

**Proposed Alternative Concept to 25LSO-0143 (0.2), Wyoming energy independence-fire funds.
Chairman Burkhart**

Page 1-lines 1 through 6 Delete entirely and insert:

"AN ACT relating to public utilities; requiring the establishment of wildfire mitigation plans by public utilities; specifying presumptions for civil actions against public utilities for damages from wildfires; specifying applicability; requiring rulemaking; and providing for effective dates."

Page 1-lines 10 and 11 Delete entirely.

Pages 2 through 15 Delete entirely.

Page 16-lines 1 through 17 Delete entirely and insert:

"Section 1. W.S. 37-3-401 is created to read:

37-3-401. Public utilities; wildfire mitigation plan; requirements; presumptions in civil actions.

"(a) Each public utility shall establish a wildland fire protection plan that is in accordance with all of the following:

(i) The wildland fire protection plan shall be developed using approaches and methods that are reflective of and commensurate with the size and complexity of the public utility's operations, considering the nature of the fire risk of the public utility's service territory;

(ii) The plan shall include the following preventative measures:

(A) The plan shall designate at least one (1) individual person who has operational authority over the plan, including the management and implementation of the plan. The person designated under this subparagraph shall also be responsible for reporting fire events that originate within the public utility's service territory and shall act as a liaison with federal, state, tribal and local officials and agencies before, during and after each fire event;

(B) Identifying and describing areas within the public utility's service territory that the public utility

considers may be subject to a heightened risk of wildfire at the time the plan is finalized;

(C) Examining and identifying assets, facilities and procedures that may reduce a heightened risk of ignition of a fire;

(D) Conducting community outreach efforts and a public awareness campaign at specified intervals regarding the risk of wildfire specific to the public utility's service territory;

(E) Developing and conducting regular workforce training that is informed by the public utility's plan;

(F) Coordinating with federal, state, tribal and local officials and agencies on wildfire preparedness and emergency response plans.

(iii) The plan shall include the following mitigation measures:

(A) Considering and, where financially prudent and reasonably practicable, implementing methods of line design including, when appropriate, the most current version of design guidelines prepared by the United States department of agriculture rural utilities service;

(B) On a reasonably regular basis and as weather conditions dictate, monitoring forecasted and current weather data from a variety of sources that may include the national oceanic and atmospheric administration, the United States national weather service, the United States forest service wildland fire assessment system and the national fire danger rating system, for purposes of assessing current and future fire risk;

(C) Developing procedures and schedules for and, subject to the timely approval of access to a right-of-way if necessary, conducting the following:

(I) The inspection of and upgrade to or repair of the public utility's assets, infrastructure and facilities where financially prudent and reasonably practicable;

(II) If considered appropriate by the public utility, de-energization of the public utility's power lines or

the disabling of automatic reclosing capabilities of the public utility's power line protection equipment;

(III) Vegetation management and fuel clearance within the public utility's rights-of-way within its service territory.

(D) Subject to the timely approval of access to the right-of-way if necessary, promptly addressing known hazards impacting the public utility's assets, infrastructure and facilities.

(iv) The plan shall include the following response measures:

(A) Developing and implementing an emergency response plan that includes public agency and customer communication for planned outages and outages resulting from a fire event and the restoration process for operations and services after a fire event;

(B) Promptly investigating fire events that may be related to the public utility's assets, infrastructure or facilities;

(C) Providing timely reports to the commission on any fire event that, after investigation, did ignite or reasonably could have ignited from the public utility's assets, infrastructure or facilities. Reports submitted under this subparagraph shall:

(I) Not be public records subject to disclosure or inspection under the Public Records Act;

(II) Be given or granted confidential treatment by the commission;

(III) Be exempt from request for discovery and from subpoena.

(D) Reviewing and updating the plan as reasonably necessary but not less than once every two (2) years.

(v) Except as otherwise provided in this paragraph, any update to the plan shall be filed with and reviewed by the commission. An electric cooperative updating its plan may file an update to the plan with the commission.

(b) Upon receiving a wildland fire protection plan from a public utility under this section, the commission shall review the plan and, after providing notice and an opportunity to comment, shall approve or reject the plan. In reviewing plans under this subsection, the commission shall consider:

(i) The consistency of the plan with the public health, safety and welfare of Wyoming customers and residents;

(ii) The feasibility of the plan and the cost of implementing the plan;

(iii) The degree to which the plan adequately minimizes risk of fire and properly proposes to respond to fire events that do occur.

(c) If the commission approves a wildland fire protection plan under this section, it shall be presumed in any civil action against a public utility for damages caused by wildfire that the protection plan is a reasonable and prudent preparation for wildfire risk, except as otherwise provided in this subsection. Except upon a showing by clear and convincing evidence to the contrary, in no civil action shall it be determined or found that the public utility's plan was insufficient or inadequate. In the event of a wildfire and if the public utility substantially follows the plan, it shall be presumed to have responded reasonably to the fire emergency absent a showing by clear and convincing evidence that the public utility failed to follow an essential element of the public utility's plan and that the failure to follow the plan or an element of the plan was the actual and proximate cause of damage." BURKHART