

Senator Evan J. Vickers proposes the following substitute bill:

WILDLAND FIRE POLICY UPDATES

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Joel K. Briscoe

LONG TITLE

General Description:

This bill modifies procedures surrounding the management of wildland fire.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **11-7-1**, as last amended by Laws of Utah 1986, Chapter 175

32 **15A-5-203**, as last amended by Laws of Utah 2015, Chapter 158

33 **65A-1-1**, as last amended by Laws of Utah 2013, Chapter 413

34 **65A-3-3**, as last amended by Laws of Utah 2013, Chapter 237

35 **65A-8-101**, as last amended by Laws of Utah 2008, Chapter 20

36 **65A-8-103**, as last amended by Laws of Utah 2015, Chapter 33

37 **65A-8-201**, as renumbered and amended by Laws of Utah 2007, Chapter 136

38 **65A-8-202**, as renumbered and amended by Laws of Utah 2007, Chapter 136

39 **65A-8-203**, as renumbered and amended by Laws of Utah 2007, Chapter 136

40 **65A-8-204**, as renumbered and amended by Laws of Utah 2007, Chapter 136

41 **65A-8-206**, as renumbered and amended by Laws of Utah 2007, Chapter 136

42 **65A-8-207**, as last amended by Laws of Utah 2008, Chapter 382

43 **65A-8-209**, as renumbered and amended by Laws of Utah 2007, Chapter 136

44 **65A-8-210**, as renumbered and amended by Laws of Utah 2007, Chapter 136

45 **65A-8-211**, as renumbered and amended by Laws of Utah 2007, Chapter 136

46 ENACTS:

47 **65A-8-202.5**, Utah Code Annotated 1953

48 **65A-8-203.1**, Utah Code Annotated 1953

49 **65A-8-203.2**, Utah Code Annotated 1953

50 **65A-8-209.1**, Utah Code Annotated 1953

51 REPEALS:

52 **65A-8-103.5**, as enacted by Laws of Utah 2015, Chapter 33

53 **65A-8-205**, as last amended by Laws of Utah 2011, Chapter 342

54 **65A-8-208**, as renumbered and amended by Laws of Utah 2007, Chapter 136



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

57 Section 1. Section 11-7-1 is amended to read:

58 **11-7-1. Cooperation with other governmental units -- Burning permits --**

59 **Contracts.**

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

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

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

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

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

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

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

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

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

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

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

83 **15A-5-203. Amendments and additions to IFC related to fire safety, building, and**
84 **site requirements.**

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

86 (a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as
87 follows: "An authority having jurisdiction over a structure built in accordance with the

88 requirements of the International Residential Code as adopted in the State Construction Code,
89 may require an automatic fire sprinkler system for the structure only by ordinance and only if
90 any of the following conditions exist:

91 (i) the structure:

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

94 (B) does not meet the requirements described in Utah Code, Subsection
95 ~~[65A-8-203(3)(a)]~~ 65A-8-203(4)(a) and Utah Administrative Code, R652-122-200, Minimum
96 Standards for Wildland Fire Ordinance;

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

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

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

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

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

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

119 accounted for and secure."

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

124 (d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as
125 follows "Total water supply requirements shall not exceed the fire flows described in Section
126 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler
127 system, on a subdivision lot platted before December 31, 1980, unless the municipality or
128 county in which the lot is located provides the required fire flow capacity."

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

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

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

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

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

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

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

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

149 (c) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two

150 Family Dwellings, is deleted and rewritten as follows: "Access to residential systems for one
151 and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through
152 605.11.3.2.4.

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

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

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

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

163 2.1. A pathway six feet (1829 mm) or greater in width.

164 2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or
165 smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

166 2.3. Smoke and heat vents designed for remote operation using devices that can be
167 connected to the vent by mechanical, electrical, or any other suitable means, shall be protected
168 as necessary to remain operable for the design period. Controls for remote operation shall be
169 located in a control panel, clearly identified and located in an approved location."

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

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

178 (3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section
179 703.2, is amended to add the following: "Exception: In Group E Occupancies, where the
180 corridor serves an occupant load greater than 30 and the building does not have an automatic

181 fire sprinkler system installed, the door closers may be of the friction hold-open type on
182 classrooms' doors with a rating of 20 minutes or less only."

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

184 **65A-1-1. Definitions.**

185 As used in this title:

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

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

190 [~~(2)~~] (3) "Multiple use" means the management of various surface and subsurface
191 resources in a manner that will best meet the present and future needs of the people of this
192 state.

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

194 [~~(3)~~] (5) "Public trust assets" means those lands and resources, including sovereign
195 lands, administered by the division.

196 [~~(4)~~] (6) "Sovereign lands" means those lands lying below the ordinary high water
197 mark of navigable bodies of water at the date of statehood and owned by the state by virtue of
198 its sovereignty.

199 [~~(5)~~] (7) "State lands" means all lands administered by the division.

200 [~~(6)~~] (8) "Sustained yield" means the achievement and maintenance of high level
201 annual or periodic output of the various renewable resources of land without impairment of the
202 productivity of the land.

203 [~~(7)~~] (9) "Wildland" means an area where:

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

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

207 [~~(8)~~] (10) "Wildland fire" means a fire that consumes:

208 (a) wildland; or

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

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

211 **65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.**

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

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

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

221 (b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a
 222 civil action to recover suppression costs incurred by the eligible entity for suppression of fire
 223 on private land.

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

225 **65A-8-101. Division responsibilities for fire management and the conservation of**
 226 **forest, watershed, and other lands -- Reciprocal agreements for fire protection.**

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

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

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

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

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

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

241 (2) The division may:

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

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

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

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

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

251 **65A-8-103. Forestry and fire control funds.**

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

253 (a) [~~controlling~~] managing forest, range, [~~and~~] watershed, and wildland urban interface
254 fires;

255 (b) [~~controlling~~] managing insect and disease epidemics;

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

257 (d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention; [~~and~~]

258 (e) restoring and maintaining landscapes ensuring landscapes across the state are
259 resilient to wildfire-related disturbances, in accordance with fire management objectives;

260 (f) creating fire-adapted communities, ensuring that human populations and
261 infrastructure can withstand a wildfire without loss of life or property;

262 (g) improving wildfire response, ensuring that all political subdivisions can participate
263 in making and implementing safe, effective, and efficient risk-based wildfire management
264 decisions;

265 (h) reducing risks to wildlife such as the greater sage grouse; and

266 [~~(e)~~] (i) carrying on the purposes of this chapter.

267 (2) All money available to the division to meet the costs of Subsections (1)(a) through
268 [~~(e)~~] (i) is nonlapsing and available to the division until expended.

269 (3) (a) The collection and disbursement of all money made available to the division
270 shall be in accordance with the rules of the Division of Finance.

271 (b) Money collected by the division from fees, rentals, sales, contributions,
272 reimbursements, and other such sources shall be deposited in the appropriate account.

273 Section 7. Section **65A-8-201** is amended to read:

274 **65A-8-201. Uncontrolled fire is a public nuisance.**

275 Any fire on forest, range, [~~or~~] watershed, or wildland urban interface land in the state
276 burning uncontrolled and without proper and adequate action being taken to [~~control or prevent~~
277 ~~its spread~~] manage it is a public nuisance.

278 Section 8. Section **65A-8-202** is amended to read:

279 **65A-8-202. Fire control -- County responsibilities.**

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

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

287 (3) A county shall:

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

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

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

298 [~~(3)~~] (5) The state forester shall make certain that appropriate action is taken to control
299 wildland fires on unincorporated nonfederal forest, range, [~~and~~] watershed, and wildland urban
300 interface lands.

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

304 (6) Nothing in this section excuses a private landowner from complying with an

305 applicable county ordinance.

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

307 **65A-8-202.5. City and town responsibilities.**

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

311 (a) privately owned; or

312 (b) owned by the municipality.

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

316 (3) A municipality shall:

317 (a) reduce the risk of wildfire to incorporated, privately owned and municipality owned
318 forest, range, watershed, and wildland urban interface land, with private landowner permission,
319 through appropriate wildfire prevention, preparedness, and mitigation actions; and

320 (b) ensure effective wildfire initial attack on forest, range, watershed, and wildland
321 urban interface land within the municipality's fire protection boundary.

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

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

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

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

331 **65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or**
332 **special service districts.**

333 (1) As used in this section:

334 (a) "Eligible entity" means:

335 (i) a county, a municipality, or a special service district, local district, or service area

336 with:

337 (A) wildland fire suppression responsibility as described in Section 11-7-1; and

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

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

342 (A) providing wildland fire suppression services; and

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

344 (b) "Fire service provider" means a public or private entity that fulfills the duties of
345 Subsection 11-7-1(1).

346 ~~[(1)]~~ (2) (a) The [county legislative] governing body of any [county] eligible entity may
347 enter into a cooperative agreement with the division to receive financial and [supervisory]
348 wildfire management cooperation and assistance from the division, as described in this Title
349 65A, Chapter 8, Part 2, Fire Control.

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

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

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

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

361 ~~[(3)]~~ (4) In order to [be eligible to] enter into a cooperative agreement with the
362 division, the [county] eligible entity shall:

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

366 (b) require that the [county] fire department or equivalent [private] fire service provider

367 under contract with, or delegated by, the [county] eligible entity on unincorporated land meet
368 minimum standards for wildland fire training, certification, and [wildland fire] suppression
369 equipment based upon nationally accepted standards as specified by the division; [and]

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

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

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

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

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

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

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

387 (i) cooperative agreements described in this section;

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

390 (iii) manner by which the division may revoke a cooperative agreement if an eligible
391 entity ceases to meet the requirements described in this section;

392 (iv) accounting system for determining suppression costs;

393 (v) manner in which the division shall determine the eligible entity's participation
394 commitment; and

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

396 (6) (a) The division shall send a financial statement to each eligible entity participating
397 in a cooperative agreement that details the eligible entity's participation commitment for the

398 coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to
399 under Subsection (4)(c).

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

401 (i) have the chief executive of the eligible entity sign the financial statement, or the
402 legislative body of the eligible entity approve the financial statement by resolution, confirming
403 the eligible entity's participation for the upcoming year; and

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

405 (c) A financial statement shall be effective for one calendar year, beginning on the date
406 set by the division, as described in Subsection (6)(b).

407 ~~[(8) Under the terms of the cooperative agreements, the state forester shall file annual~~
408 ~~budgets for operation of the cooperative districts with each participating county.]~~

409 ~~[(9) If the county approves a budget mutually acceptable to the county and the state~~
410 ~~forester, and budgets an amount for actual fire suppression costs determined to be normal by~~
411 ~~the state forester, the agreement shall commit the state to pay 1/2 of the actual suppression~~
412 ~~costs that exceed the stated normal costs.]~~

413 (7) (a) An eligible entity may revoke a cooperative agreement before the end of the
414 cooperative agreement's term by:

415 (i) informing the division, in writing, of the eligible entity's intention to revoke the
416 cooperative agreement; or

417 (ii) failing to sign and return its annual financial statement, as described in Subsection
418 (6)(b), unless the director grants an extension.

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

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

422 **65A-8-203.1. Delegation of fire management authority.**

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

425 (a) managing a wildfire; and

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

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

429 authority.

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

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

433 **65A-8-203.2. Billing a county or municipality not covered by a cooperative**
434 **agreement -- Calculating cost of wildfire suppression.**

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

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

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

446 (4) A county or municipality that receives a bill from the division, pursuant to this
447 section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the
448 bill, subject to the county or municipality's right to appeal, as described in Subsection
449 [65A-8-203\(5\)\(b\)\(vi\)](#).

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

451 **65A-8-204. Wildland Fire Suppression Fund created.**

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

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

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

459 ~~[(a) payments by counties pursuant to written agreements made under Section~~

460 ~~65A-8-205;~~]

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

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

463 (c) costs recovered from successful investigations;

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

465 (e) suppression costs billed to an eligible entity that does not participate in a

466 cooperative agreement;

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

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

469 and

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

471 (4) Fund money shall be invested by the state treasurer with the earnings and interest

472 accruing to the fund.

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

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

475 ~~equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following~~

476 ~~year.]~~

477 ~~[(ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any~~

478 ~~equity payment required by Section 65A-8-205.]~~

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

480 **65A-8-206. Disbursements from the Wildland Fire Suppression Fund.**

481 (1) Disbursements from the fund created in Section 65A-8-204 shall be made only

482 upon written order of the state forester or ~~[his]~~ the state forester's authorized representative.

483 (2) If the state forester determines money in the fund may be insufficient to cover

484 eligible costs in a program year, the state forester may:

485 (a) delay making disbursements from the fund until the close of the program year[-;at

486 ~~which time available money shall be prorated among those entitled to payments at less than~~

487 ~~100%]; and~~

488 (b) request supplemental appropriations from the Legislature.

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

490 **65A-8-207. Division to administer Wildland Fire Suppression Fund --**

491 **Rulemaking -- Procedures.**

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

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

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

500 ~~[specifying fire suppression and presuppression costs that may be paid with~~
 501 ~~disbursements from the fund.]~~

502 ~~[(2) By following the procedures and requirements of Title 63G, Chapter 4,~~
 503 ~~Administrative Procedures Act, the division shall determine whether an acre or real property is~~
 504 ~~eligible for the exemption provided in Subsection 65A-8-205(2)(b).]~~

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

506 **65A-8-209. Responsibilities of county sheriffs and fire wardens in controlling**
 507 **fires.**

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

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

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

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

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

517 (3) In ~~[those counties participating in the state wildland fire protection organization by]~~
 518 an eligible entity that has entered into a cooperative agreement, as described in Section
 519 65A-8-203, the primary responsibility for ~~[fire control is delegated to the district fire warden,~~
 520 ~~who is designated by the state forester]~~ wildfire management is the division, upon the
 521 delegation of fire management authority, as described in Section 65A-8-203.1.

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

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

525 **65A-8-209.1. County fire warden.**

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

530 (b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a fire warden
531 with an adjacent county may continue to do so with the approval of the state forester.

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

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

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

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

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

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

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

542 **65A-8-210. Fire control on state-owned lands -- Responsibilities of state agencies.**

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

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

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

553 **65A-8-211. Closed fire season -- Notice -- Violations -- Burning permits --**
554 **Personal liability -- Exemptions from burning permits.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

586 (7) A burning conducted in accordance with Subsection (6) is not a reckless burning
587 under Section 76-6-104 unless the fire escapes control and requires fire control action.

588 Section 20. **Repealer.**

589 This bill repeals:

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

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

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

595 Section 21. **Effective date.**

596 This bill takes effect on January 1, 2017.