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**FIRE RELATED AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses efforts to prevent and prepare for fires.

**Highlighted Provisions:**

This bill:

- ▶ addresses prescribed fires, pile burns, and nonfull suppression events on private land;
- ▶ modifies procedures related to closed fire seasons;
- ▶ addresses when burning is allowed, including addressing when permits are required, notice requirements, criminal penalties, and liability;
- ▶ addresses the Wildland Fire Suppression Fund;
- ▶ enacts provisions related to wildland-urban interface fire prevention, preparedness, and mitigation including:
  - defining terms;
  - creating a funding mechanism;
  - permitting the division to create criteria related to a community wildfire preparedness plan;
  - requiring actions related to a community wildfire preparedness plan; and
  - requiring studies by the division;
- ▶ addresses rulemaking by the division;
- ▶ repeals outdated language; and



28           ▶ makes technical and conforming amendments.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **19-2a-105**, as renumbered and amended by Laws of Utah 2020, Chapter 57

36           **63I-2-265**, as last amended by Laws of Utah 2022, Chapter 219

37           **65A-8-204**, as last amended by Laws of Utah 2021, Chapter 97

38           **65A-8-211**, as last amended by Laws of Utah 2016, Chapter 174

39           **65A-8-213**, as enacted by Laws of Utah 2019, Chapter 118

40 ENACTS:

41           **65A-8-215**, Utah Code Annotated 1953

42 REPEALS:

43           **65A-8-214**, as enacted by Laws of Utah 2022, Chapter 219



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

46           Section 1. Section **19-2a-105** is amended to read:

47           **19-2a-105. Prescribed fires, pile burns, and nonfull suppression events.**

48           (1) As used in this section:

49           (a) "Board" means the Air Quality Board.

50           (b) "Burn plan" means the plan required for each fire application ignited by a land  
51 manager.

52           (c) "Burn window" means the period of time during which the prescribed fire is  
53 scheduled for ignition.

54           (d) "Director" means the director of the division.

55           (e) "Division" means the Division of Air Quality created in Section **19-1-105**.

56           (f) "Exceptional event" means one or more prescribed burning or pile burning events  
57 and the resulting emissions that affect air quality in such a way that there exists a clear causal  
58 relationship between the specific event and the monitored exceedance or violation.

59 (g) "Land manager" means a person who administers, directs, oversees, or controls the  
60 use of public or private land, including the application of fire to the land.

61 (h) "Large prescribed fire" means a fire that a land manager ignites to meet a specific  
62 objective, including a resource benefit that covers 20 acres or more per burn.

63 (i) "Large prescribed pile fire" means a fire that a land manager ignites to meet a  
64 specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.

65 (j) "Nonfull suppression event" means a naturally ignited wildland fire for which a land  
66 manager secures less than full suppression to accomplish a specific prestated resource  
67 management objective in a predefined geographic area.

68 (k) "Pile burning" means a fire or fires that a land manager ignites for fuel mitigation  
69 designed to reduce the risk of catastrophic fire, improve ecological health, and prevent  
70 dangerous wildfires by burning piled or scattered leaves, pine needles, downed trees, natural  
71 woody debris, thick vegetation, or similar organic material left behind after logging or other  
72 forest treatments.

73 (l) "Prescribed burning" means the planned and controlled burning of plant material in  
74 order to minimize the risk of catastrophic wildfire or to meet specific land management  
75 objectives.

76 (m) "Wildland" means an area in which development is essentially nonexistent other  
77 than the existence of a pipeline, power line, road, railroad, or other transportation or  
78 conveyance facility or one or more structures that are widely scattered.

79 (2) (a) The division may not permit a land manager to conduct a large prescribed fire or  
80 large prescribed pile fire if the land manager does not comply with the rules made by the board  
81 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

82 (b) In the rules made by the board under this Subsection (2), the board shall require the  
83 land manager to:

84 (i) describe the use of a state, county, or municipal resource in the large prescribed fire  
85 or large prescribed pile fire;

86 (ii) provide the division the burn plan for a large prescribed fire or large prescribed pile  
87 fire by no later than one week before the day of the burn window; and

88 (iii) notify the division of a nonfull suppression event once a fire becomes a nonfull  
89 suppression event.

90 (3) The director shall approve a prescribed burning or pile burning in wildland areas  
91 and the prescribed burning or pile burning may be conducted under the following conditions:

92 (a) the United States National Weather Service clearing index in the area of the burn is  
93 500 or greater;

94 (b) the United States National Weather Service clearing index in the area of the burn is  
95 less than 500, and to maximize the opportunities for prescribed burning or pile burning the  
96 director approves a prescribed burning or pile burning after the land manager demonstrates to  
97 the director that the planned prescribed burning or pile burning will:

98 (i) not cause an exceedance of a national ambient air quality standard outside the  
99 wildland area;

100 (ii) minimize the long range transport of smoke; and

101 (iii) protect visibility in mandatory federal class 1 areas; or

102 (c) the United States National Weather Service clearing index in the burn area is less  
103 than 500 and the prescribed burning or pile burning may cause an exceedance of a national  
104 ambient air quality standard outside the wildland area if the land manager demonstrates to the  
105 director that the prescribed burning or pile burning fuel conditions are optimal to:

106 (i) protect safety of the public and fire staff;

107 (ii) minimize the risk of catastrophic fire;

108 (iii) achieve necessary watershed and ecological conditions; and

109 (iv) establish, restore, or maintain a sustainable and resilient wildland ecosystem or to  
110 preserve endangered or threatened species through a program of prescribed burning or pile  
111 burning.

112 (4) The director shall approve a prescribed burning or pile burning to reduce hazardous  
113 fuels for public safety in areas not defined as wildland and the prescribed burning or pile  
114 burning may be conducted under the following conditions:

115 (a) the United States National Weather Service clearing index in the area of the burn is  
116 500 or greater; or

117 (b) the United States National Weather Service clearing index in the area of the burn is  
118 less than 500, and to maximize the opportunities for prescribed burning or pile burning the  
119 director approves a prescribed burning or pile burning after the land manager:

120 (i) provides a demonstration that includes an assessment of the impact to local

121 receptors;

122 (ii) implements measures to notify residents; and

123 (iii) minimizes residents exposure to smoke.

124 (5) The director shall approve a prescribed burning or pile burning for resource  
125 management purposes in areas not defined as wildland and the prescribed burning or pile  
126 burning may be conducted under the following conditions:

127 (a) the United States National Weather Service clearing index in the area of the burn is  
128 500 or greater; or

129 (b) the United States National Weather Service clearing index in the area of the burn is  
130 less than 500, and to maximize the opportunities for prescribed burning or pile burning the  
131 director approves a prescribed burning or pile burning after the land manager demonstrates that  
132 the planned prescribed burning or pile burning will:

133 (i) not cause an exceedance of a national ambient air quality standard;

134 (ii) minimize the long range transport of smoke; and

135 (iii) protect visibility in mandatory federal class 1 areas.

136 (6) The division shall make the necessary filings with the United States Environmental  
137 Protection Agency if a prescribed burning or pile burning approved by the director results in an  
138 exceptional event.

139 Section 2. Section **63I-2-265** is amended to read:

140 **63I-2-265. Repeal dates: Title 65A.**

141 [~~Section 65A-8-214, wildfire prevention and preparedness program and study, is~~  
142 ~~repealed July 1, 2023.~~]

143 Section 3. Section **65A-8-204** is amended to read:

144 **65A-8-204. Wildland Fire Suppression Fund created.**

145 (1) There is created an expendable special revenue fund known as the "Wildland Fire  
146 Suppression Fund."

147 (2) The ~~[fund]~~ Wildland Fire Suppression Fund shall be administered by the division to  
148 pay wildfire suppression costs on eligible lands, as wildfire suppression costs are defined by  
149 the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
150 Rulemaking Act, including for an eligible entity that has entered into a cooperative agreement,  
151 as described in Section **65A-8-203**.

152 (3) Subject to Section [65A-8-213](#), the contents of the ~~[fund]~~ Wildland Fire Suppression  
 153 Fund shall include:

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

155 ~~[(b)]~~ (a) money appropriated by the Legislature;

156 ~~[(c) costs recovered from successful investigations;]~~

157 ~~[(d)]~~ (b) federal funds received by the division for wildfire management costs;

158 ~~[(e)]~~ (c) suppression costs billed to an eligible entity that does not participate in a  
 159 cooperative agreement;

160 ~~[(f)]~~ (d) suppression costs paid to the division by another state agency;

161 ~~[(g)]~~ (e) costs recovered from settlements and civil or administrative actions related to  
 162 wildfire suppression;

163 ~~[(h)]~~ (f) restitution payments ordered by a court following a criminal adjudication;

164 ~~[(i)]~~ (g) the balance of the fund as of July 1, 2016;

165 ~~[(j)]~~ (h) money deposited by the Division of Finance, pursuant to Section [59-21-2](#); and

166 ~~[(k)]~~ (i) money transferred by the Division of Finance, pursuant to Section [63J-1-314](#).

167 (4) Fund money shall be invested by the state treasurer with the earnings and interest  
 168 accruing to the ~~[fund]~~ Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund  
 169 created in Section [65A-8-215](#).

170 (5) The Division of Finance shall transfer to the Wildland-urban Interface Prevention,  
 171 Preparedness, and Mitigation Fund an amount equal to 10% of the amount in the Wildland Fire  
 172 Suppression Fund at the end of a fiscal year.

173 Section 4. Section [65A-8-211](#) is amended to read:

174 **[65A-8-211. Closed fire season -- Notice -- Violations -- Red Flag Warnings --](#)**  
 175 **[Burning permits -- Personal liability -- Exemptions from burning permits.](#)**

176 (1) As used in this section:

177 (a) "Applicable public safety answering point" means a public safety answering point  
 178 or dispatch center, as those terms are defined in Section [63H-7a-103](#), for the jurisdiction where  
 179 a burning occurs.

180 (b) "Cultivated land" means land that is not enrolled in a conservation reserve program  
 181 that is readily identifiable as:

182 (i) land whose soil is loosened or broken up for the raising of crops;

183 (ii) land used for the raising of crops; or  
 184 (iii) pasturage that is artificially irrigated.  
 185 (c) "Field" means land where grass, grain, stubble, or hay may be burned in accordance  
 186 with this section.

187 (d) "Red Flag Warning" means a weather forecast issued by the National Weather  
 188 Service on a publicly available website or notification system indicating that weather  
 189 conditions associated with the outbreak of wildfires are occurring.

190 ~~[(+)]~~ (2) (a) The period from June 1 to October 31 of each year is a closed fire season  
 191 throughout the state.

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

194 (c) ~~[(The)]~~ The state forester shall notify the public of the alteration of the closed season  
 195 [is done] by posting the appropriate proclamation [in the courthouse of each county seat] on the  
 196 division's website and on the Utah Public Notice Website, created in Section [63A-16-601](#), for  
 197 at least seven days in advance of the date the change is effective.

198 ~~[(2)]~~ (3) During the closed fire season [it is], an individual is guilty of a class B  
 199 misdemeanor [to set] if the individual sets on fire, or [cause] causes to be set on fire[,-any  
 200 flammable material on any]:

201 (a) (i) a forest[-];  
 202 (ii) brush[-];  
 203 (iii) range[-, grass, grain, stubble, or hay land];  
 204 (iv) a field;  
 205 (v) cultivated land; or  
 206 (vi) a debris pile; and

207 (b) without:  
 208 ~~[(a)]~~ (i) first securing a written permit from the state forester or a [designated] deputy  
 209 designated by the state forester; [and]

210 ~~[(b)]~~ (ii) complying fully with [the terms and conditions prescribed by] the permit[-]  
 211 described in Subsection (3)(b)(i); and

212 (iii) first notifying the applicable public safety answering point of the approximate time  
 213 the burning will occur.

214 (4) During a period when a Red Flag Warning is issued, an individual is guilty of a  
215 class B misdemeanor if the individual sets on fire, or causes to be set on fire:

216 (a) (i) a forest;

217 (ii) brush;

218 (iii) range;

219 (iv) a field;

220 (v) cultivated land;

221 (vi) a fence line;

222 (vii) a canal; or

223 (viii) an irrigation ditch; and

224 (b) without:

225 (i) first securing a written permit from the state forester or a deputy designated by the  
226 state forester;

227 (ii) complying fully with the permit described in Subsection (4)(b)(i); and

228 (iii) first notifying the applicable public safety answering point of the approximate time  
229 the burning will occur.

230 ~~[(3)]~~ (5) [The county fire warden, or the county sheriff in a county that has not entered  
231 into a cooperative agreement as described in Section 65A-8-203;] The state forester or the state  
232 forester's designee shall issue burning permits using the form prescribed by the division.

233 ~~[(4)]~~ (6) (a) The burning permit does not relieve an individual from personal liability  
234 [due to neglect or incompetence] as a result of damage caused by the fire.

235 (b) A fire escaping control of the permittee that necessitates fire control action or does  
236 injury to the property of another is prima facie evidence that due care was not used in the  
237 burning and that the fire was not safe.

238 ~~[(5)]~~ (7) [The state forester, the state forester's designees, and the county sheriffs] The  
239 following may refuse, revoke, postpone, or cancel [permits when they find it] a permit if the  
240 person finds that it is necessary in the interest of public safety[-];

241 (a) the state forester;

242 (b) a state forester's designee; or

243 (c) a county sheriff if there is no cooperative agreement with the division as described  
244 in Section 65A-8-203.



245 ~~[(6)]~~ (8) (a) ~~[A]~~ Except for during a Red Flag Warning as described in Subsection  
 246 (4)(a), a burning permit is not required:

247 (i) for the burning within 10 feet of:

248 (A) fence lines on cultivated lands~~;~~;

249 (B) the banks of canals~~;~~; or

250 (C) the banks of irrigation ditches; and

251 (ii) if:

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

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

254 (iii) (C) the individual notifies the ~~[nearest fire department]~~ applicable public safety  
 255 answering point of the approximate time the burning will occur.

256 (b) ~~[Failure]~~ For a burning with or without a permit, an individual is guilty of a class B  
 257 misdemeanor if the individual fails to notify the [nearest fire department] applicable public  
 258 safety answering point of [the] a burning as required by this section [is a class B misdemeanor].

259 ~~[(7)]~~ (9) A burning conducted in accordance with Subsection ~~[(6)]~~ (8) is not a reckless  
 260 burning under Section 76-6-104 unless the fire escapes control and requires fire control action.

261 Section 5. Section 65A-8-213 is amended to read:

262 **65A-8-213. Creation of the Wildland Fire Preparedness Grants Fund --**

263 **Awarding of grants -- Rulemaking.**

264 (1) (a) There is created an expendable special revenue fund known as the "Wildland  
 265 Fire Preparedness Grants Fund."

266 (b) The Wildland Fire Preparedness Grants Fund shall consist of:

267 (i) voluntary contributions received;

268 (ii) appropriations the Legislature makes to the Wildland Fire Preparedness Grants  
 269 Fund;

270 (iii) 10% of the costs recovered annually related to wildfire suppression described in  
 271 Subsections ~~[65A-8-204(3)(g) and (h)]~~ 65A-8-204(3)(e) and (f); and

272 (iv) interest or other earnings accrued in accordance with Subsection (1)(c)(ii).

273 (c) The state treasurer shall:

274 (i) invest the money in the Wildland Fire Preparedness Grants Fund described in

275 Subsection (1)(a) following the procedures and requirements of Title 51, Chapter 7, State

276 Money Management Act; and

277 (ii) deposit all interest or other earnings derived from each investment described in  
278 Subsection (1)(c)(i) into the Wildland Fire Preparedness Grants Fund.

279 (2) (a) The state forester shall make one or more grants from the Wildland Fire  
280 Preparedness Grants Fund to one or more local fire departments or volunteer fire departments  
281 to assist in building capacity for the suppression of wildland fire.

282 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
283 division shall make rules establishing criteria for receiving a grant under this section.

284 Section 6. Section **65A-8-215** is enacted to read:

285 **65A-8-215. Wildland-urban interface fire prevention, preparedness, and**  
286 **mitigation.**

287 (1) As used in this section:

288 (a) "Prevention, preparedness, and mitigation fund" means the Wildland-urban  
289 Interface Prevention, Preparedness, and Mitigation Fund created in this section.

290 (b) "Suppression fund" means the Wildland Fire Suppression Fund created in Section  
291 65A-8-204.

292 (c) "Wildland-urban interface" means the zone where structures and other human  
293 development meets, or intermingles with, undeveloped wildland.

294 (2) (a) There is created an expendable special revenue fund known as the  
295 "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund."

296 (b) The prevention, preparedness, and mitigation fund shall consist of:

297 (i) interest and earnings from the investment of money from this prevention,  
298 preparedness, and mitigation fund and from the suppression fund;

299 (ii) money appropriated by the Legislature; and

300 (iii) money transferred from the suppression fund under Subsection 65A-8-204(5).

301 (c) The division shall administer the prevention, preparedness, and mitigation fund to:

302 (i) pay costs of prevention and preparedness efforts on wildland-urban interface within  
303 the state, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah  
304 Administrative Rulemaking Act, including costs of an eligible entity that has entered into a  
305 cooperative agreement, as described in Section 65A-8-203;

306 (ii) issue fire department assistance grants, which in the aggregate may not exceed 10%

307 of the money in the prevention, preparedness, and mitigation fund each fiscal year; and  
308 (iii) in cases of catastrophic need as determined by the state forester, pay costs that  
309 could be paid from the suppression fund under Section [65A-8-204](#).

310 (d) Disbursements from the prevention, preparedness, and mitigation fund may only be  
311 made upon written order of the state forester or the state forester's authorized representative.

312 (3) (a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah  
313 Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans  
314 addressing wildland-urban interface. The criteria shall require action that is:

- 315 (i) qualitative and quantitative; and
- 316 (ii) leads to reduced wildfire risk.

317 (b) An eligible entity, as defined in Section [65A-8-203](#), shall agree to implement  
318 prevention, preparedness, and mitigation actions identified in a community wildfire  
319 preparedness plan addressing wildland-urban interface that is approved by the division.

320 **Section 7. Repealer.**

321 This bill repeals:

322 Section [65A-8-214](#), **Wildfire prevention and preparedness program -- Study.**