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# A BILL FOR AN ACT

RELATING TO WILDFIRES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that as the risk of  
2 catastrophic wildfires in Hawaii has increased, so has the  
3 threat of property damage from these fires. Although most  
4 property owners have insurance, some do not, and others have  
5 insurance that may not fully cover their losses.

6           The legislature further finds that when the cause of a  
7 wildfire is uncertain or contested, costly and protracted  
8 litigation ensues. Litigation regarding wildfire damages can  
9 impose massive costs, including on the State, counties,  
10 utilities, landowners, and other defendants that may be alleged  
11 to have contributed to catastrophic wildfires. Those costs can  
12 overwhelm major institutions in the community, undermining their  
13 ability to make investments that the State needs. Indeed, even  
14 the possibility of litigation regarding a future catastrophic  
15 wildfire can create a cloud of uncertainty that can impair an  
16 entity's ability to attract capital on reasonable terms--capital  
17 that is vital for making investments in wildfire prevention,



1 among other priorities, that may affect the health and safety of  
2 the State's residents.

3 The legislature also finds that the risk of property damage  
4 stemming from catastrophic wildfires may lead property insurers  
5 to raise rates or refuse to provide coverage for certain losses  
6 or certain high-risk areas of Hawaii--as occurred in the wake of  
7 hurricane Iniki with respect to hurricane insurance.

8 The legislature additionally finds that it is in the public  
9 interest to take steps to ensure that property insurance remains  
10 available to cover losses associated with wildfires by providing  
11 benefits to property insurers. Furthermore, the legislature  
12 finds that it is in the public interest to ensure that the  
13 threat of wildfires does not make investment in Hawaii's public  
14 utilities so financially risky that it becomes too costly or  
15 impossible for them to raise capital to implement vital plans,  
16 including plans to mitigate wildfire risk, and to provide safe,  
17 reliable, and affordable service to the people of the State.

18 Moreover, the legislature finds that it is in the public  
19 interest to avoid the costs of litigation arising out of  
20 catastrophic wildfires in order to protect Hawaii's economy and  
21 encourage investment in the State. Therefore, the purpose of



1 this Act is to serve the public interest in the event of a  
2 devastating wildfire by establishing a means to provide  
3 compensation for property damage resulting from wildfires.

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 "CHAPTER

8 WILDFIRE RELIEF FUND

9 § -1 Definitions. As used in this chapter:

10 "Administrator" means the wildfire relief fund  
11 administrator appointed pursuant to section -5.

12 "Board" means the wildfire relief fund corporation board of  
13 directors created pursuant to section -4.

14 "Catastrophic wildfire" means a wildfire occurring on or  
15 after the effective date of this Act , Session Laws of  
16 Hawaii 2024, that damages or destroys more than five hundred  
17 residential or commercial structures.

18 "Contributor" means any person who contributes to the  
19 wildfire relief fund as provided in section -3.



1 "Cooperative utility" means a public utility owned by  
2 customers and overseen by a board of directors elected by  
3 customers.

4 "Corporation" means the wildfire relief fund corporation  
5 established pursuant to section -3.

6 "Electric utility" means a public utility that exists for  
7 the furnishing of electrical power.

8 "Investor-owned utility" means a public utility that is  
9 owned by shareholders and overseen by a board of directors  
10 elected by shareholders.

11 "Other governmental entities" refers to governmental  
12 entities, including county government agencies, other than state  
13 government agencies.

14 "Public utility" has the same meaning as defined in section  
15 269-1.

16 "Wildfire relief fund" means the wildfire relief fund  
17 established pursuant to section -2.

18 "Wildfire risk mitigation plan" means a plan approved by  
19 the public utilities commission pursuant to section -9.

20 § -2 **Wildfire relief fund; establishment.** (a) There is  
21 established outside the state treasury a wildfire relief fund



1 and any accounts thereunder to carry out the purposes of this  
2 chapter.

3 (b) The wildfire relief fund shall be placed within the  
4 department of commerce and consumer affairs for administrative  
5 purposes. The fund shall be a public body corporate and  
6 politic.

7 (c) Moneys deposited in the wildfire relief fund and any  
8 accounts thereunder shall be held by the fund, as trustee, in a  
9 depository, as defined in section 38-1, or according to a  
10 similar arrangement at the discretion of the board.

11 (d) All moneys received by the wildfire relief fund  
12 corporation under this chapter shall be paid immediately to the  
13 director of finance and shall become a part of the wildfire  
14 relief fund.

15 (e) All payments authorized to be made by the corporation  
16 by this chapter, including all payments for claims for  
17 catastrophic wildfire damages, all salaries, and all other  
18 expenses, shall be made from the wildfire relief fund.

19 (f) The moneys in the wildfire relief fund shall be  
20 invested according to the same investment plans developed for  
21 the Hawaii retirement savings special fund pursuant to chapter



1 389, and the earnings from investments shall be credited to the  
2 wildfire relief fund.

3 (g) All moneys in the wildfire relief fund shall be  
4 appropriated and expended exclusively for the uses and purposes  
5 set forth in this chapter; provided that this section shall not  
6 be deemed to amend or impair the force or effect of any law of  
7 this State specifically authorizing the investment of moneys  
8 from the wildfire relief fund.

9 § -3 Wildfire relief fund corporation; establishment;  
10 purposes; duties. (a) The wildfire relief fund corporation is  
11 hereby established as an independent public body corporate and  
12 politic.

13 (b) The corporation shall be established within the  
14 department of commerce and consumer affairs for administrative  
15 purposes.

16 (c) The purpose of the corporation shall be to administer  
17 the payment of:

18 (1) Eligible claims arising from catastrophic wildfires  
19 from the wildfire relief fund; and

20 (2) Contributions of contributors to the wildfire relief  
21 fund.



- 1 (d) The corporation shall:
- 2 (1) Receive, process, and determine payments for eligible
- 3 claims for property damage arising from catastrophic
- 4 wildfires from the wildfire relief fund;
- 5 (2) Determine and enforce the collection of contributions
- 6 from contributors to the wildfire relief fund;
- 7 (3) Retain, employ, or contract with officers; experts;
- 8 employees; accountants; actuaries; financial
- 9 professionals; and other advisers, consultants,
- 10 attorneys, and professionals, as may be necessary in
- 11 the administrator's judgment, for the efficient
- 12 operation, management, and administration of the
- 13 corporation;
- 14 (4) Enter into contracts and other obligations related to
- 15 the operation, management, and administration of the
- 16 corporation;
- 17 (5) Purchase insurance or take other actions to maximize
- 18 the claims-paying resources of the wildfire relief
- 19 fund;
- 20 (6) Pay costs, expenses, and other obligations of the
- 21 corporation from the wildfire relief fund's assets;



1 (7) Take any actions necessary to collect any amounts owed  
2 to the wildfire relief fund; and

3 (8) Undertake other activities as are related to the  
4 operation, management, and administration of the  
5 wildfire relief fund, as approved by the board.

6 § -4 Wildfire relief fund corporation; board of  
7 directors. (a) There is established a wildfire relief fund  
8 board of directors, which shall consist of members  
9 appointed by the governor in accordance with section 26-34. The  
10 board shall be the policy-making body of the corporation. The  
11 board shall be responsible for adopting policies for the  
12 administration and operation of the wildfire relief fund and the  
13 performance of other duties and functions assigned to the fund,  
14 to the degree not specified in this chapter.

15 (b) The members of the board shall serve staggered terms,  
16 with one-half of the members' initial terms ending four years  
17 after the initial appointment, and one-half of the members'  
18 initial terms ending six years after the initial appointment.  
19 Thereafter, each member shall serve four-year terms. Vacancies  
20 shall be filled for the remainder of any unexpired term in the  
21 same manner as the original appointments.





1 (c) The chairperson of the board shall be elected from  
2 among the appointed members of the board. A majority of all  
3 members currently appointed to the board shall constitute a  
4 quorum to conduct business, and the concurrence of a majority of  
5 all members currently appointed to the board shall be necessary  
6 to make any action valid, if not otherwise specified in this  
7 chapter.

8 (d) Members of the board shall be appointed to ensure:

- 9 (1) A broad and balanced representation, with proper  
10 judgment, character, expertise, skills, and knowledge  
11 useful to the oversight of the corporation; and  
12 (2) Diversity with regard to viewpoints, background, work  
13 experience, and demographics.

14 The members of the board shall serve without compensation  
15 but shall be reimbursed for actual and necessary expenses,  
16 including travel expenses, incurred in the discharge of their  
17 duties.

18 (e) The board shall meet at least once every three months  
19 at a time and place determined by the board. The board shall  
20 meet at other times and places as determined by the call of the  
21 chairperson or by a majority of the members of the board.



1 (f) No later than twenty days before the convening of each  
2 regular session of the legislature, the board shall submit to  
3 the legislature and governor a report regarding the activities  
4 and operations of the corporation during the preceding year.

5 The report shall include, at a minimum, a description of:

- 6 (1) The effectiveness of the wildfire relief fund's  
7 claims-payment process; and  
8 (2) The level of participation in the wildfire relief fund  
9 by all eligible participants, including property  
10 owners, property insurers, and contributors.

11 The legislature shall consider the report in determining  
12 whether any adjustments to the wildfire relief fund are  
13 necessary.

14 (g) Each member of the board shall retain all immunities  
15 and rights provided to a member pursuant to section 26-35.5.

16 **§ -5 Administrator; wildfire relief fund corporation.**

17 (a) The board shall appoint an administrator and oversee the  
18 administrator's management and administration of the  
19 corporation.

20 (b) The administrator shall serve at the pleasure of the  
21 board and shall be exempt from chapter 76.



1 (c) The administrator shall have powers as are necessary  
2 to carry out the functions of the corporation, subject to the  
3 policy direction of the board.

4 (d) The administrator may employ, terminate, and supervise  
5 employees, including assistants, experts, field personnel, and  
6 clerks, as may be necessary in the administration of the  
7 corporation.

8 (e) The board may overturn any decision of the  
9 administrator through a majority vote.

10 (f) At the direction of the board, the administrator shall  
11 prepare and present for approval a plan of operations related to  
12 the operations, management, and administration of the wildfire  
13 relief fund on an annual basis. At least annually and at the  
14 direction of the board, the administrator shall submit the plan  
15 of operations to the appropriate policy committees of the  
16 legislature. The plan shall include but not be limited to  
17 reporting on the wildfire relief fund's assets and projections  
18 for the duration of the fund.

19 (g) At the direction of the board, the administrator shall  
20 at least annually prepare and publish on the corporation's  
21 website a public-facing report that describes the operations and



1 activities of the corporation and wildfire relief fund during  
2 the preceding year, including a description of the financial  
3 condition of the wildfire relief fund.

4 § -6 Wildfire relief fund corporation; audit. (a) The  
5 auditor shall conduct an annual audit of the corporation and  
6 wildfire relief fund pursuant to chapter 23. As part of this  
7 audit, the auditor may contract with a firm qualified to perform  
8 an independent actuarial review.

9 (b) The auditor shall determine the scope of the review  
10 required by this section, which shall include but shall not be  
11 limited to:

12 (1) A review of the sources and uses of the moneys in the  
13 wildfire relief fund;

14 (2) A reconciliation of changes in actuarial assumptions  
15 and reserve values from the preceding year;

16 (3) An examination of the development of claim reserve  
17 inadequacies or redundancies over time; and

18 (4) An assessment of the future financial viability of the  
19 wildfire relief fund.

20 (c) The corporation shall cooperate with the actuarial  
21 firm in all respects and shall permit the firm full access to



1 all information the firm deems necessary for a true and complete  
2 review. Information provided to the actuarial firm conducting  
3 the annual review is subject to the same limitations on public  
4 inspections as required for the records of the corporation.

5 (d) The audit required by this section shall be conducted  
6 using both generally accepted accounting principles and the  
7 statutory accounting principles published by the National  
8 Association of Insurance Commissioners.

9 (e) The cost of the audit required by this section shall  
10 be paid by the corporation.

11 (f) The auditor shall issue an annual report to the  
12 governor, president of the senate, and speaker of the house of  
13 representatives on the results of the audit and review. The  
14 audit and report of the review performed by the independent  
15 actuarial firm shall be available for public inspection, in  
16 accordance with the auditor's established rules and procedures  
17 governing public disclosure of audit documents.

18 (g) The legislature shall consider whether, after review  
19 of the annual report in subsection (f), any adjustments to the  
20 wildfire relief fund should be implemented.



1           §   -7 Wildfire relief fund; participation. (a) The  
2 following entities may participate in the wildfire relief fund  
3 as contributors:

- 4           (1) The State;
- 5           (2) Electric utilities;
- 6           (3) Public utilities that are not electric utilities that  
7           contribute to the risk of occurrence or severity of a  
8           catastrophic wildfire, including but not limited to  
9           public utilities for the production, conveyance,  
10           transmission, delivery, or furnishing of gas and for  
11           the conveyance of telecommunications messages;
- 12           (4) Other governmental entities; and
- 13           (5) Private landowners who own, or whose affiliated  
14           persons or entities own in the aggregate, at least one  
15           thousand acres of land in Hawaii.

16           (b) To participate in the wildfire relief fund, an entity  
17 shall:

- 18           (1) Notify the administrator that it intends to  
19           participate in the wildfire relief fund  
20           by                            in the year preceding the year in which



1 the entity seeks to participate in the wildfire relief  
2 fund; and

3 (2) Have made required contributions to the wildfire  
4 relief fund pursuant to section -8.

5 (c) A contributor that is also a property owner in Hawaii  
6 may make a claim to the wildfire relief fund for compensation in  
7 the same manner provided for in section -13 as other property  
8 owners; provided that the contributor:

9 (1) Retains all of the rights, privileges, and obligations  
10 of a contributor; and

11 (2) Notwithstanding any other provisions of this chapter  
12 and regardless of the existence of a depletion event  
13 under section -16(c), is bound by the limitation on  
14 claims under section -18.

15 (d) Any person or entity that poses a risk of causing or  
16 exacerbating the severity of a catastrophic wildfire that is not  
17 eligible to participate as a contributor in the wildfire relief  
18 fund may submit an application to the board for participation.

19 (e) The board shall adopt rules pursuant to chapter 91 and  
20 issue criteria for applications submitted under subsection (d).



1 (f) The board shall include in its annual report to the  
2 legislature and governor under section -4 all applications  
3 submitted under subsection (d) and shall recommend to the  
4 legislature whether participation criteria for contributors  
5 should be broadened.

6 (g) Notwithstanding any provision to the contrary, an  
7 electric utility that is subject to proceedings for liability or  
8 insolvency claims related to a catastrophic wildfire as of the  
9 effective date of this chapter may participate in the fund only  
10 if the utility provides, and the commission approves, a plan  
11 that resolves the claims in the proceedings and also satisfies  
12 the following conditions:

- 13 (1) The plan is neutral, on average, to the ratepayers of  
14 the electric utility;
- 15 (2) The plan provides for a restructuring of the public  
16 utility that includes the separation of energy  
17 generation and delivery functions;
- 18 (3) The plan provides for a system of enhanced local  
19 governance and accountability, which may include  
20 alternate models of public ownership;





1 (4) The plan includes a framework for addressing wildfire  
2 safety and risk management, including monitoring and  
3 enforcement, independent review and oversight, and  
4 performance-based utility incentive and executive  
5 compensation mechanisms;

6 (5) The plan provides for periodic performance-based  
7 management audits of the public utility and reviews of  
8 the public utility's franchise; and

9 (6) The plan is consistent with meeting the public  
10 utility's and the State's clean energy and climate  
11 mandates and obligations.

12 § -8 Wildfire relief fund; funding. (a) Total  
13 capitalization. The total capitalization amount of the wildfire  
14 relief fund shall be \$ . Neither the board nor the  
15 administrator may modify the total capitalization amount, except  
16 as otherwise expressly provided in this chapter.

17 (b) Actuarial study. The board shall commission an  
18 actuarial study to be completed in 2024 to assess whether the  
19 total capitalization amount should be increased or decreased  
20 based on a holistic assessment of the risk of catastrophic  
21 wildfires in Hawaii, and the potential exposure of the fund to



1 claims arising out of wildfires. The board shall include this  
2 assessment in the annual report that it submits to the  
3 legislature and governor under section -4. The legislature  
4 shall consider that assessment, as well as other information  
5 submitted in the annual report, to determine whether adjustments  
6 to the wildfire relief fund, including to its total  
7 capitalization amount, should be implemented.

8 (c) Time to total capitalization. The administrator shall  
9 recommend to the board, and the board shall, by majority vote,  
10 approve initial contribution amounts under \$ for  
11 potential contributors, other than the State and electric  
12 utilities, based on the actuarial factors identified in  
13 subsection (b) and with the goal of, to the extent reasonably  
14 possible, having the wildfire relief fund reach the total  
15 capitalization amount within five years of the effective date of  
16 this Act , Session Laws of Hawaii 2024, taking into  
17 consideration reasonably expected investment returns and  
18 assuming no payments will be made by the wildfire relief fund  
19 during that time period.

20 (d) Capitalization amounts. With the exception of the  
21 contribution made by the State in paragraph (4), contribution



1 amounts shall be divided by the administrator into an initial  
2 contribution amount to be made by \_\_\_\_\_, and annual  
3 contribution amounts to be made over a five-year period, subject  
4 to the administrator's ability to increase payments under the  
5 insufficient funding provision in subsection (g).

6 The wildfire relief fund shall be capitalized by the  
7 following contributions:

- 8 (1) From other governmental entities that are eligible to  
9 elect to participate in the wildfire relief fund, an  
10 amount determined by the administrator based on an  
11 actuarial assessment of the risk of payments to these  
12 entities by the fund resulting from catastrophic  
13 wildfires created by these entities, as well as the  
14 risk of potential payments made by the fund resulting  
15 from catastrophic wildfires created by these entities;
- 16 (2) From public utilities other than electric utilities  
17 and private landowners that are in all cases eligible  
18 to participate in the wildfire relief fund, an amount  
19 determined by the administrator based on an actuarial  
20 assessment of the risk of potential payments by the



1 wildfire relief fund resulting from catastrophic  
2 wildfires created by these entities;

3 (3) From electric utilities, \$ ; and  
4 (4) From the State, \$ .

5 (e) The board shall determine the contribution amounts of  
6 eligible contributors by ; provided that this date is  
7 thirty days before the date by which participants are required  
8 to notify the administrator of their intention to participate in  
9 the wildfire relief fund. If an eligible contributor declines  
10 to notify the administrator that the eligible contributor wishes  
11 to participate in the wildfire relief fund and become a  
12 contributor, the board shall reduce the total capitalization  
13 amount by subtracting the amount the board allocated to that  
14 eligible contributor.

15 (f) If an electric utility, public utility other than an  
16 electric utility, other governmental entity, or private  
17 landowner elects to become a contributor after the initial  
18 capitalization of the wildfire relief fund, the electric  
19 utility, public utility other than an electric utility, other  
20 governmental entity, or private landowner shall provide,  
21 by in the year before the year in which the electric



1 utility, public utility other than an electric utility, other  
2 governmental entity, or private landowner seeks to become a  
3 contributor, an initial contribution in an amount determined by  
4 the board by a majority vote upon the administrator's  
5 recommendation, based on an up-to-date consideration of the  
6 factors identified in subsection (b), such that the previous and  
7 present initial contributions by all contributors reflect their  
8 relative contributions to the risk of future payments from the  
9 wildfire relief fund.

10 If necessary to achieve an allocation of initial  
11 contributions, and if the election is made prior to the fifth  
12 year of fund operation, the administrator shall reduce the  
13 amount of annual contributions by one or more contributors who  
14 previously made initial contributions until an allocation is  
15 reached. The administrator shall increase the total  
16 capitalization amount of the fund by the amount of the initial  
17 contribution of the new fund contributor. The administrator  
18 may, in the administrator's discretion, permit a new contributor  
19 under this subsection to make payments over a five-year period.

20 (g) Insufficient funding. If the administrator determines  
21 that payments made by the wildfire relief fund, and expected



1 future contributions by contributors and investment returns,  
2 will result in the fund's: failing to reach the total  
3 capitalization amount, as adjusted, as applicable, under  
4 subsection (a), by the fifth year; or falling below the total  
5 capitalization amount after the fifth year, including, in either  
6 case, as a result of the legislature increasing the total  
7 capitalization amount, the administrator shall recommend that  
8 the board establish a supplemental contribution to be  
9 contributed to the wildfire relief fund. Responsibility among  
10 contributors for the supplemental contribution shall be  
11 allocated as follows:

12 (1) The administrator shall recommend to the board, and  
13 the board shall determine by majority vote, the  
14 respective portions of the supplemental contribution  
15 amount to be paid by each electric utility, other  
16 public utility, other governmental entity, and private  
17 landowner contributor, based on an up-to-date  
18 assessment of the factors identified in subsection  
19 (b); and



1           (2) The remaining amount of the supplemental amount shall  
2           be paid by the State, subject to legislative  
3           appropriation.

4           (h) The administrator may allow contributors to pay  
5           supplemental contributions via annual contributions, or in part  
6           via an initial contribution followed by annual contributions,  
7           unless the administrator determines that a contribution schedule  
8           will create a material risk that the wildfire relief fund will  
9           not reach or return to its total capitalization amount within a  
10          reasonable period of time to perform the functions identified in  
11          this chapter.

12          (i) If the board establishes a supplemental contribution  
13          pursuant to subsection (g), before the wildfire relief fund  
14          receives the supplemental contribution, the wildfire relief fund  
15          may issue revenue bonds up to the amount of the supplemental  
16          contribution, which shall be backed by future contributions to  
17          the wildfire relief fund.

18          (j) The board may order supplemental contributions under  
19          this chapter even if an investigation under the replenishment  
20          process under section     -9 is ongoing. In the event that  
21          payments are later made under that replenishment process, the



1 board, provided that other conditions of the refunds section are  
2 met pursuant to section -11, may refund supplemental  
3 contributions in whole or in part.

4 (k) Utility contribution. An investor-owned utility's  
5 contributions to the wildfire relief fund, including initial and  
6 supplemental contributions, shall be recovered from its  
7 customers in rates, unless the public utilities commission  
8 directs otherwise pursuant to section -9.

9 (l) If the total amount of payments that the administrator  
10 determines should be paid in connection with a catastrophic  
11 wildfire pursuant to sections -13, -14, and -15 exceeds  
12 the current balance of the wildfire relief fund, the State may  
13 provide a loan to the wildfire relief fund. The loan shall be  
14 repaid over time through annual contributions by contributors.

15 **§ -9 Replenishment of the wildfire relief fund;**  
16 **determination of prudence.** (a) If the administrator, or an  
17 agency of the State with responsibility for determining the  
18 causes of wildfires, informs the public utilities commission  
19 that a catastrophic wildfire may have been ignited by the  
20 facilities of an investor-owned utility that is a contributor,  
21 the public utilities commission shall initiate a proceeding to





1 review the investor-owned utility's conduct leading to the  
2 catastrophic wildfire and make findings. The public utilities  
3 commission may, even without formal notice from the  
4 administrator or the agency, initiate this proceeding of its own  
5 accord.

6 (b) The public utilities commission shall evaluate the  
7 prudence of the conduct of the investor-owned utility in  
8 connection with a catastrophic wildfire as follows:

9 (1) If the investor-utility has a wildfire risk mitigation  
10 plan that was approved by the public utilities  
11 commission, the investor-utility's conduct will be  
12 deemed to have been prudent, unless a party to the  
13 proceeding creates a serious doubt as to the prudence  
14 of the investor-owned utility's conduct; or

15 (2) If the investor-utility does not have a wildfire risk  
16 mitigation plan that was approved by the public  
17 utilities commission, or if the public utilities  
18 commission determines that the presumption is  
19 overcome, the public utilities commission shall  
20 determine whether the investor-owned utility acted  
21 prudently, considering only acts that may have caused



1           the ignition and evaluating the utility's actions in  
2           the context of the utility's overall systems,  
3           processes and programs, such that an error by a  
4           utility employee would not be a basis for a finding of  
5           imprudence, unless that error was the result of an  
6           imprudent system, process, or program.

7           (c) In evaluating prudence under this section, the public  
8           utilities commission shall determine whether the actions of the  
9           investor-owned utility were consistent with actions that a  
10          reasonable utility would have undertaken in good faith under  
11          similar circumstances, at the relevant point in time, and based  
12          on the information available to the investor-owned utility at  
13          the relevant point in time.

14          Reasonable conduct shall not be limited to the optimum  
15          practice, method, or act to the exclusion of others, but rather  
16          shall encompass a spectrum of possible practices, methods, or  
17          acts consistent with utility system needs, the interest of  
18          ratepayers, and the requirements of governmental agencies of  
19          competent jurisdiction.

20          (d) If the public utilities commission determines that  
21          imprudent conduct by the investor-owned utility caused the



1 catastrophic wildfire, the public utilities commission shall  
2 determine whether to order the utility to reimburse the wildfire  
3 relief fund in whole or in part for payments from the fund made  
4 in connection with the catastrophic wildfire. In determining  
5 the amount of reimbursement, if any, the public utilities  
6 commission shall consider the extent and severity of the  
7 utility's imprudence and factors within and beyond the utility's  
8 control that may have led to or exacerbated the costs from the  
9 catastrophic wildfire, including but not limited to humidity,  
10 temperature, winds, fuel, merged wildfires with independent  
11 ignitions, third-party actions that affected the spread of the  
12 wildfire, and fire suppression activities.

13 (e) The public utilities commission shall not order the  
14 investor-owned utility to reimburse the wildfire relief fund in  
15 an amount that exceeds the lesser of:

16 (1) The costs that the public utilities commission  
17 determines were due to the investor-owned utility's  
18 imprudence; or

19 (2) Twenty per cent of the investor-owned utility's  
20 transmission and distribution equity rate base minus  
21 the amounts the utility has reimbursed, or is required



1 to reimburse, the wildfire relief fund during the  
2 period of three consecutive calendar years ending on  
3 December 31 of the year in which the calculation is  
4 being performed.

5 (f) If the public utilities commission orders the  
6 investor-owned utility to reimburse the wildfire relief fund,  
7 the utility shall not recover the amount of the reimbursement in  
8 rates charged to ratepayers.

9 (g) If the administrator, or an agency of the State with  
10 responsibility for determining the causes of wildfires or other  
11 catastrophic wildfires concludes that the conduct of a  
12 cooperative utility, other governmental entity, or private  
13 landowner that is a contributor may have caused the occurrence  
14 or contributed to the severity of a catastrophic wildfire, the  
15 administrator shall assess the prudence of the contributor's  
16 conduct, applying the same standard of prudence applied to  
17 investor-owned utilities pursuant to subsection (c).

18 (h) If the administrator determines that the contributor  
19 acted imprudently and that the imprudence caused or contributed  
20 to the severity of the catastrophic wildfire, the administrator  
21 shall recommend that the board require such contributor to



1 reimburse the wildfire relief fund in whole or in part for  
2 payments that the fund made in connection with the catastrophic  
3 wildfire, considering the factors set forth in subsection (d),  
4 subject to a cap of ten per cent of the contributor's assets  
5 within Hawaii, measured over a rolling three-year period.

6       § -10 **Failure to make contributions to wildfire relief**  
7 **fund.** (a) Contributors shall notify the administrator if they  
8 will make, or fail to make, a required contribution, whether  
9 initial, annual, or supplemental, to the wildfire relief fund at  
10 least       days before the contribution is due.

11       (b) If a contributor fails to make a required contribution  
12 to the wildfire relief fund, that contributor will no longer be  
13 a contributor as of the date that the contribution was due.  
14 That entity may, however, rejoin the fund under the process for  
15 joining the fund after initial capitalization set forth in  
16 section       -8.

17       (c) The administrator shall not refund to an entity that  
18 fails to make a contribution any previous payments made to the  
19 wildfire relief fund. However, the administrator shall credit  
20 all previous contributions when determining the amount of



1 payment to be made if a participant rejoins the fund under  
2 subsection (b).

3       § -11 **Refunds.** (a) In the event that the total amount  
4 in the wildfire relief fund exceeds one hundred twenty per cent  
5 of the total capitalization amount, the administrator may  
6 recommend that the board authorize refunds to be made to the  
7 contributors; provided that the refunds do not deplete the  
8 wildfire relief fund below one hundred twenty per cent of the  
9 total capitalization amount.

10       (b) Refunds shall be made in proportion to the total  
11 amount contributed by the contributors to the wildfire relief  
12 fund as of the date of the refund, excluding any payments made  
13 under the replenishment provisions under section -9.

14       (c) The administrator has no obligation to recommend, and  
15 the board has no obligation to authorize, a refund. The board  
16 shall make a refund only if it takes into consideration all  
17 relevant factors and circumstances and determines that making a  
18 refund will be unlikely to result in the wildfire relief fund's  
19 falling below one hundred twenty per cent of total  
20 capitalization within three years after the refund.



1 (d) Any contributor may request that the board make a  
2 refund whenever the conditions under this section are met.

3 (e) If the board elects to issue a refund or elects not to  
4 do so after receiving a request under subsection (d), the  
5 administrator shall issue an order explaining the board's  
6 decision.

7 **§ -12 Processing of claims.** (a) With the approval of  
8 the board, the administrator shall establish and approve  
9 procedures for the review, approval, and timely payment of  
10 claims for reimbursement from the wildfire relief fund. The  
11 procedures may be revised from time to time by the administrator  
12 with the approval of the board.

13 (b) In the event of a catastrophic wildfire within the  
14 State, the administrator shall process claims made for  
15 compensation against the wildfire relief fund related to the  
16 catastrophic wildfire, consistent with the requirements of this  
17 chapter.

18 **§ -13 Claims by property owners.** (a) To be eligible  
19 for compensation from the wildfire relief fund for damage to  
20 property from a catastrophic wildfire, a property owner shall



1 not have opted out from participation in the wildfire relief  
2 fund before the occurrence of the catastrophic wildfire.

3 (b) County tax assessors shall include, with each real  
4 property tax assessment sent to a property owner in the State, a  
5 prominent notice regarding participation in the wildfire relief  
6 fund. The notice shall be in a form prescribed by the  
7 administrator and shall clearly explain the property owner's  
8 right to opt out of participation in the wildfire relief fund by  
9 submitting a request to opt out to the administrator within a  
10 specific time. A property owner who does not submit a timely  
11 request to opt out shall be deemed to participate in the  
12 wildfire relief fund as of the deadline for submitting a request  
13 to opt out.

14 (c) Any costs of administering the process described in  
15 subsection (b) shall be reimbursed by the wildfire relief fund.

16 (d) In order to opt out of participation in the wildfire  
17 relief fund with regard to property either in areas within the  
18 State that have been assigned extreme, high, and moderate  
19 wildfire risk classes by \_\_\_\_\_, a property owner shall  
20 submit documentation of insurance coverage for the property  
21 along with the property owner's request to opt out of the





1 wildfire relief fund, and the administrator shall approve the  
2 documentation as adequate evidence of insurance for the  
3 applicable property.

4 (e) Following a catastrophic wildfire, to make a claim for  
5 compensation from the wildfire relief fund for damage to  
6 property from the wildfire, a property owner shall submit to the  
7 administrator documentation establishing:

8 (1) That the catastrophic wildfire damaged the owner's  
9 property;

10 (2) The extent of the losses to the owner's property  
11 caused by that catastrophic wildfire; and

12 (3) Any insurance policy providing coverage for those  
13 losses.

14 (f) Within ninety days after a property owner submits a  
15 claim for compensation from the wildfire relief fund, including  
16 the documentation required in this section, the administrator  
17 shall determine whether the documentation is adequate and, if  
18 so, the appropriate amount of the payment to the property owner  
19 from the wildfire relief fund. If the administrator determines  
20 that the property owner has not submitted sufficient  
21 documentation for the administrator to evaluate the claim, the



1 administrator may request additional documentation from the  
2 property owner and may set a date by which the additional  
3 information shall be provided by the property owner.

4 (g) If no insurance policy provides coverage for the  
5 losses for which a property owner seeks compensation from the  
6 wildfire relief fund, the property owner shall be eligible to  
7 receive as compensation from the wildfire relief fund a maximum  
8 of \$ .

9 (h) If an insurance policy provides coverage for the  
10 losses for which a property owner seeks compensation from the  
11 wildfire relief fund, the property owner shall be eligible to  
12 receive as compensation from the wildfire relief fund an amount  
13 up to the lesser of:

14 (1) per cent of the amount by which the property  
15 owner's losses exceed the amount of insurance coverage  
16 for the losses; or

17 (2) per cent of the property owner's insurance  
18 coverage applicable to the losses;  
19 provided that the property owner submits adequate documentation  
20 of those losses, as required by this section.



1           §   -14   **Claims by property insurers.**   (a)   To be eligible  
2 for compensation from the wildfire relief fund, a property  
3 insurer shall have elected to participate in the fund before the  
4 annual policy period in which the catastrophic wildfire  
5 occurred.   The administrator shall establish a process for  
6 property insurers to annually submit an election to participate  
7 in the fund to the administrator within a specified time.

8           (b)   All property insurers who elect to participate in the  
9 wildfire relief fund shall be eligible to receive as  
10 compensation from the wildfire relief fund           per cent of  
11 their total payments for property damage claims in Hawaii as a  
12 result of a catastrophic wildfire.

13           (c)   Following a catastrophic wildfire, to make a claim for  
14 compensation from the wildfire relief fund based on claims  
15 resulting from the catastrophic wildfire, an eligible property  
16 insurer shall submit to the administrator documentation  
17 establishing the number, nature, and total value of insurance  
18 claims that the property insurer paid pursuant to its policies  
19 for damage resulting from the catastrophic wildfire as well as  
20 documentation sufficient to assess the reasonableness of the  
21 property insurer's payment of claims.



1 (d) After receipt of a property insurer's claim for  
2 compensation from the wildfire relief fund, including the  
3 documentation required in this section, the administrator shall:

4 (1) Review via an expedited procedure the property  
5 insurer's claim for compensation from the wildfire  
6 relief fund; and

7 (2) Determine:

8 (A) Whether the documentation provided is adequate;  
9 and

10 (B) The appropriate amount of the payment to the  
11 property insurer from the fund.

12 **§ -15 Claims by the State and other governmental**

13 **entities.** (a) The State may submit claims for compensation  
14 from the wildfire relief fund for damages it incurred resulting  
15 from a catastrophic wildfire, including damage to infrastructure  
16 or other property, costs of fire suppression, and natural  
17 resource damages, to the extent recovery of the losses is  
18 authorized by law.

19 (b) Other governmental entities may submit claims for  
20 compensation from the wildfire relief fund for damages they  
21 incurred resulting from a catastrophic wildfire, including



1 damage to infrastructure or other property and other losses, to  
2 the extent recovery of the losses is authorized by law; provided  
3 that to be eligible for compensation from the wildfire relief  
4 fund related to a catastrophic wildfire, another governmental  
5 entity shall elect to be a contributor and shall have satisfied  
6 contribution obligations pursuant to section -8 before the  
7 occurrence of the catastrophic wildfire.

8 (c) To make a claim under this section, the State or other  
9 governmental entity shall submit to the administrator  
10 documentation establishing:

- 11 (1) That the catastrophic wildfire caused the damages;
- 12 (2) The extent of the damages caused by the catastrophic  
13 wildfire; and
- 14 (3) Any other documentation necessary to establish the  
15 State's or other governmental entity's right to  
16 recover the losses pursuant to law.

17 (d) After receipt of a claim for compensation from the  
18 wildfire relief fund pursuant to this section, the administrator  
19 shall determine whether the State or other governmental entity  
20 is authorized to recover damages under applicable law and, if  
21 so, the appropriate amount of the payment.



1           §   -16 Fund depletion. (a) Within thirty days of a  
2 catastrophic wildfire, the administrator shall assess whether  
3 the total payments that the wildfire relief fund is projected to  
4 make to eligible property owners, property insurers, and the  
5 State and other governmental entities under  
6 sections   -13,   -14, and   -15, respectively, are expected  
7 to exceed seventy-five per cent of the total available money  
8 remaining in the wildfire relief fund. The board shall adopt  
9 rules pursuant to chapter 91 regarding the performance of this  
10 assessment.

11           (b) If the administrator assesses pursuant to subsection  
12 (a) that the total payments that the wildfire relief fund is  
13 projected to make to eligible property owners, property  
14 insurers, and the State and other governmental entities under  
15 sections   -13,   -14, and   -15, respectively, are expected  
16 to exceed seventy-five per cent of the total available money  
17 remaining in the wildfire relief fund, the administrator shall  
18 seek to increase the total amount of money in the fund using all  
19 available methods under this chapter.

20           (c) Depletion event. If the administrator is unable,  
21 despite taking the steps under subsection (b), to secure



1 sufficient additional funding for the wildlife relief fund,  
2 including credible pledges for future funding, to reverse the  
3 administrator's assessment under subsection (a) within forty-  
4 five days, the administrator shall declare the existence of a  
5 depletion event.

6 (d) Depletion percentage. If the administrator declares  
7 the existence of a depletion event, the administrator shall  
8 determine what percentage of total eligible payments the  
9 wildlife relief fund can make without the likelihood that the  
10 payments will exceed seventy-five per cent of the total  
11 available money in the wildlife relief fund. This percentage  
12 shall be deemed the depletion percentage.

13 (e) Depletion payment. The administrator shall thereafter  
14 offer all property owners, property insurers, the State, and  
15 other governmental entities that submit claims for compensation  
16 from the wildfire relief fund and would otherwise, under  
17 sections -13, -14, and -15, respectively, be entitled  
18 to a particular payment amount, that amount multiplied by the  
19 depletion percentage. This amount shall be deemed the depletion  
20 payment.



1 (f) All claimants that are offered the depletion payment  
2 may choose to accept or decline the payment. Any property owner  
3 or property insurer, other than a contributor, that declines to  
4 accept the depletion payment shall:

5 (1) Be ineligible for any payments by the wildfire relief  
6 fund with respect to the catastrophic wildfire for  
7 which the claim was made; and

8 (2) Not be bound by the limitation on claims under  
9 section -18 with respect to only that catastrophic  
10 wildfire.

11 (g) After the payments to all claimants who accepted the  
12 depletion payment have been made, the administrator may  
13 recommend to the board, and the board may decide, in its  
14 discretion, to make a further payment to all claimants who  
15 accepted the depletion payment. The board shall adopt rules  
16 pursuant to chapter 91 for the making of this decision.

17 (h) Multiple catastrophic events. The board shall adopt  
18 rules pursuant to chapter 91 regarding how to pay claims in the  
19 event that one or more catastrophic wildfires occur while the  
20 corporation is in the process of assessing, receiving,





1 determining, or paying claims from an earlier catastrophic  
2 wildfire.

3 § -17 **Hearings and appeals of determinations.** (a)

4 Within thirty days after the administrator's determination of  
5 the amount of payment due to any claimant from the wildfire  
6 relief fund pursuant to sections -13, -14, and -15,  
7 respectively, or the board's determination of a contributor's  
8 allocation for any contribution, the affected person or entity  
9 may request a review and hearing on that determination before  
10 the department of commerce and consumer affairs.

11 (b) Upon receipt of a request for review of the  
12 administrator or board's determination, the department of  
13 commerce and consumer affairs shall refer the request for  
14 hearing to the office of administrative hearings for  
15 determination as expeditiously as possible. A hearing shall be  
16 scheduled for a date not more than days after receipt by  
17 the department of commerce and consumer affairs of the request  
18 for a hearing.

19 (c) Following the conclusion of any hearing or before the  
20 conclusion of the hearing, with the concurrence of the parties,  
21 the office of administrative hearings shall promptly, and not



1 later than            days after the hearing, decide the matter and  
2 make an order in accordance with the administrative judge's  
3 decision.

4            (d) Within            days after the date on which a copy of the  
5 office of administrative hearings' order is mailed to the  
6 parties, a party may seek judicial review of the order by filing  
7 a petition for review in the applicable circuit court, with a  
8 right of appeal as allowed by law. If no such petition is  
9 timely filed, the order of the office of administrative hearings  
10 shall be final.

11            § -18 **Limitations on claims.** (a) No suit, claim, or  
12 other civil legal action may be instituted or maintained against  
13 contributors or their affiliates, employees, agents, or  
14 insurers:

15            (1) For recovery of losses or damages of a type for which  
16            compensation may be sought from the wildfire relief  
17            fund; and

18            (2) By persons or entities:

19            (A) Who are contributors, property owners who do not  
20            opt out of the wildfire relief fund, or property



1 insurers who elect to participate in the wildfire  
2 relief fund; or

3 (B) Who seek indemnity or contribution for amounts  
4 paid, or that may be paid, to contributors,  
5 property owners who do not opt out of the  
6 wildfire relief fund, or property insurers who  
7 elect to participate in the wildfire relief fund.

8 (b) Persons or entities who are eligible to seek  
9 compensation from the wildfire relief fund for property damage  
10 arising from a catastrophic wildfire may not seek to recover for  
11 damage from electric utilities, public utilities other than  
12 electric utilities, the State, or private landowners who are  
13 contributors, notwithstanding that the claimed property damage  
14 may exceed the amount of payment by the wildfire relief fund for  
15 the damage.

16 (c) The wildfire relief fund shall be subrogated to the  
17 rights of the contributors, property owners who do not opt out  
18 of the wildfire relief fund, and property insurers who elect to  
19 participate in the wildfire relief fund, to the extent of any  
20 payment made by the wildfire relief fund to those persons or  
21 entities, and may pursue claims against a person or entity that



1 is not a contributor for damages resulting from the catastrophic  
2 wildfire."

3 SECTION 3. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2024-2025 for  
6 deposit into the wildfire relief fund.

7 The sum appropriated shall be expended by the department of  
8 commerce and consumer affairs for the purposes of this Act.

9 SECTION 4. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2024-2025 for  
12 the establishment of one full-time equivalent (1.0 FTE)  
13 administrator position, who shall be exempt from chapter 76,  
14 Hawaii Revised Statutes, to support the Hawaii wildfire relief  
15 fund corporation; provided that in all subsequent fiscal years,  
16 all funding for the administrator position shall be paid from  
17 the wildfire relief fund.

18 The sum appropriated shall be expended by the department of  
19 commerce and consumer affairs for the purposes of this Act.

20 SECTION 5. In accordance with section 9 of article VII of  
21 the Hawaii State Constitution and sections 37-91 and 37-93,



1 Hawaii Revised Statutes, the legislature has determined that the  
2 appropriations contained in H.B. No. , will cause the state  
3 general fund expenditure ceiling for fiscal year 2024-2025 to be  
4 exceeded by \$ or per cent. In addition, the  
5 appropriation contained in this Act will cause the general fund  
6 expenditure ceiling for fiscal year 2024-2025 to be further  
7 exceeded by \$ or per cent. The combined total  
8 amount of general fund appropriations contained in only these  
9 two Acts will cause the state general fund expenditure ceiling  
10 for fiscal year 2024-2025 to be exceeded by  
11 \$ or per cent. The reasons for exceeding the  
12 general fund expenditure ceiling are that:

- 13 (1) The appropriation made in this Act is necessary to  
14 serve the public interest; and  
15 (2) The appropriation made in this Act meets the needs  
16 addressed by this Act.

17 SECTION 6. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2040.

19



**Report Title:**

DCCA; Hawaii Wildfire Relief Fund; Hawaii Wildfire Relief Fund Corporation; Public Utilities Commission; Catastrophic Wildfire; Report; Appropriation; Expenditure Ceiling

**Description:**

Establishes the Hawaii Wildfire Relief Fund and Corporation to provide compensation for property damage resulting from catastrophic wildfires in the State. Requires the Corporation's board to report to the Legislature. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Takes effect 7/1/2040. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

