

1 **WILDLAND FIRE POLICY UPDATES**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Evan J. Vickers**

5 House Sponsor: Joel K. Briscoe

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies procedures surrounding the management of wildland fire.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ requires a municipality to abate uncontrolled wildfire on private or
14 municipality-owned land within its boundaries, under certain circumstances;
- 15 ▶ authorizes a municipality, county, or certain special districts to enter into a
16 cooperative agreement with the Division of Forestry, Fire, and State Lands;
- 17 ▶ states that a city, town, county, or special district that enters into a cooperative
18 agreement may be eligible to have the costs of catastrophic wildland fire
19 suppression paid by the state;
- 20 ▶ states that a city, town, county, or special district that does not enter into a
21 cooperative agreement shall be responsible for wildland fire suppression costs
22 within its jurisdiction;
- 23 ▶ describes the requirements to enter into a cooperative agreement; and
- 24 ▶ makes technical changes.

25 **Money Appropriated in this Bill:**

26 This bill appropriates:

- 27 ▶ to the Department of Natural Resources -- Forestry, Fire, and States Lands, as a
28 one-time appropriation:
 - 29 • from Wildland Fire Suppression Fund, \$4,800,000.

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **11-7-1**, as last amended by Laws of Utah 1986, Chapter 175
- 35 **15A-5-203**, as last amended by Laws of Utah 2015, Chapter 158
- 36 **65A-1-1**, as last amended by Laws of Utah 2013, Chapter 413
- 37 **65A-3-3**, as last amended by Laws of Utah 2013, Chapter 237
- 38 **65A-8-101**, as last amended by Laws of Utah 2008, Chapter 20
- 39 **65A-8-103**, as last amended by Laws of Utah 2015, Chapter 33
- 40 **65A-8-201**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 41 **65A-8-202**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 42 **65A-8-203**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 43 **65A-8-204**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 44 **65A-8-206**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 45 **65A-8-207**, as last amended by Laws of Utah 2008, Chapter 382
- 46 **65A-8-209**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 47 **65A-8-210**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 48 **65A-8-211**, as renumbered and amended by Laws of Utah 2007, Chapter 136

49 ENACTS:

- 50 **65A-8-202.5**, Utah Code Annotated 1953
- 51 **65A-8-203.1**, Utah Code Annotated 1953
- 52 **65A-8-203.2**, Utah Code Annotated 1953
- 53 **65A-8-209.1**, Utah Code Annotated 1953

54 REPEALS:

- 55 **65A-8-103.5**, as enacted by Laws of Utah 2015, Chapter 33
- 56 **65A-8-205**, as last amended by Laws of Utah 2011, Chapter 342
- 57 **65A-8-208**, as renumbered and amended by Laws of Utah 2007, Chapter 136

58

59 *Be it enacted by the Legislature of the state of Utah:*

60 Section 1. Section **11-7-1** is amended to read:

61 **11-7-1. Cooperation with other governmental units -- Burning permits --**

62 **Contracts.**

63 (1) The governing body of every incorporated municipality and the board of
64 commissioners or county council of every county shall:

65 (a) provide adequate fire protection within their own territorial limits; and ~~[shall]~~

66 (b) cooperate with all contiguous counties, municipal corporations, private
67 corporations, fire districts, state agencies, or federal governmental agencies to maintain
68 adequate fire protection within their territorial limits.

69 (2) Every incorporated municipality and every county may:

70 (a) require that persons obtain a burning permit before starting a fire on any forest,
71 wildland urban interface, brush, range, grass, grain, stubble, or hay land, except that a
72 municipality or county may not require a burning permit for the burning of fence lines on
73 cultivated lands, canals, or irrigation ditches, provided that the individual notifies the nearest
74 fire department of the approximate time that the burning will occur;

75 (b) maintain and support a fire-fighting force or fire department for its own protection;

76 (c) contract to furnish fire protection to any proximate county, municipal corporation,
77 private corporation, fire district, state agency, or federal agency;

78 (d) contract to receive fire protection from any contiguous county, municipal
79 corporation, private corporation, fire district, state agency, or federal governmental agency;

80 (e) contract to jointly provide fire protection with any contiguous county, municipal
81 corporation, private corporation, fire district, state agency, or federal governmental agency; or

82 (f) contract to contribute toward the support of a fire-fighting force, or fire department
83 in any contiguous county, municipal corporation, private corporation, fire district, state agency,
84 or federal governmental agency in return for fire protection.

85 Section 2. Section **15A-5-203** is amended to read:

86 **15A-5-203. Amendments and additions to IFC related to fire safety, building, and**
87 **site requirements.**

88 (1) For IFC, Chapter 5, Fire Service Features:

89 (a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as
90 follows: "An authority having jurisdiction over a structure built in accordance with the
91 requirements of the International Residential Code as adopted in the State Construction Code,
92 may require an automatic fire sprinkler system for the structure only by ordinance and only if
93 any of the following conditions exist:

94 (i) the structure:

95 (A) is located in an urban-wildland interface area as provided in the Utah Wildland
96 Urban Interface Code adopted as a construction code under the State Construction Code; and

97 (B) does not meet the requirements described in Utah Code, Subsection

98 [~~65A-8-203(3)(a)~~] 65A-8-203(4)(a) and Utah Administrative Code, R652-122-200, Minimum
99 Standards for Wildland Fire Ordinance;

100 (ii) the structure is in an area where a public water distribution system with fire
101 hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main
102 Design;

103 (iii) the only fire apparatus access road has a grade greater than 10% for more than 500
104 continual feet; or

105 (iv) (A) the water supply to the structure does not provide at least 500 gallons fire flow
106 per minute for a minimum of 30 minutes, if the total square foot living space of the structure is
107 equal to or less than 5,000 square feet;

108 (B) the water supply to the structure does not provide at least 750 gallons per minute
109 fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 5,000
110 square feet, but is equal to or less than 10,000 square feet; or

111 (C) the water supply to the structure does not provide at least 1,000 gallons per minute
112 fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 10,000
113 square feet."

114 (b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as
115 follows: "Where access to or within a structure or an area is restricted because of secured
116 openings or where immediate access is necessary for life-saving or fire-fighting purposes, the
117 fire code official, after consultation with the building owner, may require a key box to be
118 installed in an approved location. The key box shall contain keys to gain necessary access as
119 required by the fire code official. For each fire jurisdiction that has at least one building with a
120 required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating
121 rule or policy that creates a process to ensure that each key to each key box is properly
122 accounted for and secure."

123 (c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings,
124 is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling
125 when the authority having jurisdiction over the dwelling determines that the development of a
126 full fire-flow requirement is impractical."

127 (d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as
128 follows "Total water supply requirements shall not exceed the fire flows described in Section
129 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler
130 system, on a subdivision lot platted before December 31, 1980, unless the municipality or
131 county in which the lot is located provides the required fire flow capacity."

132 (e) In IFC, Chapter 5, Section 510.1, Emergency Responder Radio Coverage in New
133 Buildings, is amended by adding: "When required by the fire code official," at the beginning of
134 the first paragraph.

135 (2) For IFC, Chapter 6, Building Services and Systems:

136 (a) In IFC, Chapter 6, Section 605.11.3.3.1, Access, is deleted and rewritten as follows:
137 "There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the
138 roof."

139 (b) In IFC, Chapter 6, Section 605.11.3.3.2, Pathways, is deleted and rewritten as
140 follows: "The solar installation shall be designed to provide designated pathways. The
141 pathways shall meet the following requirements:

142 1. The pathway shall be over areas capable of supporting the live load of fire fighters
143 accessing the roof.

144 2. The centerline axis pathways shall be provided in both axes of the roof. Centerline
145 axis pathways shall run where the roof structure is capable of supporting the live load of fire
146 fighters accessing the roof.

147 3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be
148 provided with a clear pathway width of not less than three feet (914 mm) to vents.

149 4. Access to roof area required by Section 504.2 or 1009.16 of this Code, shall be
150 provided with a clear pathway width of not less than three feet (914 mm) around access
151 opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

152 (c) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two
153 Family Dwellings, is deleted and rewritten as follows: "Access to residential systems for one
154 and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through
155 605.11.3.2.4.

156 Exception: Reduction in pathways and clear access width shall be permitted where
157 shown that a rational approach has been used and that such reductions are warranted when
158 approved by the Fire Code Official."

159 (d) In IFC, Chapter 6, Section 605.11.3.3.3, Smoke Ventilation, is deleted and
160 rewritten as follows: "The solar installation shall be designed to meet the following
161 requirements:

162 1. Arrays shall be no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in
163 distance in either axis in order to create opportunities for fire department smoke ventilation
164 operations.

165 2. Smoke ventilation options between array sections shall be one of the following:

166 2.1. A pathway six feet (1829 mm) or greater in width.

167 2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or
168 smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

169 2.3. Smoke and heat vents designed for remote operation using devices that can be

170 connected to the vent by mechanical, electrical, or any other suitable means, shall be protected
171 as necessary to remain operable for the design period. Controls for remote operation shall be
172 located in a control panel, clearly identified and located in an approved location."

173 (e) In IFC, Chapter 6, Section 607.4, Elevator Key Location, is deleted and rewritten as
174 follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or
175 similar box with corresponding key system that is adjacent to the elevator for immediate use by
176 the fire department. The key box shall contain one key for each elevator, one key for lobby
177 control, and any other keys necessary for emergency service. The elevator key box shall be
178 accessed using a 6049 numbered key."

179 (f) In IFC, Chapter 6, Section 609.1, General, is amended as follows: On line three,
180 after the word "Code", add the words "and NFPA 96".

181 (3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section
182 703.2, is amended to add the following: "Exception: In Group E Occupancies, where the
183 corridor serves an occupant load greater than 30 and the building does not have an automatic
184 fire sprinkler system installed, the door closers may be of the friction hold-open type on
185 classrooms' doors with a rating of 20 minutes or less only."

186 Section 3. Section **65A-1-1** is amended to read:

187 **65A-1-1. Definitions.**

188 As used in this title:

189 (1) "Division" means the Division of Forestry, Fire, and State Lands.

190 (2) "Initial attack" means action taken by the first resource to arrive at a wildland fire
191 incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or
192 aggressive suppression action.

193 [~~2~~] (3) "Multiple use" means the management of various surface and subsurface
194 resources in a manner that will best meet the present and future needs of the people of this
195 state.

196 (4) "Municipality" means a city, town, or metro township.

197 [~~3~~] (5) "Public trust assets" means those lands and resources, including sovereign

198 lands, administered by the division.

199 ~~[(4)]~~ (6) "Sovereign lands" means those lands lying below the ordinary high water
200 mark of navigable bodies of water at the date of statehood and owned by the state by virtue of
201 its sovereignty.

202 ~~[(5)]~~ (7) "State lands" means all lands administered by the division.

203 ~~[(6)]~~ (8) "Sustained yield" means the achievement and maintenance of high level
204 annual or periodic output of the various renewable resources of land without impairment of the
205 productivity of the land.

206 ~~[(7)]~~ (9) "Wildland" means an area where:

207 (a) development is essentially non-existent, except for roads, railroads, powerlines, or
208 similar transportation facilities; and

209 (b) structures, if any, are widely scattered.

210 ~~[(8)]~~ (10) "Wildland fire" means a fire that consumes:

211 (a) wildland; or

212 (b) wildland-urban interface, as defined in Section [65A-8a-102](#).

213 Section 4. Section **65A-3-3** is amended to read:

214 **65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.**

215 (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and
216 other law enforcement officers within the law enforcement jurisdiction to enforce the
217 provisions of this chapter and to investigate and gather evidence that may indicate a violation
218 under this chapter.

219 (2) (a) The city attorney, county attorney, or district attorney, as appropriate under
220 Sections [10-3-928](#), [17-18a-202](#), and [17-18a-203](#), shall~~[(a)]~~ prosecute any criminal violations
221 of this chapter~~[-and]~~.

222 ~~[(b) initiate a civil action to recover suppression costs incurred by the county or state
223 for suppression of fire on private land.]~~

224 (b) The counsel for an eligible entity, as defined in Section [65A-8-203](#), shall initiate a
225 civil action to recover suppression costs incurred by the eligible entity for suppression of fire

226 on private land.

227 Section 5. Section **65A-8-101** is amended to read:

228 **65A-8-101. Division responsibilities for fire management and the conservation of**
 229 **forest, watershed, and other lands -- Reciprocal agreements for fire protection.**

230 (1) The division, in consultation with local authorities, shall determine and execute the
 231 best method for protecting private and public property by:

232 (a) except as provided by Subsection (1)~~[(c)]~~(d), preventing, preparing for, or
 233 mitigating the origin and spread of fire on nonfederal forest, range, ~~[or]~~ watershed, or wildland
 234 urban interface land in ~~[an unincorporated area of]~~ the state;

235 ~~[(b) protecting a nonfederal forest or watershed area using conservation principles;]~~

236 ~~[(c)]~~ (b) encouraging a ~~[private]~~ landowner to ~~[preserve]~~ conserve, protect, and manage
 237 forest or other land throughout the state;

238 ~~[(d)]~~ (c) taking action the division considers appropriate to ~~[control]~~ manage wildland
 239 fire and protect life and property on ~~[the]~~ nonfederal forest, range, ~~[or]~~ watershed, or wildland
 240 urban interface land within ~~[an unincorporated area of]~~ the state; and

241 ~~[(e)]~~ (d) implementing a limited fire suppression strategy, including allowing a fire to
 242 burn with limited or modified suppression, if the division determines that the strategy is
 243 appropriate for a specific area or circumstance.

244 (2) The division may:

245 (a) enter into an agreement with a public or private agency or individual:

246 (i) for the purpose of protecting, managing, or rehabilitating land owned or managed by
 247 the agency or individual; and

248 (ii) establishing a predetermined fire suppression plan, including a limited fire
 249 suppression strategy, for a specific fire management area; and

250 (b) enter into a reciprocal agreement with a fire protection organization, including a
 251 federal agency, to provide fire protection for land, and an improvement on land, for which the
 252 organization normally provides fire protection.

253 Section 6. Section **65A-8-103** is amended to read:

254 **65A-8-103. Forestry and fire control funds.**

255 (1) The division shall use money available to it to meet the costs of:

256 (a) ~~[controlling]~~ managing forest, range, ~~[and]~~ watershed, and wildland urban interface
257 fires;258 (b) ~~[controlling]~~ managing insect and disease epidemics;

259 (c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;

260 (d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention; ~~[and]~~261 (e) restoring and maintaining landscapes ensuring landscapes across the state are
262 resilient to wildfire-related disturbances, in accordance with fire management objectives;263 (f) creating fire-adapted communities, ensuring that human populations and
264 infrastructure can withstand a wildfire without loss of life or property;265 (g) improving wildfire response, ensuring that all political subdivisions can participate
266 in making and implementing safe, effective, and efficient risk-based wildfire management
267 decisions;268 (h) reducing risks to wildlife such as the greater sage grouse; and269 ~~[(e)]~~ (i) carrying on the purposes of this chapter.270 (2) All money available to the division to meet the costs of Subsections (1)(a) through
271 ~~[(e)]~~ (i) is nonlapsing and available to the division until expended.272 (3) (a) The collection and disbursement of all money made available to the division
273 shall be in accordance with the rules of the Division of Finance.274 (b) Money collected by the division from fees, rentals, sales, contributions,
275 reimbursements, and other such sources shall be deposited in the appropriate account.276 Section 7. Section **65A-8-201** is amended to read:277 **65A-8-201. Uncontrolled fire is a public nuisance.**278 Any fire on forest, range, ~~[or]~~ watershed, or wildland urban interface land in the state
279 burning uncontrolled and without proper and adequate action being taken to ~~[control or prevent~~
280 ~~its spread]~~ manage it is a public nuisance.281 Section 8. Section **65A-8-202** is amended to read:

282 **65A-8-202. Fire control -- County responsibilities.**

283 (1) [~~Counties~~] A county shall abate the public nuisance caused by [~~uncontrolled fire~~]
 284 wildfire on unincorporated, privately owned or county owned forest, range, [and] watershed,
 285 and wildland urban interface lands within its boundaries.

286 (2) [~~Counties, or other political subdivisions of the state as determined to be~~
 287 ~~appropriate by the state forester,]~~ A county may participate in the wildland fire protection
 288 system of the division and become eligible for assistance from the state by agreement under the
 289 provisions of this chapter.

290 (3) A county shall:

291 (a) reduce the risk of wildfire to unincorporated, privately owned or county owned
 292 forest, range, watershed, and wildland urban interface land within the county's boundaries, with
 293 private landowner permission, through appropriate wildfire prevention, preparedness, and
 294 mitigation actions; and

295 (b) ensure effective wildfire initial attack on unincorporated privately owned or county
 296 owned forest, range, watershed, and wildland urban interface land within the county's
 297 boundaries.

298 (4) A county may assign the responsibilities described in Subsections (1) and (3) to a
 299 fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract,
 300 delegation, interlocal agreement, or another method.

301 [~~(3)~~] (5) The state forester shall make certain that appropriate action is taken to control
 302 wildland fires on unincorporated nonfederal forest, range, [and] watershed, and wildland urban
 303 interface lands.

304 [~~(4) The actual costs of suppression action taken by the division on privately owned~~
 305 ~~lands shall be a charge against the county in which the lands lie, unless otherwise provided by~~
 306 ~~cooperative agreement.]~~

307 (6) Nothing in this section excuses a private landowner from complying with an
 308 applicable county ordinance.

309 Section 9. Section **65A-8-202.5** is enacted to read:

310 **65A-8-202.5. City and town responsibilities.**

311 (1) A municipality shall abate the public nuisance caused by wildfire on forest, range,
312 watershed, and wildland urban interface land within the boundaries of the municipality if the
313 land is:

- 314 (a) privately owned; or
- 315 (b) owned by the municipality.

316 (2) A municipality may participate in the wildland fire protection system of the
317 division and become eligible for assistance from the state by agreement under the provisions of
318 this chapter.

319 (3) A municipality shall:

- 320 (a) reduce the risk of wildfire to incorporated, privately owned and municipality owned
321 forest, range, watershed, and wildland urban interface land, with private landowner permission,
322 through appropriate wildfire prevention, preparedness, and mitigation actions; and
- 323 (b) ensure effective wildfire initial attack on forest, range, watershed, and wildland
324 urban interface land within the municipality's fire protection boundary.

325 (4) A municipality may assign the responsibilities described in Subsections (1) and (3)
326 to a fire service provider or an eligible entity, as defined in Section [65A-8-203](#), through
327 contract, delegation, interlocal agreement, or another method.

328 (5) The state forester shall make certain that appropriate action is taken to control
329 wildland fires on incorporated, nonfederal forest, range, watershed, and wildland urban
330 interface lands.

331 (6) Nothing in this section excuses a private landowner from complying with an
332 applicable county ordinance.

333 Section 10. Section **65A-8-203** is amended to read:

334 **65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or**
335 **special service districts.**

336 (1) As used in this section:

- 337 (a) "Eligible entity" means:

338 (i) a county, a municipality, or a special service district, local district, or service area
 339 with:

340 (A) wildland fire suppression responsibility as described in Section [11-7-1](#); and

341 (B) wildland fire suppression cost responsibility and taxing authority for a specific
 342 geographic jurisdiction; or

343 (ii) upon approval by the director, a political subdivision established by a county,
 344 municipality, special service district, local district, or service area that is responsible for:

345 (A) providing wildland fire suppression services; and

346 (B) paying for the cost of wildland fire suppression services.

347 (b) "Fire service provider" means a public or private entity that fulfills the duties of
 348 Subsection [11-7-1\(1\)](#).

349 ~~[(1)]~~ (2) (a) The [county legislative] governing body of any [county] eligible entity may
 350 enter into a cooperative agreement with the division to receive financial and [supervisory]
 351 wildfire management cooperation and assistance from the division, as described in this Title
 352 65A, Chapter 8, Part 2, Fire Control.

353 (b) A cooperative agreement shall last for a term of no more than five years and be
 354 renewable if the eligible entity continues to meet the requirements of this chapter.

355 ~~[(2) A county]~~ (3) (a) An eligible entity may not receive financial cooperation or
 356 financial assistance under Subsection ~~[(1)]~~ (2)(a) until a cooperative agreement is executed by
 357 the [county legislative body] eligible entity and the division.

358 (b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire
 359 as defined in the cooperative agreement if the eligible entity has entered into, and is in full
 360 compliance with, a cooperative agreement with the division, as described in this section.

361 (c) A county or municipality that is not covered by a cooperative agreement with the
 362 division, as described in this section, shall be responsible for wildland fire costs within the
 363 county or municipality's jurisdiction, as described in Section [65A-8-203.2](#).

364 ~~[(3)]~~ (4) In order to [be eligible to] enter into a cooperative agreement with the
 365 division, the [county] eligible entity shall:

366 (a) if the eligible entity is a county, adopt and enforce on unincorporated land a
367 wildland fire ordinance based upon minimum standards established by the division or Uniform
368 Building Code Commission;

369 (b) require that the [county] fire department or equivalent [private] fire service provider
370 under contract with, or delegated by, the [county] eligible entity on unincorporated land meet
371 minimum standards for wildland fire training, certification, and [wildland fire] suppression
372 equipment based upon nationally accepted standards as specified by the division; [and]

373 (c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the
374 division, that will reduce the eligible entity's risk of catastrophic wildfire;

375 ~~[(e)]~~ (d) file with the division [a budget for fire suppression] an annual accounting of
376 wildfire prevention, preparedness, mitigation actions, and associated costs[-];

377 (e) return the financial statement described in Subsection (6), signed by the chief
378 executive of the eligible entity, to the division on or before the date set by the division; and

379 (f) if the eligible entity is a county, have a designated fire warden as described in
380 Section [65A-8-209.1](#).

381 ~~[(4) A county that chooses not to enter into a cooperative agreement with the division~~
382 ~~may not be eligible to receive financial assistance from the division.]~~

383 (5) (a) ~~The state forester may execute [the agreements and may divide the state into fire~~
384 ~~protection districts. (6) These districts shall provide efficient and economical fire protection~~
385 ~~within the area defined. (7) The districts may comprise one or more counties, or portions of~~
386 ~~counties to be specified in the cooperative agreements.]~~ a cooperative agreement with the
387 eligible entity.

388 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
389 Administrative Rulemaking Act, governing the:

390 (i) cooperative agreements described in this section;

391 (ii) manner in which an eligible entity shall provide proof of compliance with
392 Subsection (4);

393 (iii) manner by which the division may revoke a cooperative agreement if an eligible

394 entity ceases to meet the requirements described in this section;

395 (iv) accounting system for determining suppression costs;

396 (v) manner in which the division shall determine the eligible entity's participation

397 commitment; and

398 (vi) manner in which an eligible entity may appeal a division determination.

399 (6) (a) The division shall send a financial statement to each eligible entity participating

400 in a cooperative agreement that details the eligible entity's participation commitment for the

401 coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to

402 under Subsection (4)(c).

403 (b) Each eligible entity participating in a cooperative agreement shall:

404 (i) have the chief executive of the eligible entity sign the financial statement, or the

405 legislative body of the eligible entity approve the financial statement by resolution, confirming

406 the eligible entity's participation for the upcoming year; and

407 (ii) return the financial statement to the division, on or before a date set by the division.

408 (c) A financial statement shall be effective for one calendar year, beginning on the date

409 set by the division, as described in Subsection (6)(b).

410 ~~[(8) Under the terms of the cooperative agreements, the state forester shall file annual~~

411 ~~budgets for operation of the cooperative districts with each participating county.]~~

412 ~~[(9) If the county approves a budget mutually acceptable to the county and the state~~

413 ~~forester, and budgets an amount for actual fire suppression costs determined to be normal by~~

414 ~~the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression~~

415 ~~costs that exceed the stated normal costs.]~~

416 (7) (a) An eligible entity may revoke a cooperative agreement before the end of the

417 cooperative agreement's term by:

418 (i) informing the division, in writing, of the eligible entity's intention to revoke the

419 cooperative agreement; or

420 (ii) failing to sign and return its annual financial statement, as described in Subsection

421 (6)(b), unless the director grants an extension.

422 (b) An eligible entity may not revoke a cooperative agreement before the end of the
423 term of a signed annual financial statement, as described in Subsection (6)(c).

424 Section 11. Section **65A-8-203.1** is enacted to read:

425 **65A-8-203.1. Delegation of fire management authority.**

426 (1) As used in this section, "delegation of fire management authority" means the
427 acceptance by the division of responsibility for:

428 (a) managing a wildfire; and

429 (b) the cost of fire suppression, as described in Section [65A-8-203](#).

430 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
431 Administrative Rulemaking Act, governing the process for delegation of fire management
432 authority.

433 (3) Upon delegation of fire management authority, the division and its named designee
434 becomes the primary incident commander.

435 Section 12. Section **65A-8-203.2** is enacted to read:

436 **65A-8-203.2. Billing a county or municipality not covered by a cooperative**
437 **agreement -- Calculating cost of wildfire suppression.**

438 (1) The division shall bill a county that is not covered by a cooperative agreement with
439 the division, as described in Section [65A-8-203](#), for the cost of wildfire suppression within the
440 jurisdiction of that county accrued by the state.

441 (2) The division shall bill a municipality that is not covered by a cooperative agreement
442 with the division, as described in Section [65A-8-203](#), for the cost of wildfire suppression
443 within the jurisdiction of that municipality accrued by the state.

444 (3) The cost of wildfire suppression to a county or municipality that is not covered by a
445 cooperative agreement with the division, as described in Section [65A-8-203](#), shall be calculated
446 by determining the number of acres burned within the borders of a county or municipality,
447 dividing that number by the total number of acres burned by a wildfire, and multiplying the
448 resulting percentage by the state's total cost of wildfire suppression for that wildfire.

449 (4) A county or municipality that receives a bill from the division, pursuant to this

450 section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the
451 bill, subject to the county or municipality's right to appeal, as described in Subsection
452 65A-8-203(5)(b)(vi).

453 Section 13. Section **65A-8-204** is amended to read:

454 **65A-8-204. Wildland Fire Suppression Fund created.**

455 (1) There is created a private-purpose trust fund known as the "Wildland Fire
456 Suppression Fund."

457 (2) The fund shall be administered by the division to pay [~~fire~~] wildfire suppression
458 [~~and presuppression~~] costs on eligible lands [~~within unincorporated areas of counties~~],
459 including for an eligible entity that has entered into a cooperative agreement, as described in
460 Section 65A-8-203.

461 (3) The contents of the fund shall include:

462 [~~(a) payments by counties pursuant to written agreements made under Section~~
463 ~~65A-8-205;~~]

464 [~~(b)~~] (a) interest and earnings from the investment of fund money; [~~and~~]

465 [~~(c)~~] (b) money appropriated by the Legislature[-];

466 (c) costs recovered from successful investigations;

467 (d) federal funds received by the division for wildfire management costs;

468 (e) suppression costs billed to an eligible entity that does not participate in a
469 cooperative agreement;

470 (f) suppression costs paid to the division by another state agency;

471 (g) costs recovered from settlements and civil actions related to wildfire suppression;

472 and

473 (h) restitution payments ordered by a court following a criminal adjudication.

474 (4) Fund money shall be invested by the state treasurer with the earnings and interest
475 accruing to the fund.

476 (5) [~~(a)~~] A maximum level of \$8,000,000 is established for the fund.

477 [~~(b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund~~

478 equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following
 479 year.]

480 [(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any
 481 equity payment required by Section ~~65A-8-205~~.]

482 Section 14. Section **65A-8-206** is amended to read:

483 **65A-8-206. Disbursements from the Wildland Fire Suppression Fund.**

484 (1) Disbursements from the fund created in Section 65A-8-204 shall be made only
 485 upon written order of the state forester or ~~[his]~~ the state forester's authorized representative.

486 (2) If the state forester determines money in the fund may be insufficient to cover
 487 eligible costs in a program year, the state forester may:

488 (a) delay making disbursements from the fund until the close of the program year~~[, at~~
 489 ~~which time available money shall be prorated among those entitled to payments at less than~~
 490 ~~100%]; and~~

491 (b) request supplemental appropriations from the Legislature.

492 Section 15. Section **65A-8-207** is amended to read:

493 **65A-8-207. Division to administer Wildland Fire Suppression Fund --**

494 **Rulemaking -- Procedures.**

495 [(+) By following the procedures and requirements of Title 63G, Chapter 3, Utah
 496 Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire
 497 Suppression Fund~~[, including rules:].~~

498 [~~(a) requiring documentation for: (i) the number of acres of privately or county-owned~~
 499 ~~land in the unincorporated area of a participating county; and (ii) an acre or real property~~
 500 ~~exempt in Subsection 65A-8-205(2)(b); (b)]~~

501 [~~describing the method or formula for determining: (i) normal fire suppression costs;~~
 502 ~~and (ii) equity payments required by Section 65A-8-205; and (c)]~~

503 [~~specifying fire suppression and presuppression costs that may be paid with~~
 504 ~~disbursements from the fund:]~~

505 [~~(2) By following the procedures and requirements of Title 63G, Chapter 4,~~

506 ~~Administrative Procedures Act, the division shall determine whether an acre or real property is~~
507 ~~eligible for the exemption provided in Subsection 65A-8-205(2)(b).]~~

508 Section 16. Section **65A-8-209** is amended to read:

509 **65A-8-209. Responsibilities of county sheriffs and fire wardens in controlling**
510 **fires.**

511 (1) In ~~[those counties not directly participating in the state wildland fire protection~~
512 ~~organization by]~~ a county that has not entered into a cooperative agreement as ~~[provided in this~~
513 ~~chapter]~~ described in Section [65A-8-203](#), the county sheriff shall take appropriate action to
514 suppress ~~[uncontrolled fires]~~ wildfires on state or private lands.

515 (2) In all cases the county sheriff shall:

516 (a) report, as prescribed by the state forester, on wildland fire control action;

517 (b) investigate and report ~~[fire]~~ wildfire causes; and

518 (c) enforce the provisions of this chapter either independently or in cooperation with
519 the state forester.

520 (3) In ~~[those counties participating in the state wildland fire protection organization by]~~
521 ~~an eligible entity that has entered into a cooperative agreement, as described in Section~~
522 ~~65A-8-203,~~ the primary responsibility for ~~[fire control is delegated to the district fire warden,~~
523 ~~who is designated by the state forester]~~ wildfire management is the division, upon the
524 delegation of fire management authority, as described in Section [65A-8-203.1](#).

525 (4) The county sheriff and ~~[his]~~ the county sheriff's organization shall maintain
526 cooperative support of the fire ~~[control]~~ management organization.

527 Section 17. Section **65A-8-209.1** is enacted to read:

528 **65A-8-209.1. County fire warden.**

529 (1) (a) Each county that participates in a cooperative agreement with the division, as
530 described in Section [65A-8-203](#), shall be represented by a county fire warden at a minimum
531 during the closed fire season, as described in Section [65A-8-211](#), except as provided in
532 Subsections (1)(b) and (c).

533 (b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a fire warden

534 with an adjacent county may continue to do so with the approval of the state forester.

535 (c) A county of the sixth class may cost-share a county fire warden with an adjacent
536 county, with the approval of the state forester.

537 (2) The salary and benefits paid to a county fire warden shall be:

538 (a) divided by the division and the county; or

539 (b) paid partly by the division with the remainder shared by agreement between all the
540 counties the county fire warden represents.

541 (3) (a) The division shall employ all county fire wardens.

542 (b) An individual who is employed by a county as a county fire warden on or before
543 January 1, 2016, is not subject to the requirement to be employed by the division.

544 Section 18. Section **65A-8-210** is amended to read:

545 **65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.**

546 (1) The division shall abate the public nuisance caused by [~~uncontrolled fire~~] wildfire
547 on state-owned forest, range, [and] watershed, and wildland urban interface lands.

548 (2) [~~(a)~~] State agencies responsible for the administration of state-owned lands shall
549 recognize the need for providing wildland fire protection and the responsibility for [~~sharing the~~
550 ~~costs. (b) Those agencies shall annually allocate funds to the division in amounts as are~~
551 ~~determined to be fair and equitable proportionate costs for providing a basic level of fire~~
552 ~~protection. (c) The amount of protection costs shall be negotiated by the respective land~~
553 ~~agencies and the division.] reducing the risk of wildfire through appropriate wildfire
554 prevention, preparedness, and mitigation actions.~~

555 Section 19. Section **65A-8-211** is amended to read:

556 **65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits --**
557 **Personal liability -- Exemptions from burning permits.**

558 (1) (a) The period from June 1 to October 31 of each year is a closed fire season
559 throughout the state.

560 (b) The state forester may advance or extend the closed season wherever and whenever
561 that action is necessary.

562 (c) The alteration of the closed season is done by posting the appropriate proclamation
563 in the courthouse of each county seat for at least seven days in advance of the date the change
564 is effective.

565 (2) During the closed season it is a class B misdemeanor to set on fire, or cause to be
566 set on fire, any flammable material on any forest, brush, range, grass, grain, stubble, or hay land
567 without:

568 (a) first securing a written permit from the state forester or a designated deputy; and

569 (b) complying fully with the terms and conditions prescribed by the permit.

570 (3) The [~~district~~] county fire warden [~~appointed by the state forester~~], or the county
571 sheriff [~~in nonparticipating counties~~] in a county that has not entered into a cooperative
572 agreement as described in Section 65A-8-203, shall issue burning permits using the form
573 prescribed by the division.

574 (4) (a) The burning permit does not relieve an individual from personal liability due to
575 neglect or incompetence.

576 (b) A fire escaping control of the permittee that necessitates fire control action or does
577 injury to the property of another is prima facie evidence that the fire was not safe.

578 (5) The state forester, [~~his deputies~~] the state forester's designees, and the county
579 sheriffs may refuse, revoke, postpone, or cancel permits when they find it necessary in the
580 interest of public safety.

581 (6) (a) A burning permit is not required for the burning of fence lines on cultivated
582 lands, canals, or irrigation ditches if:

583 (i) the burning does not pose a threat to forest, range, or watershed lands;

584 (ii) due care is used in the control of the burning; and

585 (iii) the individual notifies the nearest fire department of the approximate time the
586 burning will occur.

587 (b) Failure to notify the nearest fire department of the burning as required by this
588 section is a class B misdemeanor.

589 (7) A burning conducted in accordance with Subsection (6) is not a reckless burning

590 under Section 76-6-104 unless the fire escapes control and requires fire control action.

591 Section 20. **Repealer.**

592 This bill repeals:

593 Section 65A-8-103.5, **Wildland fire policy -- Report.**

594 Section 65A-8-205, **Agreements for coverage by the Wildland Fire Suppression**
595 **Fund -- Eligible lands -- County and state obligations -- Termination -- Revocation.**

596 Section 65A-8-208, **Presuppression costs -- Disbursements from fund -- Credit**
597 **against assessment -- Limited by appropriation.**

598 Section 21. **Appropriations -- Expendable funds and accounts.**

599 The Legislature has reviewed the following expendable funds for the fiscal year
600 beginning July 1, 2016, and ending June 30, 2017. Where applicable, the Legislature authorizes
601 the State Division of Finance to distribute amounts as indicated. Outlays and expenditures from
602 the recipient entities may be made without further legislative action according to a fund or
603 account's applicable authorizing statute.

604 To Department of Natural Resources -- Forestry, Fire, and State Lands

605 From Wildland Fire Suppression Fund, one-time \$4,800,000

606 Schedule of Programs:

607 Fire Suppression Emergencies \$4,800,000

608 Section 22. **Effective date.**

609 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2017.

610 (2) The appropriation in Section 21 of this bill takes effect on July 1, 2016.