section below. Fees paid to a state enterprise are exempt from TABOR.

## Bond Issuances

Additionally, the enterprises may issue bonds to generate revenue and cover administrative expenses. However, the fiscal note assumes that fee revenue will be sufficient and therefore, bond revenue has not been estimated.

## Interest Income

The enterprise is permitted to invest revenue from bonds and fees to generate additional revenue, which is credited directly to the Colorado Wildfire Mitigation Plan Certification Enterprise Cash Fund. This revenue is not subject to TABOR.

## Gifts, Grants, and Donations

The bill potentially increases state revenue to the Colorado Wildfire Mitigation Plan Certification Enterprise Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

## Fixed Utility Fund

The bill increases state cash fund revenue to the Fixed Utility Fund (FUF) by about \$929,000 in FY 2026-27 and \$1.5 million in future years. Administrative costs incurred by the PUC are paid from the FUF, which receives an annual assessment on the state's regulated utilities. Whenever additional expenses are incurred against the fund, the assessment must be raised to increase revenue to cover these expenses. This revenue is subject to TABOR.

## State Expenditures

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The bill increases state expenditures by \$2.5 million in FY 2026-27 and \$3.1 million in future years. These costs will be incurred in the Department of Public Safety and the Department of Regulatory Agencies, as shown in Table 3 and described in the sections below. Costs are paid from the Colorado Wildfire Mitigation Plan Cash Fund and the Fixed Utility Fund, respectively.

**Table 3  
State Expenditures  
All Departments**

<b>Department</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Department of Public Safety	\$1,566,938	\$1,595,860
Department of Regulatory Agencies – PUC	\$929,347	\$1,495,767
<b>Total Costs</b>	<b>\$2,496,285</b>	<b>\$3,091,627</b>

**Department of Public Safety**

The bill increases expenditures in DPS by about \$1.6 million beginning in FY 2026-27, paid from the Colorado Wildfire Mitigation Plan Cash Fund and shown in Table 3A below.

**Table 3A  
State Expenditures  
Department of Public Safety**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Personal Services	\$909,103	\$1,034,587
Operating Expenses	\$11,264	\$12,800
Capital Outlay Costs	\$66,700	\$0
Travel Expenses	\$109,500	\$132,000
Leased Vehicles	\$144,675	\$159,300
Non-standard Capital	\$92,750	\$0
Legal Services	\$20,771	\$15,924
Centrally Appropriated Costs	\$212,175	\$241,249
FTE – Personal Services	8.8 FTE	10.0 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
<b>Total Costs</b>	<b>\$1,566,938</b>	<b>\$1,595,860</b>
<b>Total FTE</b>	<b>8.9 FTE</b>	<b>10.1 FTE</b>

**Staff**

Beginning in FY 2026-27, DPS requires 1.0 FTE Administrator, 8.0 FTE Fire Marshal, 0.5 FTE Technician, and 0.5 FTE Equipment Mechanic to manage the enterprise, establish fee collection, review wildfire mitigation plans for non-rate-regulated utilities, and conduct ongoing field inspections for substantial compliance that meets legal liability standards. Administrative staff costs and FTE are prorated in the first year to a July 1, 2026 start date, while field staff costs and FTE are prorated to a September 1, 2026 start date.

### Travel Expenses and Leased Vehicles

Beginning in FY 2026-27, the department requires \$110,000 per year for five board members and all field inspection staff to travel across the state for meetings and ongoing compliance reviews. Additionally, DPS requires a vehicle for each Fire Marshal and will make vehicle lease and operating cost payments to the Department of Personnel and Administration, which manages the state’s fleet of vehicles.

### Additional Equipment

In FY 2026-27 only, DPS requires about \$93,000 of for additional equipment for newly hired Fire Marshals including uniforms, personal protective equipment (PPE), automated external defibrillators (AEDs), and portable radios.

### Legal Services

In FY 2026-27, DPS requires 150 hours of legal services, provided by the Department of Law, for initial rulemaking and enterprise formulation. In future years, the PUC requires an estimated 115 hours of legal services for ongoing support. Legal services are provided by the Department of Law at a rate of \$138.47 per hour.

### Department of Regulatory Agencies – PUC

The bill increases expenditures in the PUC by about \$929,000 in FY 2026-27 and \$1.5 million beginning in FY 2027-28, paid from the Fixed Utility Fund and shown in Table 3B below.

**Table 3B**  
**State Expenditures**  
**Department of Regulatory Agencies - PUC**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Personal Services	\$608,430	\$1,131,269
Operating Expenses	\$6,400	\$12,800
Capital Outlay Costs	\$40,020	\$26,680
Legal Services	\$145,394	\$74,774
Centrally Appropriated Costs	\$129,103	\$250,244
FTE – Personal Services	5.0 FTE	10.0 FTE
FTE – Legal Services	0.6 FTE	0.3 FTE
<b>Total Costs</b>	<b>\$929,347</b>	<b>\$1,495,767</b>
<b>Total FTE</b>	<b>5.6 FTE</b>	<b>10.3 FTE</b>

## Staff

Beginning in FY 2026-27, the PUC requires 5.0 FTE Professional Engineer and 1.0 FTE Environmental Protection Specialist to create a Wildfire Mitigation Plan safety unit to review wildfire mitigation plans for rate-regulated utilities and conduct ongoing field inspections on roughly 20,000 miles of transmission lines and 100,000 miles of distribution lines for substantial compliance that meets legal liability standards. Starting in FY 2027-28, an additional 2.0 FTE Professional Engineer and 2.0 FTE Environmental Protection Specialist are required as the PUC reviews an additional rate-regulated utility for compliance. Staff costs and FTE are prorated in the first year to a September 1, 2026 start date.

## Legal Services

In FY 2026-27, the PUC requires 1,050 hours of legal services, provided by the Department of Law, for initial rulemaking and anticipated legal proceedings for electric utility applicants. In future years, the PUC requires an estimated 655 hours of legal services for ongoing compliance litigation. Legal services are provided by the Department of Law at a rate of \$138.47 per hour.

## Other Agency Impacts

If electric utilities recover costs to implement wildfire mitigation plans through a base rate increase, rider, or surcharge on customer bills, state agencies – as ratepayers – may experience increased expenditures. Exact base rate or surcharge increases are based on a variety of factors and utility decisions; therefore, the fiscal note cannot estimate these costs.

## Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

## TABOR Refunds

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$929,347 in FY 2026-27. The bill does not change current expectations that the state will be below its revenue limit in the current FY 2025-26. This estimate assumes the [July update to the June 2025 LCS revenue forecast](#). A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save in FY 2026-27 and any future years when the state is over its revenue limit.

## **Local Government – School District – Statutory Public Entity**

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If electric utilities recover costs to implement wildfire mitigation plans through a base rate increase, rider, or surcharge on customer bills, local governments, school districts, and statutory public entities – as ratepayers – may experience increased expenditures. Exact base rate or surcharge increases are based on a variety of factors and utility decisions; therefore, the fiscal note cannot estimate these costs.

## **Technical Note**

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In 2020, Xcel Energy submitted its first Wildfire Mitigation Plan to the PUC. As is permitted under current law, the PUC extended the 120-day procedural schedule with final proceedings lasting 250 days. The bill requires the PUC to review and approve, deny, or modify Wildfire Mitigation Plans within 120 days of utility filing, which the commission does not believe is achievable based on the size of rate-regulated plans and amount of community engagement in these proceedings.

## **Effective Date**

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

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For FY 2026-27, the bill requires an appropriation of \$800,244 from the Fixed Utility Fund to the Public Utilities Commission in the Department of Regulatory Agencies and 5.0 FTE; of which \$145,394 is reappropriated to the Department of Law with an additional 0.6 FTE.

The Colorado Wildfire Mitigation Plan Certification Enterprise Cash Fund is continuously appropriated to the Department of Public Safety. For FY 2026-27, \$20,771 is reappropriated to the Department of Law, with 0.1 FTE.

## Departmental Difference

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The Department of Public Safety estimates that the bill will increase department expenditures by \$3.1 million and 17.0 FTE in FY 2026-27 and \$2.8 million and 17.0 FTE in future years. This estimate assumes that the Colorado Wildfire Mitigation Plan Certification Enterprise will require an additional 7.0 FTE for administration, field inspection, permitting, and equipment management, and additional legal services. The fiscal note includes FTE, staff costs, and legal services for these functions; however, it also assumes that a greater number of non-rate-regulated electric utilities will have less infrastructure to review, resulting in expenditure impacts that align with the PUC.

If expenditures increase by the department's estimate, state revenue to the Colorado Wildfire Mitigation Plan Cash Fund will need to increase by a proportional amount, resulting in annual fees set at around \$150,000 per utility.

## State and Local Government Contacts

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Law	Regulatory Agencies
Natural Resources	Treasury
Public Safety	