

News From The States

EVENING WRAP

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By [Kate Queram](#)

Programming note: National Editor Marisa Demarco is here with the latest in an investigative project. I'll take over a little further down. See you soon!

If you lived in New Mexico and an arsonist burned down your house, state law would let you seek damages for intangible harm — the stress of having to find shelter, the pain of losing most everything you loved, the sorrow of watching your former life blow away, ashes on the wind.

But since it was a federal agency — the U.S. Forest Service — that burned down hundreds of homes in northern New Mexico in 2022, the Federal Emergency Management Agency has said that's not the case. Instead, FEMA argues, victims can seek compensation from a claims office only for things like medical bills, a charred vehicle, the value of an owned home before it was rubble.

Trouble is, that means much of the nearly \$4 billion Congress set aside to make people whole could go to those who were better off to begin with: people who had receipts for expensive property and houses in their names. Many of the folks from this region — the 340,000-plus acres now known as the burn scar — lived a different sort of life on familial homesteads passed down through generations without much of a paper trail.

[“In the scar of New Mexico's largest wildfire, a legal battle is brewing over the cost of suffering,”](#) reported by [Source New Mexico](#)'s Patrick Lohmann and

[ProPublica](#)'s Byard Duncan, takes a look at inequity when people can't be paid for losses without a price tag.



The Big Takeaway

Meg Sandoval didn't have a lot. But what she did have was destroyed by the biggest wildfire in New Mexico history, ignited by the Forest Service — prescribed burning that got out of control.

She recalled the flames, more than 100 feet high when they reached her family's ranch and so hot that guardrails on the nearby road "melted into metal ribbons."



Meg Sandoval at the site of her former mobile home on her family's ranch in Rociada, New Mexico, which was ravaged by the Hermits Peak-Calf Canyon Fire. Until recently, she was too traumatized to visit the property.

(Adria Malcolm for ProPublica)

Sandoval had been living in an old mobile home on her family's property in the Sangre de Cristo Mountains for six years. That housing and her Social Security check had her all set, she thought. It was her version of a pension. And it's gone.

“My retirement plan is destroyed, and I can’t get that back again,” she said. “And now with the prospect of having that taken away from me for good, all I have is the pain and suffering.”

Because of how FEMA is interpreting language in the law Congress passed to compensate victims, Sandoval doesn’t expect to get much beyond a few grand in compensation.

“FEMA is punishing poor and middle-class people, the very people who need help the most,” said Gerald Singleton, a California lawyer representing more than 1,000 fire victims. “It will not have any effect on the wealthy, but it will be crippling to the poor and middle class.”

FEMA’s reading of the law creates a predicament for many residents a year and a half after they were driven from their land as the wildfire raced across the mountains.

“Despite what New Mexico law allows, the federal government claims it cannot follow it,” Lohmann and Duncan report. “FEMA officials have said that they ‘consulted with’ the New Mexico attorney general’s office about their conclusion that the law does not permit them to pay for what’s called noneconomic damages. But the attorney general’s office told Source New Mexico and ProPublica it doesn’t agree with FEMA’s conclusion.”



*The remains of Sandoval's home.
(Adria Malcolm for ProPublica)*

Still, the article continues, “FEMA has refused to publicly explain how it came to its interpretation of what it can pay for, aside from a [PowerPoint slide](#) shown at public meetings. But an [agency memo lays it out](#). The memo, bearing logos of the agency and its claims office, says ‘Do not distribute’ on every page. Source and ProPublica got it from the New Mexico attorney general’s office through a public records request.”

FEMA officials wrote that their position hinges on a key phrase — “limited to actual compensatory damages” — in the federal legislation creating the compensation fund. Those words, they argue, mean the agency cannot pay people for intangible harm.

Victims disagree. In two recent lawsuits, they allege FEMA is denying them money that’s rightfully theirs after the Forest Service made mistakes that cost them everything. (And, of course, filing lawsuits can be time- and energy-consuming, especially for those who’ve been barely hanging on as they figure out their lives in the aftermath.)

An agency representative wouldn’t comment for this story due to pending

litigation, but she said FEMA's claims office values equity and understands that every claim is different. She said the office is considering allowing other forms of documentation that would help people demonstrate what they lost.

But that doesn't address concerns about the agency not paying for intangible harm.

Victims' lawyers argue that if Congress wanted to exclude payments for distress or hardship, the law would say so.

Is it a question of running out of compensation cash? FEMA won't say. But as of Dec. 21, the agency had [paid out only](#) about 7% of the \$3.95 billion allocation — most of it in recent months. "While that money has helped to replace homes and vehicles and to address erosion from post-fire flooding, lawyers say it leaves a whole world of harm unaddressed," Lohmann and Duncan report.

There's a lot more to this story. [Read the whole thing here.](#)

Environmental conditions: [Colorado charts new protections for state waters left vulnerable by Supreme Court ruling](#) ... [Pipeline company sues fourth Iowa county for zoning ordinance](#) ... [Protections for three threatened Kansas species to be reviewed by panel](#) ... [Maryland activists hope federal aid will help boost environmental restoration](#) ... [Minnesota mental health professionals say climate concerns driving patients to depression](#) ... [OG&E calling for rate hike for Oklahoma customers](#) ... [Officials, locals worry about foggy federal plans for wind farms off Oregon Coast](#) ... [Oregon Fish and Wildlife director to retire after nearly 4 decades at the agency](#) ... [This West Texas town has a lot of money in the bank. Why can't it pick up its trash?](#) ... [As Vermont's 2024 legislative session kicks off, flooding takes center stage](#) ... [State group says Virginia should budget more for invasive species management](#)



LGBTQ+ Rights

Ohio lawmakers will reconvene two weeks early to resuscitate a gender-affirming care ban following a veto from Republican Gov. Mike DeWine, though it's not clear whether they have the votes to pull it off, [the Ohio Capital Journal reported](#). The uncertainty is only the latest twist for transgender kids and their families, who spent the weekend celebrating the veto only to find themselves in limbo

again [days later](#), waiting for legislators to decide the details of their medical care.

“We really didn’t get to truly enjoy the holiday because we were just so anxious about what was going to happen,” said Alicia Burkle, whose 10-year-old daughter is transgender but has not started puberty blockers. “[The veto] was a brief sigh of relief ... it’s just so hurtful and exhausting.”



*Hands off, off and on.
(Photo by Greg LaRose/Louisiana Illuminator)*

If enacted, [the bill](#) would prohibit trans athletes from participating in women’s sports and ban gender-affirming care, including puberty blockers and hormone treatment, for patients under the age of 18. DeWine [vetoed the measure](#) Friday after embarking on what he described as a “fact-gathering” mission that included conversations with Republican lawmakers, physicians, transgender kids and their families. They all seemed sincere in their desire to protect kids, DeWine said.

But only parents should get to decide how best to do that, he added.

“Were House Bill 68 to become law, Ohio would be saying that the state, that the government, knows better what is medically best for a child better than the two

people who love the child the most — the parents,” DeWine said Friday morning. “These tough, tough decisions should not be made by the government.”

But the government can still take a regulatory role, according to DeWine, who offered to work with Republicans to ban gender-affirming surgery for minors ([not a thing](#) in Ohio), collect data on transgender care and combat “pop-up clinics or fly-by-night operations” offering ideologically driven care. The compromise measures were intended as a “suitable” alternative to an all-out ban, but they didn’t move the needle far enough for Republicans, who accused the governor of overreaching by ... vetoing the bill, I guess (?), and then proposing a different, slightly less extreme plan.



*Ohio Gov. Mike DeWine, who definitely has the authority to veto a bill.
(Photo by Graham Stokes for the Ohio Capital Journal)*

“The governor is attempting to pull legislative authority from the Statehouse and place it in the executive agencies under his control,” said state Rep. Josh Williams, the Republican who sponsored the legislation. “You can’t talk out of the side of your neck when you say to the camera that the government shouldn’t be involved — and then 20 minutes later you say, ‘but I’m gonna order the government to be involved.’”

Williams said there are enough votes to override DeWine, which requires support from three-fifths of each chamber, or 60 House members and 20 senators. The bill cleared those thresholds in December, passing with 62 votes in the House and 24 in the Senate. If both chambers approve the measure, the bill would take effect in 90 days, though it will almost certainly be challenged in court before then.

Either way, transgender kids are likely to spend the next few months exactly like they've spent the past few months: Waiting. And hoping. And waiting some more.

"Why go against best medical practice?" mused Aaron Demlow, a trans activist in Ohio. "I feel like they would have blood on their hands because I know from personal experience that I would not have survived to 18."

Wishing, waiting, hoping: [Laws on book challenges, 'indoctrination' create culture of fear in Arkansas school libraries](#) ... [Michigan Democrats and LGBTQ+ advocates heap criticism on Rep. Walberg's comments at Uganda event](#) ... [Judges are now subject to preferred pronoun rule in Michigan](#) ... [HHS extends Nebraska's emergency regs on gender-affirming care through March](#) ... [Prospects rise for another round of emotion-filled discussion of trans rights in Nebraska](#) ... [New Hampshire House passes bill to ban gender-affirming care for minors, sending bill to Senate](#) ... ["My nightmare": North Carolina LGBTQ+ community, allies faced a political gauntlet in 2023](#) ... [Ohio transgender candidate disqualified for only including legal name, not former name, on petitions](#) ... [How to stay or when to move? Transgender laws force tough choices on Tennessee families](#)



From The Newsrooms

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- [Nearly half of Missouri social-equity marijuana license applicants were from out of state](#)
- [State lawmakers seek to limit property tax increases as home values soar](#)
- [Immigrant advocates alarmed at comments directed at migrants dropped off in New Jersey](#)
- [Fight for congressional majorities launches against backdrop of presidential](#)



One Last Thing

Brad Wilk, drummer for Rage Against the Machine, [said Thursday](#) that the band won't tour or play live again, which is probably sad news for people who knew before today that Rage Against the Machine is (was?) still a band.

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