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FISCAL IMPACT REPORT

		LAST UPDATED	3/10/2025
SPONSOR	Sen. Wirth/Reps. Vincent and Gonzales	**ORIGINAL DATE**	2/05/2025
SHORT TITLE	NM Property Insurance Pgm. Assoc. Board	**BILL NUMBER**	Senate Bill 81/ec/aSTBTC/ aSFC
		ANALYST	Rodriguez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSI	No fiscal impact	$1,000.0	$1,000.0	$2,000.0	Recurring	Other state funds
OSI	No fiscal impact	Up to $9,000.0	Up to $9,000.0	Up to $18,000.0	Recurring	General Fund
Total	No fiscal impact	Up to $10,000.0	Up to $10,000.0	Up to $20,000.0	Recurring	

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 33 and House Bill 175
Relates to an appropriation in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis Received From
Office of Superintendent of Insurance (OSI)
Energy, Minerals and Natural Resources Department (EMNRD)

Agency Analysis was Solicited but Not Received From
New Mexico Office of Attorney General (NMAG)

SUMMARY

Synopsis of SFC Amendment to Senate Bill 81

The Senate Finance Committee amendment to Senate Bill 81 (SB81) strikes the appropriation and limits the agency's appropriation expenditure to FY26.

Synopsis of STBTC Amendment to Senate Bill 81

The Senate Tax, Business and Transportation Committee amendment to SB81 clarifies that the plan of operation for the FAIR plan submitted by the board includes the compensation and commissions to be paid to member insurers and their licensed producers. The amendment extends the expenditure of the proposed $50 million appropriation to FY27.

Synopsis of Original Senate Bill 81

SB81 appropriates $50 million from the general fund to the Office of Superintendent of Insurance (OSI) to administer the Fair Access to Insurance Requirements (FAIR) Plan Act and fire mitigation program. SB81 creates the New Mexico Property Insurance Program Association Board as the governing body of the New Mexico Property Insurance Program to administer the FAIR plan. SB81 directs the board to establish a FAIR plan, submit a plan of operation to the superintendent, identifies board membership, specifies coverage limits, provides enforcement language, specifies collection of member fees, and requires annual report to the superintendent.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

SB81 establishes a new grant program which could create an expectation that the program will continue in future fiscal years; therefore, this analysis captures an additional operating budget impact of $9 million from the general fund per year starting FY27 to support ongoing mitigation efforts and $1 million for operational costs.

For operational costs, the OSI indicates that SB81 would require programming revisions to the FAIR's plan administration system and that additional FAIR plan staff would be required to underwrite the additional policies and service the additional claims volume. The agency estimates that the reoccurring costs would be $650 thousand. OSI also indicates the agency would require 3 FTE to manage the mitigation grant program. OSI estimates that the reoccurring costs would be $350 thousand. The total reoccurring costs to OSI manage the proposed programming and mitigation grant program would be $1 million.

OSI indicates that the originally requested appropriation also included $9 million for mitigation grants and $40 million for a financial backstop for the FAIR plan in case of catastrophic loss in the short term. Without the appropriation, there would be no financial backstop.

SIGNIFICANT ISSUES

New Mexico FAIR Plan. The New Mexico Property Insurance Program is the underwriting association of the New Mexico FAIR plan. The New Mexico FAIR Plan Act, contained in Article 59A-29 et. seq. NMSA 1978 of the New Mexico Insurance Code, was enacted by the Legislature to provide essential property insurance to responsible and qualified applicants in New Mexico who are unable to secure such insurance in the normal market, acting essentially as the provider of last resort and providing minimal coverage. Unlike normal coverage, the plan only covers actual cash value, or the depreciated value of the property. However, certain lenders, like Fannie Mae, do accept this plan as creditable coverage to meet mortgage requirements.

Currently under the FAIR Plan Act, all insurers licensed to write essential property insurance are required to establish and maintain the FAIR plan and an underwriting association. The underwriting association is responsible for assessing and sharing all expenses, income, and losses of the FAIR plan—meaning the financial burden of providing insurance to high-risk individuals is distributed among all participating insurers rather than being shouldered by one company. OSI indicates that there are approximately 7 thousand policy holders in the FAIR plan.

Roles and Responsibilities. Currently, the New Mexico FAIR plan and program are subject to approval and regulation by OSI. SB81 amends the FAIR Plan Act to give the superintendent explicit authority and mandatory duty to direct property insurers to establish and maintain a FAIR plan and underwriting association, as opposed to the superintendent having oversight to approve and regulate action, as is currently in statute.

SB81 also creates and establishes the New Mexico Property Insurance Program Association Board as the governing body of the New Mexico Property Insurance Program. The board includes nine appointed members to represent the interest of reinsurance companies, consumers, property and sultry insurers, product management, the superintendent or their designee, and individuals with expertise in actuarial science, climate science, and catastrophic risk management. In SB81, the new board is responsible for establishing a FAIR plan, submitting a plan of operation to the superintendent, amending the plan and articles of association, collecting member fees, and reporting to the superintendent. In current statute, many of these duties are handled by the underwriting association.

SB81 requires the plan of operation prepared by the board to include the types of insurance that will be offered, risk or damages that will be covered, rules for deciding who qualifies for coverage (including mitigation requirements and property inspections), payments and commissions for member companies, and time frame for fee collections. SB81 also specifies that the plan's premium rates cannot be excessive or inadequate, must generate enough revenue to cover losses, consider investment income, and account for reinsurance or other risk transfer costs.

OSI suggests adding the following amendment to address anti-donation issues:

> The amendment proposed in Section 3 to be expanded to add the following sentence at the end of Section 59A-29-2: <u>The Association is a non-profit unincorporated public entity.</u>

Coverage through the FAIR Plan. SB81 requires that coverage limits are:

- Up to $1 million for residential property,
- Up to $5 million for each commercial property, and
- A total policy limit of $10 million for commercial properties.

Currently, coverage limits are dictated by bylaws created by the New Mexico Property Insurance Program, or the underwriting association. Currently, the maximum coverage available is $350 thousand on residential and $1 million on commercial structures.

Enforcement. SB81 adds enforcement language to the act. If an insurance company does not pay its required fees or follow the rules, the bill allows the superintendent to hold a hearing and then either suspend or revoke the company's license to operate in the state or impose a fine of either the amount of the assessment owed, plus interest and the cost of enforcement, or a flat fee of $5 thousand.

Assessment of Fees. SB81 directs the proposed board to collect fees from member insurers for the program to remain solvent. The bill allows insurance companies to pass the fee on to policyholders as a surcharge, which can be spread out over three years, but does not allow them to raise premiums because of the fee. The bill also allows the board to delay or reduce a fee for a company if the fee threatens their solvency.

Mitigation. Although not explicit in SB81, OSI indicates that meeting Insurance Institute for Business & Home Safety (IBHS) Wildfire Prepared Home standards would be mandatory to remain in the FAIR plan. The agency notes that $9 million of the $50 million appropriation would be for mitigation grants to provide assistance for property owners who require assistance to meet IBHS standards. OSI notes:

> The cost to mitigate a residence to meet IBHS wildfire prepared home standards is estimated to cost $7 thousand per property. If OSI would provide grants to 25 percent of projected policyholders [due to the changes proposed in SB81], the total mitigation costs are estimated at $9M.

As noted by the agency in their analysis, the Energy, Minerals and Natural Resources Department (EMNRD) Forestry Division is directed in Chapter 68-2-34 NMSA to staff the Fire Planning Task Force that is charged with developing mitigation requirements.

Financial Backstop. OSI notes that additional policies and coverage limits that could result from SB81 correlate to additional exposure to the plan. The agency plans to utilize $40 million from the requested appropriation to minimize the need for additional assessments in case of losses due to SB81. Without a backstop, possible losses might need to be covered by an assessment on insurance companies, which would likely increase property insurance premiums across the state—see "Other Substantive Issues" for average increases in premiums in New Mexico. The agency notes:

> Additional policies correlate with additional exposure to catastrophic loss. While significant losses in the FAIR Plan would be funded through industry assessments, OSI seeks to minimize initial industry assessments to encourage carriers to continue to offer property insurance in the open market. If an assessment becomes necessary, the recommended FAIR Plan would propose to allow industry to add a surcharge to open market policies to allow for the recovery of the assessment in equal amounts over a three-year period.
>
> Based on projected policy counts, average home values by county, and the damage resulting from the 2024 South Fork and Salt Fires, an expanded FAIR Plan could be expected to be exposed to the additional catastrophic wildfire losses as shown in the [fifth column in the chart below]. The total estimated cost of these losses (excluding the counties with less than 50 policies today) is $40 million.
>
> The requested $40 million would be used to create a financial reserve to pay claims in the event the estimated losses actually occur. The funds could also be used to purchase reinsurance to mitigate industry assessments. Accrued interest should be credited to the fund. The fund would be a continuing, non-reverting fund.

OSI provides the following table on the anticipated increase of policies due to changes in SB81, the cost of providing grants to 25 percent of those households, and possible wildfire damages.

County	Current Fair Plan Policies in Wildfire Prone Counties (2)	Expected Additional Policies (3)	Cost of $7,000 Grant to 25% of Population (in thousands) (4)	Wildfire Event Damage (in millions) (5)
Colfax	129	335	$734	$26.70
Lincoln	207	538	$1,177	$39.30
Los Alamos	5	13	$28	$2.50
Mora	38	99	$216	$3.10
Otero	335	871	$1,905	$64.80
Sandoval	122	317	$694	$37.80
Santa Fe	79	205	$449	$37.10
San Miguel	272	707	$1,547	$53.60
Taos	110	286	$626	$41.40
Grant	115	299	$654	$18.90
Rio Arriba	141	367	$802	$38.50
Catron	32	83	$182	$5.30
Total/Average*	**1,585**	**4,121**	**$9,015.0**	**$39.8**

*Average of Counties with over 50 current policies

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to an appropriation in the House version of the General Appropriation Act (GAA). The GAA includes a nonrecurring $10 million appropriation to OSI for the FAIR program for property insurance needs, programs, and initiatives statewide for expenditure in FY26. Although the language is vague on use of funds, OSI notes that the agency would plan to use the funding for the mitigation component of SB81. As noted in “Significant Issues”, without a backstop, possible losses might need to be covered by an assessment on insurance companies, which would likely increase property insurance premiums.

The GAA also includes a nonrecurring $2 million appropriation to OSI to study the fire insurance market. Fire insurance is a form of property insurance that covers damage and losses caused by fire. However, this study might not fully cover impacts to property insurance, such as wind and hail, which caused the most losses to the FAIR plan in 2024.

Related to Senate Bill 33 (SB33) which appropriates $20 million from the general fund to the proposed wildfire prepared fund to make sure to make structures and properties in New Mexico wildfire prepared. SB33 requires that at least fifty percent of the grant money be awarded to qualified entities for the purpose of assisting eligible property owners with making the necessary changes to their primary residences to make them wildfire prepared.

Related to House Bill 175, which amends portions of the Forest and Watershed Restoration Act to allow the forest land protection revolving fund to be used to create buffers of defensible space around structures and properties in high-risk areas.

OTHER SUBSTANTIVE ISSUES

Between 2020 and 2023, home insurance premiums in New Mexico rose by an average of 16 percent, which is lower than the national average increase of 33 percent. However, the increases varied significantly, ranging from 7.3 percent to 47.4 percent. The average New Mexico household paid $1,817 in home insurance premiums in 2023, 28 percent lower than the national average of $2,530. Based on 2021 data from the National Association of Insurance Commissioners, the property and casualty insurance industry’s average loss ratio in New Mexico was 59.4 percent. Loss ratio is the percentage of premiums paid out as claims and is calculated by dividing the total amount of insurance claims by the total amount of premiums earned. The ideal loss ratio generally falls between 40 to 60 percent. For the most part, insurers are still making a profit in New Mexico, despite losses in 2016, 2017, and 2022.

JR/hj/SL2/sgs/SL2/rl