



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

DRAFT

RESOLUTION

No. 2024-04

Policies for Wildfire Mitigation, Management and Resiliency

Reported to the Caucus by the
NHCSL Energy, Infrastructure and Environment Task Force
Rep. Eva-Dina Delgado (IL), Chair

**Sponsored by Angela Romero (UT), Angel Fourquet (PR) and
Rep. Eva-Dina Delgado (IL)**

1 **WHEREAS**, in [Resolution 2018-14](#), the National Hispanic Caucus of State Legislators
2 addressed the need for investing in and maintaining a modernized grid that ensures
3 resiliency, reliability and safety, potentiating smart cities and electric vehicles, with an
4 intentional focus of providing for the most under-served and vulnerable communities, and
5 recognized the important role that electric companies play in achieving those goals; and,

6 **WHEREAS**, in [Resolution 2019-20](#), the National Hispanic Caucus of State Legislators
7 recognized the destabilizing impact of climate change and its disproportionate effects on
8 indigenous peoples, communities of color, migrant communities, rural communities, the
9 poor, low-income earners, women, the elderly, people with disabilities, and young people;
10 calling for solutions that center on equity and justice, including an energy-
11 efficient smart grid and policies that prepare communities across America to mobilize if a
12 climate emergency occurs; and,

13 **WHEREAS**, climate change has created warmer and drier conditions leading to longer and
14 more active and destructive wildfire seasons that continue to challenge communities, public

15 safety and the energy grid, especially communities of color¹ in the heavily Hispanic states of
16 the west and southwest, and must be addressed holistically; and,

17 **WHEREAS**, many insurance companies are leaving the wildfire insurance market in the face
18 of increased risks, making it difficult for homeowners, small businesses, farmers and electric
19 companies to procure appropriate, affordable insurance to address wildfire risks and
20 losses.² For example, the number of California homeowners using the more-expensive FAIR
21 Plan fire and smoke insurance of last resort has tripled in the last five years,³ despite new
22 regulations allowing insurance companies to use catastrophic models to set more expensive
23 insurance rates, the same last-ditch allowance that led to Florida’s current out-of-control
24 insurance inflation;⁴ and,

25 **WHEREAS**, recognizing these risks as they pertain especially to farming and other outdoor
26 work, in [Resolution 2021-13](#), the National Hispanic Caucus of State Legislators called for
27 legislation creating a fund to replace wages lost when extreme heat or active wildfire
28 evacuation zones make it unsafe to work; and,

29 **WHEREAS**, in terms of the grid, many electric companies are working to limit potential
30 wildfire ignitions by deploying new technologies to ensure better situational awareness and
31 wildfire detection capabilities,⁵ undergrounding of select high-priority lines; using covered
32 conductors to limit sparking of broken lines; and expanding use of automatic reclosers with
33 more sensitive settings to prevent sparking when debris blows into power lines; and,

34 **WHEREAS**, the final report of the federal Wildland Fire Mitigation and Management
35 Commission also added that,

Given the widespread impact that utility-caused ignitions can have, some utility providers have begun proactively shutting off power during times of high wildfire risk to prevent wildfires. These shut-offs are a valuable tool in reducing wildfire ignition risk but are not a standard practice across all utility providers. De-energizing transmission lines during a wildfire event is also sometimes needed to enable firefighters to use aerial suppression agents or to work safely near powerlines. However, it should be noted that the resulting power outages from these shut-offs, whether undertaken proactively or in response to an ignition, can be impactful, costly, and widespread. One study on proactive shutoffs in California identified approximately 12 million person-days of outages in 2019. During that same year, costs of proactive shutdowns were estimated to be \$10 billion. Those medically dependent on consistent power and

¹ Wildland Fire Mitigation and Management Commission, Final Report, p. 126 (Sept. 2023) (citations omitted) Available at <https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-09-2023.pdf>

² Id., at p. 45-46.

³ John Lynch, *More SLO County homeowners are losing their fire insurance. What are their options?* (San Luis Obispo Tribune, Mar. 8, 2024) Available at <https://www.sanluisobispo.com/news/local/article285704141.html>

⁴ Lindsey Holden and Maggie Angst, *California cuts insurance deal forcing home coverage in fire zones — but it could raise prices* (San Luis Obispo Tribune, Sep. 23, 2023) Available at <https://www.sanluisobispo.com/news/california/article279386284.html>

⁵ Wildland Fire Commission, Final Report, p. 213.

47 *populations more vulnerable to heat are especially impacted during power loss*
48 *events;⁶ and,*

49 **WHEREAS**, in addition to those preventive actions and investments by utilities, a range of
50 other actors must also address their contributions to increased wildfire risks. This includes
51 federal, state, and local land managers, whose practices can contribute to dangerous fuels
52 loads,⁷ and homeowners who fail to employ basic strategies to protect their property in the
53 event of a wildfire; and,

54 **WHEREAS**, after evaluating the liability and insurance issues, the Wildland Fire Mitigation
55 and Management Commission recommended, among other things, that:

- 56 a. Congress should advance legislation to support a compensation or claims fund for
57 burn damages to third parties that can quickly provide financial relief in instances
58 when burn practitioners adhere to identified best practices;⁸
- 59 b. Congress request a comprehensive study on the relationship between financial
60 protection solutions available through the private market and federal disaster
61 recovery to support federal efforts to modernize federal post-disaster recovery
62 benefits that ensure resources are complementary rather than conflicting;⁹
- 63 c. Congress amend the Stafford Act to allow section 1206 funding for code
64 enforcement for up to 24 months rather than the current 180 days;¹⁰
- 65 d. Congress should establish dedicated funding for the Natural Resources
66 Conservation Service Emergency Watershed Protection Program with an
67 insurance pool for state, county, or city government, special district, or Tribal
68 government sponsors;¹¹

69 **WHEREAS**, electric utility companies are not structured to meet the required risk
70 diversification, solvency or other conditions regularly required of an insurance company.
71 Despite this, and especially due to the insurability concerns caused by insurers leaving the
72 wildfire insurance market, wildfires create the potential for uncapped liability for electric
73 companies, forcing them to function as a de facto insurer of last resort even before any
74 responsibility for a wildfire has been determined; and,

75 **WHEREAS**, the federal Wildland Fire Mitigation and Management Commission further
76 recommended that:

- 77 a. Congress should increase funding and technical assistance to state, local, Tribal, and
78 territorial partners to manage post-fire recovery and incentivize the development of
79 state and local post-fire recovery capacity;¹²

⁶ Wildland Fire Commission, Final Report, p. 49.

⁷ Id., at p. 51.

⁸ Id., at p. 58.

⁹ Id., at p. 138.

¹⁰ Id., at p. 139.

¹¹ Id., at p. 147.

¹² Id., at p. 137.

- 80 b. Establish a new grant program to fund local, state, Tribal, and territorial entities to
81 build disaster sheltering, expand housing capacity, undertake pre-event planning,
82 and support community readiness;¹³
- 83 c. Congress enable more flexible use of existing disaster grant funding and expansion of
84 agency authorities in order to increase local, state, Tribal and territorial capacity to
85 design and implement post-disaster and permanent housing solutions;¹⁴
- 86 d. Congress allow utilization of existing sources of mitigation funding, like Hazard
87 Mitigation Grant Program (HMGP), the Building Resilient Infrastructure and
88 Communities (BRIC) and the National Flood Insurance Program, to reduce future loss
89 to housing resources and build community resiliency post-fire;¹⁵
- 90 e. The creation of standards ¹⁶ for electric utility wildland fire mitigation plans,
91 encouraging the adoption of those plans by all transmission and distribution electric
92 utilities while providing “a mechanism to incentivize and expedite ignition-resistant
93 infrastructure improvements;”¹⁷
- 94 f. Congress should help advance efforts by the Alliance of Forest Fire Compacts, State
95 Foresters, and others to update regional compacts to meet modern fire management
96 needs and to submit the updated compacts for congressional approval;¹⁸
- 97 g. Congress should increase accessibility of federal grants for community wildfire risk
98 reduction and post-fire recovery efforts;¹⁹
- 99 h. Congress should expand equitable access to funds, including by providing agencies
100 the authority to reduce or waive match requirements when needed;²⁰
- 101 i. Congress should ensure alternatives to reimbursable funding mechanisms are
102 available and accessible;²¹
- 103 j. Congress should ensure funding prioritization includes socioeconomic demographics
104 for populations disproportionately impacted by wildfire who reside in high hazard
105 areas;²²
- 106 k. Congress should broaden the Stafford Act’s definition of “Small Impoverished
107 Community” by raising the population threshold from 3,000 persons to 50,000
108 (further recognizing that some may be inside larger geographic units) and by
109 allowing an interpretation of impoverished that shifts from a single qualifying metric

¹³ Id., at p. 141.

¹⁴ Id.

¹⁵ Id., at p. 143.

¹⁶ The Commission was split on whether or not they should be federally mandated “in the face of existing state approaches that may better reflect the state’s unique conditions and work with utilities.”

¹⁷ Commission, Final Report, p. 51-52.

¹⁸ Id., at p. 110.

¹⁹ Id., at p. 247.

²⁰ Id., at p. 248.

²¹ Id., at p. 249.

²² Id.

110 to a menu of available metrics can help communities use the most appropriate and
111 representative metric of impoverished.²³

112 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State Legislators
113 recognizes the threat that increasing wildfires pose to communities across the United States
114 and endorses the recommendations of the final report of the federal Wildland Fire Mitigation
115 and Management Commission, stressing the locally-informed and equitable option in the
116 cases where the Commission provided several; and,

117 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators further
118 recognizes the important role played by electric utility companies in preventing wildfires
119 and urges state and local officials to collaborate with regulators, policymakers, and
120 stakeholders to develop policies to facilitate electric companies making significant
121 investments to reduce wildfire risks and to ensure that the energy grid can provide resilient
122 clean energy in the face of climate change, further urging Congress to fund the related
123 initiatives identified by the Wildland Fire Mitigation and Management Commission; and,

124 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators urges
125 Congress to collaborate with regulators, policymakers, and stakeholders to explore a
126 national approach to address the potential for large liabilities associated with wildfires, that
127 takes into account that utility companies are not structured to meet the required risk
128 diversification, solvency or other conditions regularly required of an insurance company and
129 should not act as such; at the same time that it also expands the scope of the Stafford Act to
130 help mitigate the impact on communities as recommended by Wildland Fire Mitigation and
131 Management Commission.

132 THE NHCSL ENERGY, INFRASTRUCTURE AND ENVIRONMENT TASK FORCE, AT ITS
133 MEETING OF MARCH 14, 2024, UNANIMOUSLY RECOMMENDED THIS RESOLUTION, AS
134 AMENDED, TO THE EXECUTIVE COMMITTEE FOR APPROVAL.

²³ Id. at p. 250. This recommendation follows the same concern of [NHCSL Resolution 2020-02](#) that official poverty calculations and funding formulas have historically failed to fully capture the disproportionate burdens faced by the urban poor and other communities.