



**Report to the
Colorado General Assembly**

**Lower North Fork
Wildfire Commission**

Prepared by

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Lower North Fork Wildfire Commission

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This report and additional resource materials are available on line at:

<http://www.colorado.gov/lcs/LowerNorthForkWildfireCommission>

Introduction

Background. On the afternoon of March 26, 2012, a catastrophic wildfire burned about 1,400 acres south of Conifer in rural Jefferson County, resulting in 3 fatalities, 27 residences destroyed or substantially damaged, and \$11.3 million in private property damages. Based on a report issued by an independent review team convened by Governor John Hickenlooper and Colorado State University President Tony Frank, embers from a prescribed burn are believed to have ignited the wildfire, which was labeled the Lower North Fork wildfire. The prescribed burn was coordinated by state officials, and was initiated on land owned by the Denver Water Board on March 22, 2012. The board contracts with the state to conduct prescribed burns on many of its properties. The independent review team identified four factors contributing to the escape of the controlled burn and conversion to wildfire, with one factor, a rapidly escalating wind event including gusts to 55 miles per hour at ground level, acting as "...the catalyst that finally set the outcome into motion...". The state spent about \$6.6 million on efforts to extinguish the wildfire.

Response to wildfire. In response to the Lower North Fork wildfire and its impacts, the Colorado state government took the following actions¹:

- Governor John Hickenlooper signed an executive order (D 2012 005) on March 27, 2012, activating the Colorado National Guard to assist in fighting the wildfire in response to a request for assistance from the Jefferson County Sheriff's Office. The order also activated the state's emergency action plan, requiring state agencies to take action as requested by the Division of Emergency Management and Colorado State Forest Service;
- the Lieutenant Governor signed an executive order (D 2012 006) on March 28, 2012, immediately suspending prescribed or controlled fire activities by state agencies pending a review of agency protocols for such fires;
- the Governor signed an executive order (D 2012 007) on March 30, 2012, declaring the Lower North Fork Wildfire a state disaster emergency. The executive order continued state action initiated under Executive Order D 2012 005, authorized the expenditure of \$3.5 million for fire suppression efforts related to the fire, and directed certain state agencies to seek federal funding for the disaster emergency;
- on April 16, 2012, following receipt of the report issued by the independent review team investigating the Lower North Fork Wildfire, the Governor and Colorado State University President Tony Frank convened a review team to conduct a thorough examination of the state's emergency response capabilities, and to make recommendations to improve the state's response to fires and protect people and property. The review team recommended that the prescribed fire and wildfire management portions of the Colorado State Forest Service within Colorado State University be moved into the Department of Public Safety's Division of Fire Safety, and that the Division of Emergency Management within the Department of Local Affairs be moved into the Department of Public Safety;
- the General Assembly adopted, and the Governor signed, House Bill 12-1283, creating

¹All documents referenced in this section are available in [Commissioners' binder materials](http://1.usa.gov/TneTdk) online: <http://1.usa.gov/TneTdk>



a single point of authority for wildfires and consolidating the state's homeland security and emergency management functions in the Department of Public Safety;

- Executive Order D 2012 008, signed by the Governor on April 19, 2012, continued the disaster emergency, authorized the expenditure of \$365,000 in state funds to reimburse local governments for response and recovery efforts associated with the fire, and directed the Division of Emergency Management to further assist individuals and local governments in securing federal funding to help recover from the fire. The executive order also authorized the Department of Human Services to use Temporary Assistance for Needy Families money to assist victims of the wildfire, and authorized the Departments of Local Affairs and Human Services to assist those displaced by the fire with temporary housing;
- On June 14, 2012, the Governor signed an executive order (D 2012 015) banning open burning in Colorado, with some exceptions, in response to the high number of wildfires experienced by the state;
- the General Assembly adopted, and the Governor signed, House Bill 12-1352, creating the Lower North Fork Wildfire Commission;
- the General Assembly adopted, and the Governor signed, House Bill 12-1361, which amended the Colorado Governmental Immunity Act to waive sovereign immunity in legal actions against the state arising from a prescribed fire started or maintained by the state or any of its employees on or after January 1, 2012, allowing the victims of the Lower North Fork wildfire to seek damages from the state based on a claim of negligence; and
- On October 12, 2012, the Governor signed an executive order (D 2012 042) authorizing the expenditure of \$1.3 million for wildfire preparedness activities in the area of the Lower North Fork wildfire, including removing hazardous trees from properties affected by the fire and felling burned trees for mulching or removal to reduce hazardous fuels.

Ongoing litigation. On or about July 2, 2012, a lawsuit was commenced in Jefferson County District Court by a group of five insurance companies that have insured losses in the Lower North Fork. The insurance companies' claims are based on their subrogation rights to claims of their insureds. They initially asserted three claims for relief: negligence, for which the state's immunity was retroactively waived in House Bill 12-1361; inverse condemnation, which is a constitutionally based claim; and trespass, for which no waiver of immunity applies because it is a tort that does not rest on negligence. The plaintiff insurance companies subsequently agreed to dismiss their trespass claim. The lawsuit was originally filed against the Colorado State Forest Service and the Colorado State University, but the plaintiff insurance companies subsequently amended their complaint to name only the Colorado Department of Public Safety (DPS), in accordance with House Bill 12-1283, which consolidated state homeland security functions into a new Division of Homeland Security and Emergency Management within DPS. In the amended complaint, a sixth insurance company joined the plaintiff group.

In response to the insurance companies' lawsuit, the state filed an interpleader petition to join all Lower North Fork claimants, conceding liability for negligence claims from the Lower North Fork fire that come under the waiver of Section 24-10-106.1, C.R.S., and tendering the \$600,000 per occurrence cap amount on tort claims. The state's interpleader action seeks to allow all claimants to share in a distribution of the state's self-insurance fund available to pay claims, and this is a prerequisite to petitioning the State Claims Board for a recommendation to the General



Assembly to pay additional compensation. All insurance company claimants have been served with process in the case, and as of December 13, 2012, the Department of Law is working at getting all claimant residents and homeowners served with process. At this point, most respondents have been served or have agreed to waive service of process, and a few have filed responses to the interpleader modeled after the insurance companies' amended complaint. An additional group of insurance companies, including State Farm and the USAA group of insurance companies, have filed a response to the interpleader that raises similar claims to the original insurance companies' claims and joins the Denver Water Board as an additional defendant.

While the Department of Public Safety has conceded liability for claims under state law, the state intends to vigorously defend against claims asserted under other theories of liability, including the pending claims for inverse condemnation. A status conference was held by Judge Dennis Hall on November 26, 2012, at which the Department of Law reported on efforts to serve all parties, and potential additional claims were discussed. The next status conference in the case is scheduled to be held on January 25, 2013, and the state expects to be able to show that all parties have been served and that the case is at issue.

Commission Charge

Pursuant to House Bill 12-1352, the Lower North Fork Wildfire Commission is charged with investigating, reporting findings, and making recommendations for legislative or other action on matters related to the Lower North Fork wildfire, which resulted from a prescribed burn in March 2012, near Conifer in Jefferson County. The commission is composed of two members of the Senate, one appointed by the President of the Senate and one appointed by the minority leader; two members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the minority leader; and the executive director of the Colorado Department of Public Safety. The commission is to investigate the following specific matters identified by the bill:

- causes of the wildfire;
- the impact of the wildfire on the affected community;
- the loss of life and financial devastation incurred by the community;
- the loss of confidence by the community in the response to the emergency by governmental bodies at all levels; and
- measures to prevent the occurrence of a similar tragedy.

The bill requires the commission to submit a report to certain legislative committees of reference by December 31, 2012, containing findings and recommendations for legislative or other action. The bill allows dissenting opinions to be appended to the report. The intent of this report is to satisfy the statutory reporting requirement in House Bill 12-1352; no dissenting opinions are appended to this report.



Commission Activities

The commission met five times from June to September 2012. At three of the meetings, the commission heard presentations from, and engaged in discussion with, representatives of various entities involved in emergency response, wildfire issues, and forest health, as well as representatives knowledgeable on issues associated with the Lower North Fork wildfire. These entities included:

- the Nature Conservancy;
- the Office of Emergency Management and the Division of Fire Prevention and Control within the Colorado Department of Public Safety;
- the Colorado Department of Law;
- the Colorado Department of Local Affairs;
- the Governor's Office of State Planning and Budgeting;
- the Air Pollution Control Division within the Colorado Department of Public Health and Environment;
- Colorado State University's Warner College of Natural Resources and Colorado Forest Restoration Institute;
- the Colorado 9-1-1 Resource Center;
- municipal utilities; and
- local emergency responders.

During a meeting held on August 13, 2012, the commission toured the property on which the prescribed burn that resulted in the wildfire was conducted, and also toured residential properties that were destroyed by the wildfire. After the tour, the commission held a public hearing at Conifer High School concerning the wildfire and its impacts. This hearing lasted just over three hours, and all who wished to speak were given the opportunity. Members of the Lower North Fork community also prepared a presentation for the commission.² The remaining two meetings were spent on organizational activities, considering draft legislation, and discussing the commission's reporting requirement. Seven bills were drafted at the request of the commission, including one that was drafted as an amendment to another draft bill, and four bills were ultimately approved. Additionally, the commission made eight non-legislative recommendations. Topics discussed during commission meetings and recommendations made by the commission are discussed below.

Additional resource materials from all commission meetings are available online at:

<http://www.colorado.gov/lcs/LowerNorthForkWildfireCommission>

Wildfire Management

Forest health. The front range includes a variety of forested communities, including the ponderosa and lodgepole pine forests that dominate the area of the Lower North Fork wildfire. The commission received a variety of reports on forest health, and at their August 13 meeting heard

²Kuehster Road Homeowners' Presentation: <http://1.usa.gov/WZcqsS>



testimony regarding the importance of regular disturbance to forests.³ Historically, repeated fires have been a source of disturbance, but the use of fire suppression since early in the twentieth century has resulted in more trees, leaving more needles and wood materials on the ground. Disease and insects, such as the mountain pine beetle, are other sources of disturbance. Wildfire mitigation is important to water providers like Denver Water because of the negative effects of wildfires on watersheds.⁴ In the past, fires have led to flooding, harming water supplies and water treatment systems. Fires have also resulted in erosion, sending high levels of sediment into reservoirs.

Commission recommendation. Bill B creates the Wildfire Matters Review Committee which, if approved by the General Assembly, will meet annually as an interim committee to address forest health issues in the context of wildfires and wildfire mitigation.

Prescribed burns. Prescribed burns are used to clear fuels from an area to make the area less likely to burn in the event of a wildfire. When applied to forest lands, prescribed burns also serve to prepare sites for forest regeneration, improve wildlife habitat, control insects and disease, and perpetuate fire-dependent ecosystems. Prescribed burns are one of several tools that can be used to modify forest vegetation and reduce fire risk, including thinning of trees, mechanical chipping, and mastication. These treatments are often used in combination with each other. The commission heard testimony at their August 13 and August 22 meetings about the importance of prescribed burns as a wildfire mitigation tool, as well as about the dangers of prescribed burns, particularly when they escape. The commission also received a prescribed fire planning and procedures guide from the U.S. Forest Service, and a detailed review of the prescribed fire that led to the Lower North Fork wildfire.⁵

The state's duties concerning prescribed burns and other wildfire resources were transferred to the Department of Public Safety, Division of Fire Prevention and Control, by House Bill 12-1283. Prior to this legislation, prescribed burns were managed at the state level by the Colorado State Forest Service.

Commission recommendations. Prescribed burns are further regulated under the state's Smoke Management Program, administered by the Department of Public Health and Environment, Air Pollution Control Division, to address visibility and public health concerns associated with air quality. These regulations do not directly address fire safety or forest health. Permits are issued with conditions in mind, but go/no-go decisions are not made on a day-to-day basis. Recommendation #7 addresses the Smoke Management Program.

The commission heard testimony at its September 5 meeting that additional legislation to create a framework for the prescribed burning program in the Division of Fire Prevention and Control may be appropriate, as House Bill 12-1283 provided limited instruction and modification of existing statutes related to wildfire activities. Bill A requires the Division of Fire Prevention and Control to implement a prescribed burning program, including minimum standards for conducting

³[Role of Fire in Front Range Forests](http://1.usa.gov/RWdPij), Mike Babler, The Nature Conservancy, presentation: <http://1.usa.gov/RWdPij>
[Forest Health, Prescribed Burns, and the Wildland Urban Interface](http://1.usa.gov/VkxvrS), Tony Cheng, Colorado Forest Restoration Institute, presentation: <http://1.usa.gov/VkxvrS>

⁴[Denver Water's presentation](http://1.usa.gov/VbdXGU) to the commission: <http://1.usa.gov/VbdXGU>

⁵[Lower North Fork Prescribed Fire, Prescribed Fire Review](http://1.usa.gov/UcwSiZ) (Bass Report): <http://1.usa.gov/UcwSiZ>



prescribed burns, processes for certifying prescribed burn managers, and policies related to wildfires resulting from the escape of prescribed burns.

Wildfire mitigation in the wildland-urban interface. Areas where homes and forest meet are called the wildland-urban interface (WUI). WUI areas exist throughout Colorado. In addition to threatening homes and lives in these areas, wildfires can damage infrastructure and water resources. The commission heard about the need for mitigation efforts by landowners in the WUI to help protect their property when wildfires occur. Such efforts include clearing defensible space around homes.

Commission recommendations. Because land use in Colorado is regulated at the local level, not all WUI areas require mitigation efforts or specific building code standards. The commission discussed ways to encourage local governments to implement codes specific to the WUI. Recommendation #6 addresses WUI codes.

The current state income tax incentive for wildfire mitigation activities will expire after tax year 2013. This incentive is a deduction from taxable income of up to \$2,500 per year, which provides a maximum reduced tax burden of \$107.50 per taxpayer, per year, based on Colorado's 4.3 percent flat tax rate. Approximately 500 people per year have claimed the deduction since 2009.

The commission also noted that the bonding authority of the Colorado Water Resources and Power Development Authority for forest health projects has not been specifically used since being enacted by Senate Bill 08-221, but several governmental agencies have recently expressed interest in issuing bonds for forest health projects. Under current law, this bonding authority is repealed as of July 1, 2013. Bill C extends both the tax incentive and the bonding authority.

Wildfire and forest health funding. Several bills have established the current framework for state funding of forest health, training of fire personnel, and other wildfire preparedness activities. Among the most significant sources of state funding, Senate Bill 06-096 provided an annual transfer of \$3.3 million from federal mineral lease revenue to the Wildfire Preparedness Fund, and Senate Bill 11-238 extended funding to the Wildfire Preparedness Fund until June 30, 2014. Recent legislation (House Bill 12-1032) also extended until June 30, 2018, severance tax-based funding for forest health activities. Currently, the operational account of the severance tax trust fund annually provides \$1.0 million to the Forest Restoration Program Cash Fund and \$1.5 million to the Healthy Forests and Vibrant Communities Fund. Most significant state funding streams and financial incentives related to wildfire preparedness are set to expire by 2018.

Commission recommendations. Recommendations #4, #6, and #8 address funding concerns for wildfire issues and forest health. Recommendation #4 encourages consistent funding for the Federal Land Assistance, Management, and Enhancement (FLAME) Act, which is intended to provide funding to the U.S. Forest Service and the Department of Interior to be used for emergency wildland fire suppression costs. Recommendation #6 encourages consistent funding for wildfire preparedness at the state level, beyond federal mineral lease revenues. Finally, Recommendation #8 seeks continuous spending authority for Colorado Correctional Industries to fund its State Wildland Inmate Fire Team (SWIFT) program, which uses inmate teams to help fight wildfires.



Emergency Management

Emergency notification. In Colorado, 911 and emergency notification systems are administered and delivered by the state's 57 local 911 authorities. Local jurisdictions are authorized under state law to collect a surcharge on telephone services, including wireless services, the revenues from which are remitted directly to local 911 authorities. Within statutory limits, the authorities are then able to decide how to spend their surcharge revenues.

Emergency notification systems, or reverse-911, are an authorized use of 911 surcharge funds, but local authorities are not required to purchase them. As a result, these systems, which are used to notify residents of emergency situations, are provided by a number of different vendors, with each system offering different features and limitations. When a notification must be sent to an area spanning multiple jurisdictions, as can be the case with large wildfires, different notification systems are not integrated. In addition, emergency notification systems are limited by the decreasing use of land line technology. While traditional land lines are included automatically, residents must proactively register their cellular phone numbers and addresses with the local government in order to receive emergency notifications by cellular phone. The systems are then only able to use the registered address in determining where an individual is located, rather than their physical location at any moment.

Commission recommendation. At its August 13 meeting, the commission heard testimony regarding the limitations of emergency notification in Colorado.⁶ Recommendation #9 addresses some of these limitations.

Emergency response. The commission reviewed the role of state government during a wildfire response. House Bill 12-1283 created the Division of Fire Prevention and Control (DFPC) in the Department of Public Safety, with a mission to safeguard the public through wildfire preparedness, response, suppression, coordination, and management, among the DFPC's duties. The same bill also reorganized emergency management agencies in Colorado state government, consolidating other functions in the Division of Homeland Security and Emergency Management (DHSEM) under the Department of Public Safety.

Generally, evacuation, suppression, and other fire response functions are initially the responsibility of a local fire department or fire protection district. Currently, the DHSEM is charged with developing a statewide all-hazards resource mobilization plan. This plan is intended to facilitate communication and provide resources across jurisdictions, including funding and the allocation of other assets in the event of disasters and other large-scale emergencies and incidents. The commission heard testimony from officials in the Department of Public Safety that the current resource mobilization model is not working for the initial response to wildfire, often involving significant delays in obtaining firefighting assets. For example, national interagency dispatch centers operate on a "first-in, first-out" basis, with no assessment of priority or proximity when allocating available firefighting assets. The commission heard testimony at its August 22 meeting about Washington state's model, where an administrative mechanism is provided for early mobilization of emergency resources.

If a fire exceeds local capacity, the local agency may request resources within the scope of mutual aid agreements with other local agencies or seek resources from state and federal

⁶[Emergency Communications Overview](http://1.usa.gov/RWe3WG), Daryl Branson, 9-1-1 Resource Center, presentation: <http://1.usa.gov/RWe3WG>



authorities. The state provides financial assistance to agencies situated in participating counties from the state Emergency Fire Fund, and federal assistance may be available from the Federal Emergency Management Agency (FEMA) through a Fire Management Assistance Grant. Under current law, the Governor's declaration of a disaster is required before certain state and federal resources are available for wildfire response.

Commission recommendations. The commission and representatives from the Department of Public Safety discussed financial constraints and operational concerns that result from the current emergency resource mobilization structure in Colorado. Bill D addresses the mobilization of resources in wildfire response, clarifying the Department of Public Safety's role and establishing a method for governmental entities to seek reimbursement for providing disaster assistance across jurisdictions. Recommendation #1 addresses emergency response concerns by encouraging coordination among local fire districts.

State government liability. State and local government agencies in Colorado may defend negligence and other tort claims on the basis of limited immunity under the Colorado Governmental Immunity Act (CGIA). The CGIA caps damage recoveries at \$150,000 for the claim on any individual party and a total recovery of \$600,000 for any single occurrence.

House Bill 12-1361 amended the CGIA to specifically waive sovereign immunity in legal actions against the state arising from a prescribed fire started or maintained by the state or any of its employees on or after January 1, 2012. To maintain an action against the state related to a prescribed fire, the injured party must prove negligence on the part of the state. Under the bill, the CGIA was also expanded to allow potential recoveries from the state above the statutory limits, when the State Claims Board (SCB) recommends that the General Assembly adopt legislation authorizing payment above those limits. After considering the interests of fairness, the public interest, and the interests of the state, the SCB may recommend an additional payment for recovery above the limits established in the CGIA, to be paid from the General Fund. This recommendation may not include payment of noneconomic losses or losses covered by insurance or any other source.

Civil litigation continues between the victims of the Lower North Fork wildfire and the state over compensation for losses. Claims against the state were due to the Attorney General's Office by September 25, 2012, and 132 claims were received, including 16 from insurance companies and other corporate entities. Due to the legal nature of the claims, the settlement process could be lengthy.

Commission recommendation. Outside of the exception provided under House Bill 12-1361, the state's cap on damage recovery remains in effect. Recommendation #2 addresses raising the liability cap.



Summary of Commission Legislative Recommendations

As a result of the commission's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Prescribed Burn Program in the Division of Fire Prevention and Control.

Bill A creates the Colorado Prescribed Burning Act, requiring the Division of Fire Prevention and Control to conduct rulemaking and adopt standards for prescribed burning in the state, including the consideration of alternative fuel reduction strategies and the presence of qualified state officials to supervise, and to establish standards for the training and certification of prescribed burn managers. The bill further defines the role of the Division of Fire Prevention and Control in the Department of Public Safety, as created by House Bill 12-1283, including coordination of multiagency initiatives to reduce fuel loads and conduct a formal review following the escape of a prescribed fire.

Bill B — Wildfire Matters Review Committee. Bill B creates an interim committee to review state policies addressing wildfire prevention and mitigation, with sufficient scope to examine forest health, emergency management, and other issues relating to wildfires. Under the bill, ten members of the General Assembly, five members from the House of Representatives and five members from the Senate, must meet as the Wildfire Matters Review Committee at least once in each legislative interim until 2017. By July 1, 2013, three majority party members and two minority party members are to be appointed from each chamber to serve two-year terms. Existing legislative agency staff must provide assistance to the committee, with cooperation from the Department of Public Safety, the Colorado State Forest Service, and other state and local agencies. The bill contains a five-year sunset provision.

Bill C — Extend Wildfire Mitigation Financial Incentives. Bill C extends the sunset date of two current state statutes that provide financial assistance for wildfire mitigation activities. For tax years 2014 through 2024, Section 1 of the bill provides a deduction from taxable income of one-half the actual costs of certain wildfire mitigation measures performed on the property of the taxpayer, up to a \$2,500 deduction per year. Eligible wildfire mitigation measures include the creation of a defensible space around structures and fuel reduction. The bill does not require eligible mitigation measures to be preapproved by a community wildfire protection plan, as required under current statute for tax years 2009 through 2013. Section 2 of the bill extends from July 1, 2013, to July 1, 2023, the authorization of the Colorado Water Resources and Power Development Authority to issue up to \$50 million in bonds for the watershed protection and forest health projects of government agencies.

Bill D — All-hazards Resource Mobilization and Reimbursement. Bill D requires that the director of the Division of Homeland Security and Emergency Management in the Department of Public Safety develop a statewide resource mobilization plan, providing for distribution of funding and allocation of other assets in the event of disasters and other large-scale emergencies and incidents. Under the resource mobilization plan, standard procedures will be established for resource mobilization, allocation, deployment, tracking, accounting, demobilization, and integration with the Colorado state emergency operations plan. The bill provides that the Governor or a local emergency manager may request the mobilization of state resources, and that the state will provide personnel for a unified command in such incidents.



Commission Recommendations

In addition to the bills recommended by the commission, the commission makes the following recommendations as a result of its activities. Recommendations were made by members of the commission and edited by staff. Support from a majority of commission members was required for inclusion in the report. Not all recommendations received unanimous support from the commission.

Recommendation #1: Concerning coordination among fire districts. The commission recommends that, if an ongoing legislative interim committee related to wildfire prevention and mitigation is created, coordination among adjacent fire districts may warrant further study. In addition to mutual aid agreements to coordinate a response to a fire, the commission believes the personnel of the fire district may be more effective if they have more joint training with personnel who work or volunteer for an adjacent fire district. This may include coordinating equipment positioning and clarifying responsibilities for an escaped prescribed burn. In addition, the commission recommends that the legislature explore whether county sheriffs have sufficient authority to conduct the wildfire-related activities for which they are responsible.

Recommendation #2: Concerning raising the liability cap. The commission believes it is time to explore raising the Colorado Governmental Immunity Act's current cap on damage recoveries. The tragedy of the Lower North Fork wildfire illustrates the inadequacy of the current cap, which is \$600,000 for any single occurrence, regardless of the number of victims and damages from state negligence. While governmental entities must protect their budgets from being overly exposed to private claims for damages, given that many incidents of negligence for which immunity has been waived have the potential to injure many people, the commission believes it is time to explore raising the liability cap. Colorado's cap is obsolete and has forced the victims of the fire into an uncertain process of seeking compensation for their losses from the State Claims Board and the legislature. Claims for damages from governmental negligence should not require such an arduous process, and payment should not be subject to the political process.

Recommendation #3: Concerning wildland-urban interface and local land use regulations. The commission recommends that incentives or other encouragement be provided for counties to adopt land use regulations for development in wildland-urban interface areas that address accessibility, defensible space, fire resistant building materials, and water supply for fire protection. The commission acknowledges that financial incentives may not be budgetarily possible right away, but should be attempted as soon as possible.

County land use regulations provide an opportunity to proactively address wildland fire issues before structures are built in wildland-urban interface (WUI) areas. Currently, some Colorado counties have requirements for buildings constructed near wildland areas, while others do not. Regulations governing building materials, siting, emergency vehicle access, evacuation routes, on-site storage of water for fire suppression, vegetation control, and other topics that are addressed by the Wildland-Urban Interface Code are controlled locally. Some, but not all, insurance companies require defensible space as a condition for insuring property in the WUI. This variation results in differences in vulnerability to wildfire from jurisdiction to jurisdiction. Large property damage claims affect insurance premiums for everyone in Colorado, and expensive firefighting efforts are borne by all taxpayers. Land use regulations are locally controlled because most of the impacts are purely local. But some aspects of land use development transcend jurisdictional boundaries, and put other people's lives and safety at risk.



Recommendation #4: Concerning the federal FLAME Act. The commission encourages Congress to provide adequate funding and to fully implement the Federal Land Assistance, Management, and Enhancement Act (the FLAME Act).

In 2009, Congress passed the FLAME Act. This legislation established a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior (DOI) and U.S. Forest Service (USFS) lands. It also requires the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy. In October of 2009, President Obama signed the FLAME Act into law with overwhelming support from the House and Senate. The FLAME Act represents an important change in the funding mechanism for wildland fire suppression. One of the cornerstones of the FLAME Act was the establishment of two FLAME Funds, one each for USFS and DOI, to be used for emergency wildland fire suppression costs.

In passing the FLAME Act, Congress intended to fully fund the USFS and DOI's suppression needs while eliminating the need to transfer monies from other agency programs to fund emergency wildland fire suppression expenses. The practice of transferring funds from non-fire programs for suppression has undermined the ability of the agencies to implement other important programs, such as hazardous fuels mitigation. To date, Congress has not appropriated adequate funding to fully implement the FLAME Act.

Recommendation #5: Concerning 911 capabilities. The commission encourages the General Assembly to engage emergency management services providers, local governments, and other stakeholders as determined by those most affected by the operation and management of the 911 services to consider the benefits and drawbacks of establishing a centralized, compatible reverse-911 system.

The commission believes, based on its hearings, that there are unmet needs relating to emergency wildfire response. Among those is the difficulty some 911 systems have in determining which areas should be contacted when an evacuation notice is issued. There is no uniformity in the 911 databases across different jurisdictions, and some databases do not allow easy tailoring of the evacuation area to the area threatened by an approaching wildfire. In addition, many people only have a land line on file with the entity that issues the notice, so they will not be notified if they are not home. Authority over 911 calls and responses is local. Citizens should be encouraged to become more involved in their 911 authority and ensure it will perform when necessary. The commission also believes that there may be a need for the state to establish some minimum capabilities for reverse-911 services to ensure that the system provides reliable evacuation notices, fulfilling the expectations of the people served by the systems.

The adequacy of 911 services as a warning system for wildfire is highly variable throughout the state. Local 911 agencies may or may not elect to procure reverse-911 services through a contractor. Databases used for reverse-911 are updated irregularly, and are commonly limited to land line phone connections or telecommunications customers associated with a local address. Providers of 911 services are not governed by uniform standards that would ensure that individuals could consistently rely on local emergency services for notifications or up-to-date information in the event of a wildfire or other emergency situation.



Recommendation #6: Concerning a consistent revenue source for wildfire suppression. The commission recommends that a consistent source of funding for wildfire preparedness and suppression activities, other than federal mineral lease revenues, be identified.

Options that should be considered for wildfire preparedness and suppression activities include: dedicating a portion of existing insurance premium tax collections; dedicating a portion of lottery receipts (particularly if keno is implemented in the state); and enacting a "fire protection surcharge" on water billing, to be transmitted by water purveyors to the state.

The Division of Fire Prevention and Control (DFPC), within the Department of Public Safety, is responsible for managing wildfires that exceed the capability of local governments, upon the request of local authorities, or when wildfires threaten to become state emergencies or disasters. This statutory duty is primarily funded from the Wildfire Preparedness Fund, which is currently appropriated funding from federal mineral lease revenues.

The Wildfire Preparedness Fund was authorized by the 2006 legislature through Senate Bill 06-096, which also appropriated funding for FY 2005-06 through FY 2009-10. Senate Bill 11-238 extended the annual transfer of \$3.25 million by the Department of Local Affairs to the DFPC for two years beginning July 1, 2012.

Recommendation #7: Concerning air emission permits. The commission supports increased flexibility in burn permit guidelines when fire risk is low, as in winter months, which will allow for more appropriate action to reduce existing wildfire hazards and loss of life and property. Burn permits (for prescribed burns, slash piles, etc.) are regulated by the Air Quality Control Division of the Colorado Department of Public Health and Environment. Generally, air quality regulation favors burn permit emissions on days when winds will be sufficient to disperse, as opposed to concentrating, smoke. Seasonal guidelines for air quality also disfavor burning when fire risk is low in winter months.

Recommendation #8: Concerning funding for the SWIFT Program. The commission recommends that continuous spending authority be given to Colorado Correctional Industries (CCi) within the Department of Corrections (DOC) to outfit and administer State Wildland Inmate Fire Team (SWIFT) crews. The spending authority for SWIFT crews is offset by cash proceeds the state receives from local, regional, state, and federal agencies. Colorado's wildland fire activity has been widely variable over the last several years. Continuous spending authority for the SWIFT crews would enhance the state's ability to more quickly and effectively respond and react to wildland fires.

Following the 2000 fire season, CCi began forming a wildland fire team to provide crew support and assistance on wildland fires within Colorado. CCi operates the SWIFT crews, which are housed at various correctional facilities in Colorado. The SWIFT program officially began in 2002 with a single crew and grew to three crews by 2004. CCi has since added full-time fuels and trail construction crews that supplement the program as well. These crews are particularly active in the mitigation and removal of trees impacted by the pine and spruce beetle epidemic. One of the SWIFT crews' largest advantages operationally is that they can provide for at least one crew on a year-round basis while most crews are available only between May and October. Early season fires, such as the Lower North Fork incident, are becoming more typical in Colorado and the SWIFT crews are the primary resource for those incidents until the federal crews are activated in late spring. Comparing the costs of SWIFT crews to a similarly typed federal or private crew saves the taxpayers of Colorado almost \$5,000 per crew a day. The SWIFT crews are self-sufficient and come with supervisors, basic tools and equipment, and transportation. To ensure that the crews function well, the personnel train together and are maintained as crews throughout the year. They



are available year-round for assistance with non-fire, woods-related programs and projects. Each crew generally consists of about 20 men. Training a crew typically takes up to three weeks, but can be done faster in smaller groups. The DOC generally trains each crew once annually in the spring, with a target date for availability for assignment on March 1.

At the current time, spending authority for CCI is extremely tight, particularly in the areas of operating expenses and inmate pay, which are heavily impacted by the SWIFT program. As such, adding additional crews can be difficult because spending decisions within CCI must generally be made by comparing the viability of the program to business models of other programs that might be competing for the same spending authority. Further, CCI must evaluate how each of its six separate lines of spending authority would be impacted. With continuous spending authority for SWIFT crews, decisions to expand or contract the number and activity of crews would be based on community needs both temporary and long-term, rather than on the availability of exempt spending authority under the Taxpayer Bill of Rights. The recent drought, extreme heat, and a destructive and deadly wildland fire season have brought renewed attention to the significant resources required to respond to the state's often unpredictable fire demand.



Resource Materials

Meeting summaries were prepared for each commission meeting and contain all handouts provided to commissioners. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries and audio are also available on the commission's website at:

<http://www.colorado.gov/lcs/LowerNorthForkWildfireCommission>

Meeting Date and Topics Discussed

June 29, 2012

- ◆ Review of commission charge

August 13, 2012

- ◆ Forest health and prescribed burns
- ◆ Emergency management and communication
- ◆ Fire behavior and the Lower North Fork Fire
- ◆ Tour and public hearing

August 22, 2012

- ◆ Lessons from the Four Mile Canyon Fire
- ◆ Emergency response and mobilization in Washington state
- ◆ Fire provisions in House Bill 12-1283
- ◆ Prescribed burns and air quality regulations
- ◆ Methods of watershed protection
- ◆ Colorado forest health and prescribed burns in the wildland-urban interface

September 5, 2012

- ◆ Funding for wildfires and forest health
- ◆ Timber industry and forest health legislation
- ◆ Past legislation concerning forest health and wildfire preparedness



September 25, 2012

- ◆ Final action on draft legislation
- ◆ Discussion of final report

Resource Materials Available on Commission Website

The following resource materials, provided to the Lower North Fork Wildfire Commission, are available on the commission's website:

<http://www.colorado.gov/lcs/LowerNorthForkWildfireCommission>

Where appropriate, links to specific materials are provided throughout this report.

Materials from August 13, 2012, meeting:

- ◆ Emergency Communications Overview from Daryl Branson, Colorado 9-1-1 Resource Center
- ◆ Role of Fire in Front Range Forests Presentation by Mike Babler, The Colorado Nature Conservancy
- ◆ Interoperable Communications Presentation from Jack Cobb, Office of Emergency Management
- ◆ Briefing to the Commission at the Conifer Public Hearing

Materials from August 22, 2012, meeting:

- ◆ Boulder County Presentation
- ◆ Elk Creek Fire Chief Bill McLaughlin Presentation
- ◆ Colorado Department of Public Safety Director Paul Cooke Presentation
- ◆ Air Pollution Control Division Presentation
- ◆ Denver Water Presentation
- ◆ Colorado Forest Restoration Institute Presentation

Additional commission materials:

- ◆ Binder Materials Received by Commission Members:
 - ✓ Colorado Forest Maps
 - ✓ 2012 State Forest Service Wildfire Preparedness Plan
 - ✓ 2011 Report on the Wildfire Preparedness Fund
 - ✓ 2010 Front Range Fuels Treatment Partnership Report
 - ✓ 2010 State Wildfire Mitigation Plan
 - ✓ National Fire Plan Funding from The Wilderness Society
 - ✓ Lower North Fork Prescribed Fire, Prescribed Fire Review (Bass Report)



- ✓ Governor Hickenlooper's Review Team Report Concerning Review and Recommendations on State Prescribed Fire Practice Following the LNF Fire
 - ✓ Investigation Report From the Jefferson County Sheriff's Office Concerning the LNF Fire (Section 1)
 - ✓ BLM Report Concerning the Origin and Cause of the LNF Fire
 - ✓ Colorado Forest Insect and Disease Map
 - ✓ 2011 Colorado Forest Health Report
 - ✓ Bark Beetle Information
 - ✓ Federal Forest Service Prescribed Fire Planning and Procedures Guide
 - ✓ 2012 Report on Forest Fire and Wildfire Protection from the Congressional Research Service
 - ✓ WUI Maps
 - ✓ 2000 Fire In The West Report to The Council of Western State Foresters
 - ✓ 2001 Report to Governor: Colorado's Wildland-Urban Interface
 - ✓ News Articles on the LNF Wildfire
 - ✓ Executive Orders Concerning the LNF and Colorado Wildfires
 - ✓ House Bill 12-1352 Concerning the LNF Wildfire Commission
 - ✓ House Bill 12-1361 Concerning prescribed fires and the Governmental Immunity Act
 - ✓ Memorandums concerning the LNF and Past Legislation On Forest Health and Wildfires
 - ✓ Glossary
- ◆ BLM Wildland Fire Investigation, Origin and Cause of the Lower North Fork Prescribed Fire
 - ◆ Lower North Fork Prescribed Fire, Prescribed Fire Review (Bass Report)
 - ◆ Jefferson County Sheriff's Office Report of the Lower North Fork Prescribed Fire
 - ◆ Review and Recommendations: Enhancing Fire Response and Management in Colorado State Government
 - ◆ Colorado Smoke Management Program Evaluation
 - ◆ Recommendations Regarding Colorado's Smoke Management Program



First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 13-0115.01 Kate Meyer x4348

SENATE BILL

SENATE SPONSORSHIP

Roberts and Nicholson,

HOUSE SPONSORSHIP

Gerou and Levy,

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PRESCRIBED BURNING PROGRAM**
102 **UNDER THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE**
103 **DEPARTMENT OF PUBLIC SAFETY, AND, IN CONNECTION**
104 **THEREWITH, SPECIFYING THE POWERS AND DUTIES OF THE**
105 **DIVISION AND ITS DIRECTOR WITH RESPECT TO THAT PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Lower North Fork Wildfire Commission. The bill creates the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

19

"Colorado Prescribed Burning Act", which:

- Requires the division of fire prevention and control (division) in the department of public safety to implement a prescribed burning program (program);
- Authorizes the director of the division (director) to promulgate rules to implement the program and instructs the director to conduct rulemaking with regard to certain program provisions, including the adoption of standards that will constitute the minimum criteria for prescribed burns conducted in the state and the processes for certifying persons as prescribed burn managers;
- Empowers the division to enter into multiagency agreements for fuel reduction initiatives; and
- Establishes policies related to wildfires or potential wildfires resulting from the escape of prescribed fires.

The bill makes conforming amendments as follows:

- **Section 4** of the bill relocates, and makes nonsubstantive changes to, certain defined terms relating to the division and prescribed burning. As a result of these relocations, **section 3** makes technical amendments.
- House Bill 12-1283 transferred fire and wildfire prevention, suppression, response, and risk-mitigation duties, including duties relating to prescribed burning, from the state forest service to the division. **Sections 8 and 9** update statutes that contain obsolete allusions to the state forest service with respect to implementation authority over prescribed burning.
- **Sections 10, 11, 12, and 13** make conforming amendments to reflect the renaming of the firefighter, first responder, and hazardous materials responder certification fund to the firefighter, first responder, hazardous materials responder, and prescribed fire training and certification fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Colorado Prescribed Burning Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 hereby finds, determines, and declares that:

6 (a) Forest land constitutes significant economic, biological, and
7 aesthetic resources of statewide importance;

1 (b) Colorado's ever-increasing population situates urban
2 development directly adjacent to fire-prone forest lands;

3 (c) Wildfires threaten public health and safety and can cause
4 catastrophic damage to public and private resources, including clean air,
5 clean water, fish and wildlife habitat, timber resources, forest soils, scenic
6 beauty, recreational opportunities, economic and employment
7 opportunities, and structures and other improvements;

8 (d) Prescribed burning, which reduces naturally occurring
9 vegetative fuels within a variety of ecosystems, including forests and
10 grasslands, reduces the risk and severity of major wildfire, thereby
11 lessening the threat of fire and the resulting loss of life and property in
12 those areas, including as follows:

13 (I) When applied to forest lands, prescribed burning serves to
14 reduce hazardous accumulations of fuels, prepare sites for both natural
15 and artificial forest regeneration, improve wildlife habitat, control insects
16 and disease, and perpetuate fire-dependent ecosystems;

17 (II) When prescribed burning is used to manage fuels in
18 wildland-urban interface areas, it substantially reduces the threat of
19 damaging wildfire in urban communities; and

20 (III) Prescribed burning promotes resource enhancement when
21 used on private as well as local, state, and federally owned public use
22 lands such as parks, forests, and wildlife refuges; and

23 (e) Therefore, prescribed burning is a resource protection and land
24 management tool that benefits the safety of the public, Colorado's
25 forest-related resources, the environment, and the economy of the state.

26 (2) The general assembly further finds and declares that, as
27 Colorado's population continues to grow, a variety of competing interests
28 have placed limitations on prescribed burn activity, thus reducing the

1 aforementioned benefits to the state and its citizens.

2 (3) The general assembly therefore:

3 (a) Acknowledges the natural role of fire in forests and other
4 ecosystems, and finds and declares it is in the public interest to use fire
5 as a management tool, under controlled conditions, to reduce the threat
6 of wildfires by maintaining healthy forests and reducing high risk levels
7 of vegetative fuel;

8 (b) Finds that it is in the public interest to establish and maintain
9 a complete, cooperative, and coordinated wildfire protection and
10 suppression program for the state; and

11 (c) Declares that the purpose of this act is to authorize and
12 promote the safe, effective, and appropriate use of prescribed burning for
13 community protection, forest health, and environmental and wildlife
14 management purposes, while ensuring that best efforts are undertaken
15 with respect to precautionary measures to assist in confining the fires to
16 a predetermined area.

17 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1201,
18 **amend** (1) (a) as follows:

19 **24-33.5-1201. Division of fire prevention and control - creation**
20 **- public school construction and inspection section - health facility**
21 **construction and inspection section - legislative declaration.**

22 (1) (a) There is hereby created within the department the division of fire
23 prevention and control. ~~referred to in this part 12 as the "division"~~. The
24 head of the division is the director of the division of fire prevention and
25 control. ~~referred to in this part 12 as the "director"~~. The executive director
26 shall appoint the director pursuant to section 13 of article XII of the state
27 constitution. ~~The executive director shall appoint~~ Only those persons
28 meeting the qualifications described in paragraph (b) of this subsection

1 (1) ARE ELIGIBLE FOR APPOINTMENT.

2 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-1202,
3 **amend** (3.4), (3.5), (3.7), and (8); and **add** (3.6), (3.8), (3.9), (8.3), and
4 (8.4) as follows:

5 **24-33.5-1202. Definitions.** As used in this part 12, unless the
6 context otherwise requires:

7 (3.4) ~~"Cross-connection control device" means an installation,~~
8 ~~device, or assembly located between the water supply and fire~~
9 ~~suppression piping to prevent the undesirable reversal in the flow of water~~
10 ~~from a real or potential source of contamination back to the potable water~~
11 ~~supply. A cross-connection control device is also referred to as a back~~
12 ~~flow preventer~~ "CONTROLLED AGRICULTURAL BURN" MEANS A TECHNIQUE
13 USED IN FARMING TO CLEAR THE LAND OF ANY EXISTING CROP RESIDUE,
14 KILL WEEDS AND WEED SEEDS, OR REDUCE FUEL ACCUMULATION AND
15 DECREASE THE LIKELIHOOD OF A FUTURE FIRE.

16 (3.5) ~~"Emergency fire fund" means the emergency fire fund~~
17 ~~created in section 24-33.5-1220 that was first established in 1967 with~~
18 ~~voluntary contributions from counties and the Denver water board;~~
19 ~~administered by a nine-person committee composed of county~~
20 ~~commissioners, sheriffs, fire chiefs, and the director; and used for the~~
21 ~~purpose of paying costs incurred as a result of controlling a wildfire by~~
22 ~~any of parties contributing moneys to the fund, in accordance with the~~
23 ~~intergovernmental agreement for participation in the Colorado emergency~~
24 ~~fire fund~~ "CROSS-CONNECTION CONTROL DEVICE" MEANS AN
25 INSTALLATION, DEVICE, OR ASSEMBLY LOCATED BETWEEN THE WATER
26 SUPPLY AND FIRE SUPPRESSION PIPING TO PREVENT THE UNDESIRABLE
27 REVERSAL IN THE FLOW OF WATER FROM A REAL OR POTENTIAL SOURCE OF
28 CONTAMINATION BACK TO THE POTABLE WATER SUPPLY. A

1 CROSS-CONNECTION CONTROL DEVICE IS ALSO REFERRED TO AS A BACK
2 FLOW PREVENTER.

3 (3.6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

4 (3.7) ~~"Fire department" means the duly authorized fire protection~~
5 ~~organization of a town, city, county, or city and county, a fire protection~~
6 ~~district, or a metropolitan district or county improvement district that~~
7 ~~provides fire protection~~ "DIVISION" MEANS THE DIVISION OF FIRE
8 PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY
9 CREATED IN THIS ARTICLE.

10 (3.8) "EMERGENCY FIRE FUND" MEANS THE EMERGENCY FIRE FUND
11 CREATED IN SECTION 24-33.5-1220 THAT WAS FIRST ESTABLISHED IN 1967
12 WITH VOLUNTARY CONTRIBUTIONS FROM COUNTIES AND THE DENVER
13 WATER BOARD; ADMINISTERED BY A NINE-PERSON COMMITTEE COMPOSED
14 OF COUNTY COMMISSIONERS, SHERIFFS, FIRE CHIEFS, AND THE DIRECTOR;
15 AND USED FOR THE PURPOSE OF PAYING COSTS INCURRED AS A RESULT OF
16 CONTROLLING A WILDFIRE BY ANY OF THE PARTIES CONTRIBUTING MONEYS
17 TO THE FUND, IN ACCORDANCE WITH THE INTERGOVERNMENTAL
18 AGREEMENT FOR PARTICIPATION IN THE EMERGENCY FIRE FUND.

19 (3.9) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE
20 PROTECTION ORGANIZATION OF A TOWN, CITY, COUNTY, OR CITY AND
21 COUNTY, A FIRE PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR
22 COUNTY IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION.

23 (8) ~~"Principal" means an individual having a position of~~
24 ~~responsibility in any entity acting as a fire suppression contractor,~~
25 ~~including but not limited to any manager, director, officer, partner, owner,~~
26 ~~or shareholder owning ten percent or more of the stocks of any such entity~~

27 "MASTICATED FUELS" MEANS FUELS, SUCH AS BRUSH, SMALL-DIAMETER
28 TREES, AND SLASH, THAT HAVE BEEN GROUND OR CHEWED INTO SMALL

1 PIECES OF WOODY MATERIAL THROUGH A MECHANICAL WILDLAND FUELS
2 TREATMENT PROCESS, AND GENERALLY LEFT TO CARPET THE GROUND,
3 FORMING A RELATIVELY DENSE, COMPACT LAYER OF WOODY MATERIAL.

4 (8.3) "PRESCRIBED BURNING" MEANS THE APPLICATION OF FIRE, IN
5 ACCORDANCE WITH A WRITTEN PRESCRIPTION FOR VEGETATIVE FUELS,
6 UNDER SPECIFIED ENVIRONMENTAL CONDITIONS WHILE FOLLOWING
7 APPROPRIATE PRECAUTIONARY MEASURES THAT ENSURE PUBLIC SAFETY
8 AND THAT IS CONFINED TO A PREDETERMINED AREA TO ACCOMPLISH
9 PLANNED FIRE OR LAND MANAGEMENT OBJECTIVES. THE TERM EXCLUDES
10 CONTROLLED AGRICULTURAL BURNS.

11 (8.4) "PRINCIPAL" MEANS AN INDIVIDUAL HAVING A POSITION OF
12 RESPONSIBILITY IN ANY ENTITY ACTING AS A FIRE SUPPRESSION
13 CONTRACTOR, INCLUDING ANY MANAGER, DIRECTOR, OFFICER, PARTNER,
14 OWNER, OR SHAREHOLDER OWNING TEN PERCENT OR MORE OF THE STOCKS
15 OF ANY SUCH ENTITY.

16 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-1203, **add**
17 (1) (t) as follows:

18 **24-33.5-1203. Duties of division.** (1) The division shall perform
19 the following duties:

20 (t) IMPLEMENT A PRESCRIBED BURNING PROGRAM, INCLUDING
21 CONDUCTING FUEL REDUCTION INITIATIVES, SUCH AS PRESCRIBED
22 BURNING OR MECHANICAL OR CHEMICAL TREATMENT, ON ANY AREA OF
23 WILDLAND WITHIN THE STATE THAT THE DIRECTOR REASONABLY
24 DETERMINES IS SUSCEPTIBLE TO WILDFIRE. SUCH INITIATIVES SHALL BE
25 CONDUCTED IN COOPERATION AND AGREEMENT WITH LOCAL, STATE, OR
26 FEDERAL AGENCIES, OR PRIVATE PERSONS OR CONCERNS, PURSUANT TO
27 SECTIONS 24-33.5-1217 AND 24-33.5-1217.7.

28 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1217,

1 **amend** (2) introductory portion, (3), and (4); and **add** (5), (6), (7), (8),
2 (9), and (10) as follows:

3 **24-33.5-1217. Prescribed burning program - training and**
4 **certification of prescribed burn managers - rules - fees.** (2) The
5 TRAINING AND CERTIFICATION standards adopted under this section shall:

6 (3) ~~Nothing in this section requires~~ ON AND AFTER DECEMBER 1,
7 2013, a ~~user of prescribed fire to~~ MUST be ATTENDED BY A PERSON
8 certified by the division PURSUANT TO THIS SECTION AND RULES
9 PROMULGATED THERETO OR OTHERWISE AUTHORIZED UNDER SECTION
10 24-33.5-1217.5 (1) (c).

11 (4) ~~As used in this section, unless the context otherwise requires:~~
12 THE DIRECTOR, BY RULE, SHALL ESTABLISH A FEE AT AN AMOUNT
13 SUFFICIENT TO RECOVER ALL DIRECT COSTS THAT THE DIVISION INCURS IN
14 PROVIDING TRAINING TO AND PROCESSING APPLICATIONS FOR PERSONS
15 SEEKING CERTIFICATION AS CERTIFIED PRESCRIBED BURN MANAGERS
16 PURSUANT TO THIS SECTION. THE FEES SO COLLECTED SHALL BE
17 DEPOSITED INTO THE FIREFIGHTER, FIRST RESPONDER, HAZARDOUS
18 MATERIALS RESPONDER, AND PRESCRIBED FIRE TRAINING AND
19 CERTIFICATION FUND CREATED IN SECTION 24-33.5-1207.

20 (a) ~~"Controlled agricultural burn" means a technique used in~~
21 ~~farming to clear the land of any existing crop residue, kill weeds and~~
22 ~~weed seeds, or reduce fuel buildup and decrease the likelihood of a future~~
23 ~~fire.~~

24 (b) ~~"Natural ignition fires" mean wildland fires that are ignited by~~
25 ~~lightning or some other natural source.~~

26 (c) ~~"Prescribed burning" means the application of fire, in~~
27 ~~accordance with a written prescription for vegetative fuels, under~~
28 ~~specified environmental conditions while following appropriate~~

1 ~~precautionary measures that ensures public safety and that the fire is~~
2 ~~confined to a predetermined area to accomplish planned fire or land~~
3 ~~management objectives. The term excludes controlled agricultural burns.~~

4 (5) (a) THE DIRECTOR, IN CONSULTATION WITH THE COLORADO
5 STATE FOREST SERVICE AS DESCRIBED IN PART 3 OF ARTICLE 31 OF TITLE
6 23, C.R.S., AND IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE:

7 (I) MAY ADOPT ANY SUCH RULES AS THE DIRECTOR DEEMS
8 NECESSARY TO ADMINISTER THE PRESCRIBED BURNING PROGRAM; AND

9 (II) SHALL ADOPT RULES AND STANDARDS:

10 (A) PERTAINING TO THE TRAINING AND CERTIFICATION OF
11 PRESCRIBED BURN MANAGERS, INCLUDING TRAINING COMPONENTS;
12 APPLICATION PROCESSES; QUALIFICATION FOR AND TERMS AND DURATIONS
13 OF CERTIFICATION; TYPES OF CERTIFICATION, IF APPLICABLE; GROUNDS
14 AND PROCESSES FOR RENEWAL, SUSPENSION, AND REVOCATION OF
15 CERTIFICATIONS; AND TRAINING, CERTIFICATION, AND RENEWAL FEES; AND

16 (B) FOR THE USE OF PRESCRIBED BURNING OCCURRING ON STATE
17 LANDS OR CONDUCTED BY STATE AGENCIES ON PRIVATE LANDS, PURSUANT
18 TO SECTION 24-33.5-1217.5.

19 (b) THE RULES AND STANDARDS PROMULGATED PURSUANT TO
20 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF
21 THIS SUBSECTION (5) CONSTITUTE THE MINIMUM STANDARDS FOR ALL
22 PRESCRIBED BURNING CONDUCTED IN THE STATE, EXCEPT FOR PRESCRIBED
23 BURNING CONDUCTED BY AN AGENCY OF THE FEDERAL GOVERNMENT.

24 (6) (a) SUBJECT TO THE PROVISIONS OF PARAGRAPH (c) OF THIS
25 SUBSECTION (6), THE DIRECTOR MAY ENTER INTO AN AGREEMENT WITH AN
26 OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF PROPERTY
27 LOCATED WITHIN ANY WILDLAND, INCLUDING A PUBLIC AGENCY WITH
28 REGULATORY OR NATURAL RESOURCE MANAGEMENT AUTHORITY OVER

1 ANY SUCH PROPERTY, FOR THE USE OF PRESCRIBED BURNING OR OTHER
2 HAZARDOUS FUEL REDUCTION CONSISTENT WITH THIS ARTICLE TO
3 PREVENT HIGH-INTENSITY WILDLAND FIRES BY REDUCING THE VOLUME
4 AND CONTINUITY OF WILDLAND FUELS OR TO ACHIEVE OTHER GOALS,
5 INCLUDING FOREST IMPROVEMENT, CONSISTENT WITH THIS ARTICLE.

6 (b) THE DIRECTOR SHALL NOT ENTER INTO AN AGREEMENT FOR
7 PRESCRIBED BURNING PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
8 (6) UNLESS THE DIRECTOR FIRST DETERMINES THAT THE PUBLIC BENEFITS
9 REASONABLY ESTIMATED TO BE DERIVED FROM THE PRESCRIBED BURNING
10 PURSUANT TO THE AGREEMENT WILL BE EQUAL TO OR GREATER THAN THE
11 REASONABLY FORESEEABLE DAMAGE THAT COULD RESULT FROM THE
12 PRESCRIBED BURNING.

13 (c) (I) WHERE AN AGENCY OF THE FEDERAL GOVERNMENT
14 ASSUMES PRIMARY RESPONSIBILITY FOR CONDUCTING A PRESCRIBED BURN
15 IN THE STATE, NEITHER THE AGENCY NOR ANY OTHER AGENCY OF THE
16 FEDERAL GOVERNMENT IS REQUIRED TO COMPLY WITH THE RULES AND
17 STANDARDS PROMULGATED PURSUANT TO SUB-SUBPARAGRAPH (B) OF
18 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS
19 SECTION.

20 (II) IF THE DIRECTOR HAS ENTERED INTO AN AGREEMENT WITH AN
21 AGENCY OF THE FEDERAL GOVERNMENT AS OF THE EFFECTIVE DATE OF
22 THIS SECTION OF THE TYPE DESCRIBED IN PARAGRAPH (a) OF THIS
23 SUBSECTION (6), NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
24 REQUIRE A NEW AGREEMENT OR MODIFICATION OF AN EXISTING
25 AGREEMENT.

26 (7) (a) THE DIVISION SHALL COOPERATE WITH AND PROVIDE
27 ADVISORY SERVICES TO ANY PERSON DESIRING TO USE PRESCRIBED
28 BURNING, THE OBJECTIVE OF WHICH IS THE PREVENTION OF

1 HIGH-INTENSITY WILDLAND FIRES, WATERSHED MANAGEMENT,
2 VEGETATION MANAGEMENT, FOREST IMPROVEMENT, WILDLIFE HABITAT
3 IMPROVEMENT, OR ANY OTHER OBJECTIVE THAT IS DEEMED TO BE IN THE
4 PUBLIC INTEREST, OR ANY COMBINATION OF SUCH OBJECTIVES.

5 (b) THE DIVISION SHALL PROVIDE INFORMATION AND TECHNICAL
6 ASSISTANCE TO UNITS OF LOCAL GOVERNMENT, UPON REQUEST FROM THE
7 LOCAL GOVERNMENT, CONCERNING PRESCRIBED BURNING.

8 (c) THE DIVISION MAY PROVIDE STANDBY FIRE PROTECTION TO ANY
9 PERSON USING PRESCRIBED BURNING IN A MANNER DEEMED TO BE IN THE
10 PUBLIC INTEREST, TO SUCH EXTENT AS PERSONNEL, FIRE CREWS, AND
11 FIREFIGHTING EQUIPMENT ARE REQUESTED AND AVAILABLE.

12 (8) THE DIVISION SHALL, SUBJECT TO SUFFICIENT FUNDING,
13 INSTITUTE A PUBLIC INFORMATION CAMPAIGN TO PROMOTE TO THE
14 GENERAL PUBLIC THE BENEFITS OF PRESCRIBED BURNING.

15 (9) NOTHING IN THIS ARTICLE GRANTS THE DIVISION AUTHORITY
16 OVER ANY HAZARDOUS FUEL REDUCTION OTHER THAN PRESCRIBED
17 BURNING. FOREST HEALTH, FOREST IMPROVEMENT, VEGETATION AND
18 WATERSHED MANAGEMENT, AND HAZARDOUS FUEL REDUCTION OTHER
19 THAN PRESCRIBED BURNING REMAIN RESPONSIBILITIES VESTED IN THE
20 STATE FOREST SERVICE.

21 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

22 (a) IN PERFORMING THE DUTIES ASSIGNED TO HIM OR HER UNDER
23 SUBSECTIONS (5) AND (6) OF THIS SECTION, THE DIRECTOR SHALL CONSULT
24 WITH THE COLORADO STATE FOREST SERVICE AS DESCRIBED IN PART 3 OF
25 ARTICLE 31 OF TITLE 23, C.R.S.

26 (b) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE
27 DIRECTOR PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II)
28 OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION SHALL BE

1 CONSISTENT WITH EXISTING LAWS AND PROCESSES THAT BAN, REGULATE,
2 OR HAVE DEVELOPED RECOMMENDATIONS CONCERNING OPEN BURNING,
3 INCLUDING SECTIONS 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)
4 (a) (II) AND (6) (a) (III), 25-7-106 (7) AND (8), 25-7-123, 29-20-105.5, AND
5 30-11-124, C.R.S.

6 (c) NOTHING IN THIS SECTION OR SECTION 24-33.5-1217.5,
7 24-33.5-1217.7, OR 24-33.5-1217.9 SHALL BE CONSTRUED TO AFFECT THE
8 AUTHORITY OF A COUNTY GOVERNMENT TO DEVELOP OR ADMINISTER AN
9 OPEN BURNING PERMIT SYSTEM FOR THE PURPOSE OF SAFELY DISPOSING OF
10 SLASH IN ACCORDANCE WITH THE PROVISIONS OF SECTION 30-15-401 (1)
11 (n.5), C.R.S.

12 **SECTION 7.** In Colorado Revised Statutes, **add** 24-33.5-1217.5,
13 24-33.5-1217.7, and 24-33.5-1217.9 as follows:

14 **24-33.5-1217.5. Minimum prescribed burning standards.**

15 (1) THE PRESCRIBED BURNING STANDARDS ADOPTED BY THE DIRECTOR
16 PURSUANT TO SECTION 24-33.5-1217 (5) (a) (II) (B) MUST, AT A MINIMUM:

17 (a) ENSURE THAT PRESCRIBED BURNING IS THE CONTROLLED
18 APPLICATION OF FIRE TO VEGETATIVE FUELS UNDER SPECIFIED
19 ENVIRONMENTAL CONDITIONS IN ACCORDANCE WITH A WRITTEN
20 PRESCRIPTION PLAN, WHICH PLAN:

21 (I) IS DESIGNED TO CONFINE THE FIRE TO A PREDETERMINED AREA;

22 (II) IS DESIGNED TO ACCOMPLISH PLANNED LAND MANAGEMENT
23 OBJECTIVES; AND

24 (III) CONFORMS TO THIS ARTICLE AND THE RULES AND STANDARDS
25 ADOPTED IN ACCORDANCE WITH THIS ARTICLE;

26 (b) INCLUDE INFORMATION ON PLANNING, PREPARING, AND
27 IMPLEMENTING SAFE, EFFECTIVE PRESCRIBED BURNING, WHICH
28 INFORMATION:

1 (I) IS BASED ON, AND USES AS A MINIMUM STANDARD, THE
2 "INTERAGENCY PRESCRIBED FIRE PLANNING AND IMPLEMENTATION
3 PROCEDURES GUIDE", AS AMENDED, PUBLISHED BY THE NATIONAL
4 WILDFIRE COORDINATING GROUP, OR BY ANY SUCCESSOR GROUP; AND

5 (II) CONTAINS SPECIFIC CRITERIA WITH RESPECT TO MASTICATED
6 FUELS;

7 (c) REQUIRE AT LEAST ONE PERSON, WHO MUST BE EITHER
8 CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR
9 QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS
10 A PRESCRIBED BURN BOSS AT THE LEVEL COMMENSURATE WITH THE
11 COMPLEXITY OF THE BURN, TO BE PRESENT ON SITE:

12 (I) DURING THE CONDUCT OF THE PRESCRIBED BURN; AND

13 (II) (A) UNTIL THE FIRE IS ADEQUATELY CONFINED TO
14 REASONABLY PREVENT ESCAPE OF THE FIRE FROM THE AREA INTENDED TO
15 BE BURNED; OR

16 (B) UNTIL THE PRESCRIBED BURNING IS COMPLETED AND ALL FIRE
17 IS DECLARED TO BE OUT;

18 (d) ESTABLISH APPROPRIATE GUIDELINES FOR SIZE OF BURNING
19 CREWS SUFFICIENT TO:

20 (I) CONDUCT THE BURN IN ACCORDANCE WITH THE PRESCRIPTION
21 PLAN; AND

22 (II) PROVIDE ADEQUATE PROTECTION FOR THE SAFETY OF PERSONS
23 AND OF ADJACENT PROPERTY;

24 (e) EVALUATE ALTERNATIVES TO PRESCRIBED BURNING, SUCH AS
25 MECHANICAL TREATMENT, AND GUIDE THE USER THROUGH THE SAFE AND
26 PRUDENT APPLICATION OF PRESCRIBED BURNING, WHEN IT IS DETERMINED
27 TO BE AN APPROPRIATE METHOD; AND

28 (f) SET FORTH REQUIREMENTS FOR RECORDKEEPING, TIMELY

1 NOTIFICATION TO ADJACENT LAND OWNERS AND LOCAL AUTHORITIES, AND
2 PUBLIC INFORMATION CAMPAIGNS.

3 (2) ALL USERS OF PRESCRIBED FIRE SHALL COMPLY WITH THE
4 APPLICABLE PROVISIONS OF THE "COLORADO AIR POLLUTION PREVENTION
5 AND CONTROL ACT", PART 1 OF ARTICLE 7 OF TITLE 25, C.R.S., AND ITS
6 IMPLEMENTING REGULATIONS, AND SHALL OBTAIN A PERMIT FOR
7 PRESCRIBED FIRE PURSUANT TO SECTION 25-7-123, C.R.S.

8 (3) THE RULES AND STANDARDS ADOPTED BY THE DIRECTOR MUST
9 BE PROMULGATED IN CONSULTATION WITH THE COLORADO STATE FOREST
10 SERVICE AS DESCRIBED IN PART 3 OF ARTICLE 31 OF TITLE 23, C.R.S., THE
11 COLORADO PRESCRIBED FIRE COUNCIL, OR AN ANALOGOUS SUCCESSOR
12 ORGANIZATION, AND OTHER SUBJECT MATTER EXPERTS AS THE DIRECTOR
13 DEEMS APPROPRIATE. IN PROMULGATING SUCH RULES AND STANDARDS,
14 THE DIRECTOR SHALL CONSIDER THE CURRENT STATE OF RESEARCH AND
15 BEST MANAGEMENT PRACTICES FOR PRESCRIBED BURNING.

16 **24-33.5-1217.7. Multiagency agreement for cooperative use of**
17 **prescribed fire - rules - gifts, grants, and donations.** (1) THE DIRECTOR
18 MAY ENTER INTO A MASTER AGREEMENT WITH LOCAL, STATE, OR FEDERAL
19 LAND MANAGEMENT AGENCIES TO CONDUCT JOINT PRESCRIBED BURNING
20 OPERATIONS ON WILDLANDS AND FEDERAL LANDS WHERE THE DIRECTOR
21 DETERMINES THAT THE OPERATIONS SERVE THE PUBLIC INTEREST AND ARE
22 BENEFICIAL TO THE STATE. THIS MASTER AGREEMENT SHALL BE KNOWN
23 AS THE "MULTIAGENCY AGREEMENT FOR COOPERATIVE USE OF
24 PRESCRIBED FIRE" AND MUST ESTABLISH GUIDELINES FOR THE
25 COOPERATIVE MANAGEMENT OF JOINT PRESCRIBED BURNING OPERATIONS.

26 (2) THE MASTER AGREEMENT ENTERED INTO PURSUANT TO THIS
27 SECTION MUST REQUIRE THE COMPLETION OF A PROJECT AGREEMENT FOR
28 EACH INDIVIDUAL PRESCRIBED BURN, WHICH PROJECT AGREEMENTS MUST

1 INCLUDE THE FOLLOWING:

2 (a) A LIST OF ALL PARTICIPANTS IN THE AGREEMENT;

3 (b) A JOINT PRESCRIBED BURN PLAN;

4 (c) THE PROJECT COSTS TO BE ASSUMED BY EACH PARTICIPANT;

5 (d) A SUMMARY OF THE BENEFITS THAT EACH PARTICIPANT WILL
6 RECEIVE; AND

7 (e) AN APPORTIONMENT OF EACH PARTICIPANT'S SUPPRESSION
8 COSTS IN THE EVENT A WILDFIRE RESULTS FROM THE PROJECT.

9 (3) (a) THE MASTER AGREEMENT MUST PROVIDE THAT THE
10 FEDERAL GOVERNMENT BEARS THE COSTS OF PROJECTS CONDUCTED ON
11 WILDLANDS UNDER THE JURISDICTION OF THE FEDERAL GOVERNMENT.

12 (b) THE DIRECTOR MAY WAIVE OR MODIFY THE COST-SHARING
13 REQUIREMENTS OF THIS SECTION IF THE FUNDING SOURCE PROHIBITS
14 COST-SHARING REQUIREMENTS.

15 (4) THE DIRECTOR SHALL ADOPT STANDARDS THAT MUST BE USED
16 TO DETERMINE THE STATE'S SHARE OF PROJECT COSTS PURSUANT TO
17 SUBSECTION (3) OF THIS SECTION AND TO DETERMINE, PURSUANT TO
18 SUBSECTION (1) OF THIS SECTION, WHETHER THE PUBLIC BENEFITS OF A
19 POTENTIAL JOINT PRESCRIBED BURNING OPERATION WILL EQUAL OR
20 EXCEED THE REASONABLY FORESEEABLE DAMAGE THEREFROM.

21 (5) ANY CONTRACT ENTERED INTO PURSUANT TO THIS SECTION
22 CONDUCTED ON STATE LANDS OR PRESCRIBED BURNING MANAGED BY THE
23 DIVISION MUST DO ALL OF THE FOLLOWING:

24 (a) VEST IN THE DIRECTOR THE FINAL AUTHORITY TO DETERMINE
25 THE TIME DURING WHICH WILDLAND FUEL AND STRUCTURAL FIRE HAZARDS
26 MAY BE BURNED TO MINIMIZE THE RISK OF ESCAPE OF A FIRE SET IN A
27 PRESCRIBED BURNING OPERATION AND TO FACILITATE MAINTENANCE OF
28 AIR QUALITY;

1 (b) CLEARLY STATE THE OBLIGATION OF EACH PARTY TO THE
2 CONTRACT TO PROVIDE, MAINTAIN, AND REPAIR EQUIPMENT AND INDICATE
3 THE NUMBER OF EACH TYPE OF EQUIPMENT TO BE PROVIDED AND THE
4 DURATION OF ITS AVAILABILITY;

5 (c) DESIGNATE AN OFFICER OF THE DIVISION AS THE BURN BOSS
6 WITH FINAL AUTHORITY TO APPROVE AND AMEND THE PLAN AND FORMULA
7 APPLICABLE TO A PRESCRIBED BURNING OPERATION, TO DETERMINE THAT
8 THE SITE HAS BEEN PREPARED AND THE CREW AND EQUIPMENT ARE READY
9 TO COMMENCE THE OPERATION, AND TO SUPERVISE THE WORK
10 ASSIGNMENTS OF DEPARTMENTAL EMPLOYEES AND ALL PERSONNEL
11 FURNISHED BY THE PERSON CONTRACTING WITH THE DEPARTMENT UNTIL
12 THE PRESCRIBED BURNING IS COMPLETED AND ALL FIRE IS DECLARED TO
13 BE OUT;

14 (d) SPECIFY THE DUTIES OF, AND THE PRECAUTIONS TAKEN BY, THE
15 PERSON CONTRACTING WITH THE DIVISION AND ANY PERSONNEL
16 FURNISHED BY THAT PERSON;

17 (e) PROVIDE THAT ANY PERSONNEL FURNISHED BY A PERSON
18 CONTRACTING WITH THE DIVISION TO ASSIST IN ANY ASPECT OF SITE
19 PREPARATION OR PRESCRIBED BURNING SHALL BE AN AGENT OF THAT
20 PERSON FOR ALL PURPOSES OF WORKERS' COMPENSATION; AND

21 (f) SPECIFY THE TOTAL COSTS OF THE PRESCRIBED BURNING
22 OPERATION OR OTHER HAZARDOUS FUEL REDUCTION AND THE PRO RATA
23 SHARE THEREOF FOR EACH PARTY TO THE CONTRACT.

24 (6) ALL MONEYS RECEIVED BY THE DIVISION PURSUANT TO THIS
25 SECTION SHALL BE CREDITED TO THE WILDFIRE PREPAREDNESS FUND
26 CREATED IN 24-33.5-1226 (4) (a).

27 **24-33.5-1217.9. Escaped prescribed fires.** (1) IF A PRESCRIBED
28 FIRE EXCEEDS THE CONTROL CAPABILITY OF AVAILABLE RESOURCES, THE

1 FIRE IS DEEMED TO BE ESCAPED AND CONTINGENCY ACTIONS SHALL BE
2 TAKEN IMMEDIATELY TO BRING THE ESCAPE UNDER CONTROL.

3 (2) THE DIVISION SHALL CONDUCT OR CAUSE TO BE CONDUCTED A
4 FORMAL REVIEW FOLLOWING ESCAPE OF A PRESCRIBED FIRE. THE PURPOSE
5 OF THE REVIEW IS TO IDENTIFY THE FACTORS THAT CONTRIBUTED TO THE
6 ESCAPE, INCLUDING COMPLIANCE WITH POLICY REQUIREMENTS, IN AN
7 EFFORT TO REDUCE THE OCCURRENCE OR PREVENT FUTURE ESCAPES.

8 (3) WILDFIRES BURNING UNCONTROLLED ON FORESTED, BRUSH, OR
9 GRASSLAND AREAS THAT POSE A HAZARD TO LIFE AND PROPERTY
10 CONSTITUTE A PUBLIC NUISANCE. EMPLOYEES OR AGENTS OF THE DIVISION
11 HAVE THE RIGHT TO ENTER LAND TO CONTROL, SUPPRESS, OR INVESTIGATE
12 WILDFIRES WITHOUT LIABILITY FOR TRESPASS.

13 (4) IN ORDER TO PREVENT HIGH-INTENSITY OR CATASTROPHIC
14 WILDLAND FIRES, LOCAL, STATE, OR FEDERAL FIREFIGHTERS MAY ENTER
15 LANDS AND CONSTRUCT FIRE LINES OR FIRE BREAKS TO PREVENT FURTHER
16 SPREAD OF WILDFIRES, WITHOUT LIABILITY.

17 **SECTION 8.** In Colorado Revised Statutes, 18-13-109, **amend**
18 (2) (b) introductory portion and (2) (b) (III) as follows:

19 **18-13-109. Firing woods or prairie.** (2) (b) The following
20 activities ~~shall~~ DO NOT ~~be~~ CONSTITUTE offenses under this subsection (2):

21 (III) LAWFULLY CONDUCTED prescribed or controlled fires
22 ~~conducted with written authority from the state forester~~ BURNS;

23 **SECTION 9.** In Colorado Revised Statutes, 23-31-313, **amend**
24 (6) (a) (II) as follows:

25 **23-31-313. Healthy forests - vibrant communities - funds**
26 **created - repeal.** (6) **Community watershed restoration.** (a) In order
27 to support communities and land managers in moving from risk reduction
28 to long-term ecological restoration so that the underlying condition of

1 Colorado's forests supports a variety of values, particularly public water
2 supply and high-quality wildlife habitat, the forest service shall:

3 (II) Facilitate and work collaboratively with THE DIVISION OF FIRE
4 PREVENTION AND CONTROL, landowners, local governments, including
5 conservation districts created pursuant to article 70 of title 35, C.R.S., and
6 county noxious weed program administrators and other appropriate
7 parties, including any electric, gas, and water utilities in the affected area,
8 to design ~~and safely implement~~ prescribed fire projects and to encourage
9 increased responsible use of prescribed fire as a tool for restoring healthy
10 forest conditions consistent with programs established pursuant to section
11 25-7-106 (7) and (8), C.R.S., AND SECTION 24-33.5-1217, C.R.S. The
12 forest service shall emphasize providing training and technical assistance
13 for landowners, local communities, and state agencies.

14 **SECTION 10.** In Colorado Revised Statutes, 24-33.5-1204,
15 **amend** (3) as follows:

16 **24-33.5-1204. Voluntary education and training program -**
17 **voluntary certification of firefighters, first responders, and**
18 **hazardous materials responders - advisory board.** (3) The advisory
19 board shall meet as determined necessary by the chairperson or the
20 director. The members of the advisory board shall receive no
21 compensation but shall be reimbursed for necessary travel and other
22 expenses actually incurred in the performance of their official duties. The
23 expenses shall be paid from the firefighter, first responder, ~~and~~ hazardous
24 materials responder, AND PRESCRIBED FIRE TRAINING AND certification
25 fund created in section 24-33.5-1207.

26 **SECTION 11.** In Colorado Revised Statutes, 24-33.5-1205,
27 **amend** (1) (g) as follows:

28 **24-33.5-1205. Duties of the director and the advisory board.**

1 (1) The director has the following duties relating to the voluntary
2 firefighter, first responder, and hazardous materials responder
3 certification programs and the fire service education and training
4 program:

5 (g) To establish fees for the actual direct and indirect costs of the
6 administration of the firefighter, first responder, and hazardous materials
7 responder certification programs, which fees shall be assessed against any
8 person participating in such programs. All fees collected shall be credited
9 to the firefighter, first responder, ~~and~~ hazardous materials responder, AND
10 PRESCRIBED FIRE TRAINING AND certification fund created in section
11 24-33.5-1207.

12 **SECTION 12.** In Colorado Revised Statutes, 24-33.5-1207,
13 **amend** (1) as follows:

14 **24-33.5-1207. Firefighter, first responder, hazardous materials**
15 **responder, and prescribed fire training and certification fund -**
16 **created.** (1) All moneys received by the director pursuant to the
17 coordination and administration of the firefighter, first responder, ~~and~~
18 hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND
19 certification programs and all interest earned on the moneys shall be
20 deposited in the state treasury in the firefighter, first responder, ~~and~~
21 hazardous materials responder, AND PRESCRIBED FIRE TRAINING AND
22 certification fund, which fund is hereby created, and the moneys shall be
23 used, subject to annual appropriations by the general assembly, for the
24 purposes set forth in this part 12 and shall not be deposited in or
25 transferred to the general fund of the state of Colorado or any other fund.

26 **SECTION 13.** In Colorado Revised Statutes, 24-33.5-1211,
27 **amend** (4) as follows:

28 **24-33.5-1211. Inspector certification.** (4) The director of the

1 division shall establish a fee to cover the actual direct and indirect costs
2 of processing applications and issuing and renewing certifications
3 pursuant to this section. Certification fees collected by the division shall
4 be credited to the firefighter, first responder, ~~and~~ hazardous materials
5 responder, AND PRESCRIBED FIRE TRAINING AND certification fund created
6 in section 24-33.5-1207.

7 **SECTION 14. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

BILL B

LLS NO. 13-0116.01 Bob Lackner x4350

SENATE BILL

SENATE SPONSORSHIP

Nicholson and Roberts,

HOUSE SPONSORSHIP

Levy,

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PERMANENT INTERIM COMMITTEE**
102 **OF THE GENERAL ASSEMBLY TO REVIEW MATTERS RELATING TO**
103 **WILDFIRES IN THE STATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Lower North Fork Wildfire Commission. The bill creates the wildfire matters review committee as an interim committee of the general assembly (committee) to address wildfire prevention and mitigation and to review and propose legislation relating to such matters. The committee

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

is required to meet at least once during the interim of each year to review and to propose legislation or other policy changes relating to wildfire prevention and mitigation and all related matters. The bill authorizes the committee to consult with experts in all fields relating to wildfire prevention and mitigation as may be necessary to achieve the committee's objectives. All personnel of any state agency or political subdivision of Colorado involved in wildfire prevention and mitigation, including the Colorado department of public safety and the Colorado state forest service, are required to cooperate with the committee and with any persons assisting the committee in carrying out its duties.

Membership of the committee consists of 10 members of the general assembly, equally divided between members of the house and senate. The bill specifies the manner in which the appointments are to be made and additional requirements relating to the service of members of the committee.

The interim committee is repealed on July 1, 2018.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 16 to article
3 of title 2 as follows:

4 **PART 16**

5 **WILDFIRE MATTERS REVIEW COMMITTEE**

6 **2-3-1601. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 FINDS, DETERMINES, AND DECLARES THAT:

8 (a) WILDFIRES ARE A PART OF THE NATURAL CYCLE OF
9 COLORADO'S FORESTS, YET INCREASINGLY POSE A SEVERE THREAT TO
10 HUMAN LIFE AND PROPERTY;

11 (b) PEOPLE ARE ATTRACTED TO THE FOREST AND MOUNTAIN AREAS
12 OF THE STATE AND INCREASINGLY CHOOSE TO MAKE THEIR HOMES IN
13 WHAT IS KNOWN AS THE "WILDLAND URBAN INTERFACE", WHERE
14 WILDLAND AREAS MEET RESIDENTIAL DEVELOPMENT;

15 (c) FOR MANY YEARS NOW, RESIDENTIAL AREAS IN NUMEROUS
16 PARTS OF THE STATE ARE REGULARLY THREATENED BY A CLOSE

1 PROXIMITY TO WILDFIRES AND, TRAGICALLY, DURING THE SPRING AND
2 SUMMER OF 2012, COLORADO WILDFIRES RESULTED IN THE LOSS OF LIFE
3 AND EXTENSIVE PROPERTY DAMAGE, INCLUDING THE DESTRUCTION OF
4 HOMES AFFECTING THOUSANDS OF PEOPLE;

5 (d) SINCE WILDFIRES CAUSE ANNUAL HARM TO MANY AREAS OF
6 THE STATE AND THOSE RESIDING IN SUCH AREAS, WILDFIRE PREVENTION
7 AND MITIGATION IS A MATTER OF EXTREME IMPORTANCE THROUGHOUT
8 THE STATE AND AN ISSUE DEMANDING CRITICAL ATTENTION FROM THE
9 GENERAL ASSEMBLY ON A REGULAR BASIS.

10 (2) THE PURPOSE OF THIS PART 16 IS TO PROVIDE A PERMANENT
11 INTERIM COMMITTEE AS A FORUM THROUGH WHICH THE GENERAL
12 ASSEMBLY REVIEWS STATE POLICIES AND RESOURCES ADDRESSING
13 WILDFIRE PREVENTION AND MITIGATION AND THE SUCCESSFUL
14 IMPLEMENTATION AND EXECUTION OF SUCH POLICIES. IN CREATING A
15 PERMANENT INTERIM COMMITTEE TO ADDRESS MATTERS RELATING TO
16 WILDFIRES, THE GENERAL ASSEMBLY INTENDS THAT ISSUES RELATING TO
17 WILDFIRE PREVENTION AND MITIGATION RECEIVE SUFFICIENT LEGISLATIVE
18 SCRUTINY AND PUBLIC PARTICIPATION.

19 **2-3-1602. Wildfire matters review committee - creation -**
20 **repeal.** (1) TO ADDRESS WILDFIRE PREVENTION AND MITIGATION AND TO
21 REVIEW AND PROPOSE LEGISLATION RELATING TO SUCH MATTERS, THE
22 WILDFIRE MATTERS REVIEW COMMITTEE IS HEREBY CREATED, AND IS
23 REFERRED TO IN THIS PART 16 AS THE "COMMITTEE". THE COMMITTEE
24 SHALL MEET AT THE CALL OF THE CHAIR AT LEAST ONCE DURING THE
25 INTERIM OF EACH YEAR TO REVIEW AND TO PROPOSE LEGISLATION OR
26 OTHER POLICY CHANGES RELATING TO WILDFIRE PREVENTION AND
27 MITIGATION AND ALL RELATED MATTERS, INCLUDING, WITHOUT
28 LIMITATION, PUBLIC SAFETY AND FOREST HEALTH ISSUES. THE COMMITTEE

1 MAY CONSULT WITH EXPERTS IN ALL FIELDS RELATING TO WILDFIRE
2 PREVENTION AND MITIGATION AS MAY BE NECESSARY TO ACHIEVE THE
3 OBJECTIVES OF THIS PART 16. ALL PERSONNEL OF ANY STATE AGENCY OR
4 POLITICAL SUBDIVISION OF COLORADO INVOLVED IN WILDFIRE
5 PREVENTION AND MITIGATION, INCLUDING THE COLORADO DEPARTMENT
6 OF PUBLIC SAFETY AND THE COLORADO STATE FOREST SERVICE, SHALL
7 COOPERATE WITH THE COMMITTEE AND WITH ANY PERSONS ASSISTING THE
8 COMMITTEE IN CARRYING OUT ITS DUTIES PURSUANT TO THIS SECTION.

9 (2) THE COMMITTEE CONSISTS OF TEN MEMBERS OF THE GENERAL
10 ASSEMBLY SELECTED AS FOLLOWS:

11 (a) FIVE MEMBERS FROM THE SENATE, THREE APPOINTED BY THE
12 PRESIDENT OF THE SENATE AND TWO APPOINTED BY THE MINORITY LEADER
13 OF THE SENATE;

14 (b) FIVE MEMBERS FROM THE HOUSE OF REPRESENTATIVES, THREE
15 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
16 TWO APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF
17 REPRESENTATIVES.

18 (3) APPOINTING AUTHORITIES SHALL MAKE THEIR ORIGINAL
19 APPOINTMENTS TO THE COMMITTEE NOT LATER THAN JULY 1, 2013. TERMS
20 OF SERVICE ON THE COMMITTEE ARE FOR TWO YEARS. THE TERMS OF
21 ORIGINAL APPOINTEES TO THE COMMITTEE TERMINATE ON THE CONVENING
22 DATE OF THE FIRST REGULAR SESSION OF THE SEVENTIETH GENERAL
23 ASSEMBLY. THEREAFTER, THE TERMS OF MEMBERS OF THE COMMITTEE
24 TERMINATE ON THE CONVENING DATE OF THE FIRST REGULAR SESSION OF
25 THE GENERAL ASSEMBLY NEXT FOLLOWING THEIR APPOINTMENT OR
26 REAPPOINTMENT, AND ALL SUBSEQUENT APPOINTMENTS OR
27 REAPPOINTMENTS ARE MADE AS SOON AS PRACTICABLE AFTER SUCH
28 CONVENING DATE. INCUMBENT MEMBERS MAY BE REAPPOINTED TO THE

1 COMMITTEE. THE PERSON MAKING THE ORIGINAL APPOINTMENT OR
2 REAPPOINTMENT SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE
3 REMAINDER OF AN UNEXPIRED TERM. MEMBERS SERVE AT THE PLEASURE
4 OF THE APPOINTING AUTHORITY AND CONTINUE IN OFFICE UNTIL A
5 SUCCESSOR IS APPOINTED, AS APPLICABLE.

6 (4) THE COMMITTEE SHALL SELECT A CHAIR AND VICE-CHAIR FROM
7 AMONG ITS MEMBERSHIP AND PRESCRIBE ITS OWN RULES OF PROCEDURE.

8 (5) MEMBERS OF THE COMMITTEE SERVE WITHOUT
9 COMPENSATION; EXCEPT THAT EACH MEMBER IS ENTITLED TO BE
10 REIMBURSED FOR NECESSARY EXPENSES IN CONNECTION WITH THE
11 PERFORMANCE OF HIS OR HER DUTIES AND RECEIVES THE SAME PER DIEM
12 AS OTHER MEMBERS OF INTERIM COMMITTEES IN ATTENDANCE AT
13 MEETINGS.

14 (6) EXISTING EMPLOYEES OF THE LEGISLATIVE SERVICE AGENCIES
15 SHALL PROVIDE ANY STAFF ASSISTANCE REQUIRED BY THE COMMITTEE
16 WITHIN EXISTING APPROPRIATIONS.

17 (7) THIS PART 16 IS REPEALED, EFFECTIVE JULY 1, 2018.

18 **SECTION 2. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

BILL C

LLS NO. 13-0119.01 Esther van Mourik x4215

HOUSE BILL

HOUSE SPONSORSHIP

Gerou and Levy,

SENATE SPONSORSHIP

Roberts and Nicholson,

House Committees

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE EXTENSION OF FINANCIAL INCENTIVES FOR
102 WILDFIRE MITIGATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Lower North Fork Wildfire Commission. Section 1 of the bill continues an income tax deduction for a landowner who performs wildfire mitigation measures on private land in a wildland-urban interface area. **Section 2** of the bill continues the authority of the Colorado water resources and power development authority to issue bonds for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

DRAFT Dashes through the words indicate deletions from existing statute.

45

purposes of funding watershed protection and forest health projects.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add** (4)
3 (n.5) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
6 from federal taxable income:

7 (n.5) (I) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
8 JANUARY 1, 2014, BUT PRIOR TO JANUARY 1, 2025, AN AMOUNT EQUAL TO
9 FIFTY PERCENT OF A LANDOWNER'S COSTS INCURRED IN PERFORMING
10 WILDFIRE MITIGATION MEASURES IN THAT INCOME TAX YEAR ON HIS OR
11 HER PROPERTY LOCATED WITHIN THE STATE; EXCEPT THAT THE AMOUNT
12 OF THE DEDUCTION CLAIMED IN AN INCOME TAX YEAR SHALL NOT EXCEED
13 TWO THOUSAND FIVE HUNDRED DOLLARS OR THE TOTAL AMOUNT OF THE
14 LANDOWNER'S FEDERAL TAXABLE INCOME FOR THE INCOME TAX YEAR FOR
15 WHICH THE DEDUCTION IS CLAIMED, WHICHEVER IS LESS.

16 (B) IN THE CASE OF TWO INDIVIDUALS FILING A JOINT RETURN, THE
17 AMOUNT SUBTRACTED FROM FEDERAL TAXABLE INCOME SHALL NOT
18 EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS IN ANY TAXABLE YEAR.
19 IN THE CASE OF A MARRIED INDIVIDUAL WHO FILES A SEPARATE RETURN,
20 ONLY ONE INDIVIDUAL IN THE MARRIAGE MAY CLAIM THE DEDUCTION
21 SPECIFIED IN THIS PARAGRAPH (n.5).

22 (C) IN THE CASE OF REAL PROPERTY OWNED AS TENANTS IN
23 COMMON, THE DEDUCTION ALLOWED PURSUANT TO THIS PARAGRAPH (n.5)
24 SHALL ONLY BE ALLOWED TO ONE OF THE INDIVIDUALS OF THE OWNERSHIP
25 GROUP.

1 (II) A LANDOWNER WHO PERFORMS WILDFIRE MITIGATION
2 MEASURES ON HIS OR HER REAL PROPERTY LOCATED WITHIN THE STATE
3 MAY CLAIM THE DEDUCTION AUTHORIZED BY THIS PARAGRAPH (n.5) IF THE
4 WILDFIRE MITIGATION MEASURES ARE PERFORMED IN A WILDLAND-URBAN
5 INTERFACE AREA.

6 (III) FOR PURPOSES OF THIS PARAGRAPH (n.5):

7 (A) "COLORADO STATE FOREST SERVICE" MEANS THE COLORADO
8 STATE FOREST SERVICE IDENTIFIED IN SECTION 23-31-302, C.R.S.

9 (B) "COSTS" MEANS ANY ACTUAL OUT-OF-POCKET EXPENSE
10 INCURRED AND PAID BY THE LANDOWNER, DOCUMENTED BY RECEIPT, FOR
11 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE
12 ANY INSPECTION OR CERTIFICATION FEES, IN-KIND CONTRIBUTIONS,
13 DONATIONS, INCENTIVES, OR COST SHARING ASSOCIATED WITH
14 PERFORMING WILDFIRE MITIGATION MEASURES. "COSTS" DO NOT INCLUDE
15 EXPENSES PAID BY THE LANDOWNER FROM ANY GRANTS AWARDED TO THE
16 LANDOWNER FOR PERFORMING WILDFIRE MITIGATION MEASURES.

17 (C) "LANDOWNER" MEANS ANY OWNER OF RECORD OF PRIVATE
18 LAND LOCATED WITHIN THE STATE, INCLUDING ANY EASEMENT,
19 RIGHT-OF-WAY, OR ESTATE IN THE LAND, AND INCLUDES THE HEIRS,
20 SUCCESSORS, AND ASSIGNS OF SUCH LAND, AND SHALL NOT INCLUDE ANY
21 PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR ENTITY THAT OWNS
22 PRIVATE LAND AS AN ENTITY.

23 (D) "WILDFIRE MITIGATION MEASURES" MEANS THE CREATION OF
24 A DEFENSIBLE SPACE AROUND STRUCTURES; THE ESTABLISHMENT OF FUEL
25 BREAKS; THE THINNING OF WOODY VEGETATION FOR THE PRIMARY
26 PURPOSE OF REDUCING RISK TO STRUCTURES FROM WILDLAND FIRE; OR
27 THE SECONDARY TREATMENT OF WOODY FUELS BY LOPPING AND
28 SCATTERING, PILING, CHIPPING, REMOVING FROM THE SITE, OR PRESCRIBED

1 BURNING; SO LONG AS SUCH ACTIVITIES MEET OR EXCEED ANY COLORADO
2 STATE FOREST SERVICE STANDARDS OR ANY OTHER APPLICABLE STATE
3 RULES.

4 (IV) THIS PARAGRAPH (n.5) IS REPEALED, EFFECTIVE JANUARY 1,
5 2026.

6 **SECTION 2.** In Colorado Revised Statutes, 37-95-112.5, **amend**
7 (5) as follows:

8 **37-95-112.5. Watershed protection and forest health projects**
9 **- repeal.** (5) This section is repealed, effective ~~July 1, 2013~~ JULY 1, 2023.

10 Such repeal shall not nullify, abrogate, alter, or otherwise affect any
11 extant obligations under this article at the time of the repeal.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

BILL D

LLS NO. 13-0120.01 Kate Meyer x4348

HOUSE BILL

HOUSE SPONSORSHIP

Gerou, Levy

SENATE SPONSORSHIP

Nicholson and Roberts,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION,**
102 **AND, IN CONNECTION THEREWITH, CLARIFYING THE POWERS**
103 **AND DUTIES OF THE DEPARTMENT OF PUBLIC SAFETY WITH**
104 **RESPECT TO THE STATEWIDE ALL-HAZARDS RESOURCE**
105 **MOBILIZATION PLAN AND SPECIFYING HOW MOBILIZED ENTITIES**
106 **RECEIVE REIMBURSEMENT FOR EXPENSES INCURRED BY**
107 **RENDERING ASSISTANCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

http://www.leg.state.co.us/bills/summaries/)

Lower North Fork Wildfire Commission. Currently, the office of emergency management (office) in the division of homeland security and emergency management (division) in the department of public safety (department) is charged with developing a statewide all-hazards resource mobilization plan (plan) to facilitate the interjurisdictional provision of disaster emergency assistance during disasters. The bill clarifies the duties of the office, the director of the office, and executive director of the department with respect to such plan and establishes the means by which mobilized governmental entities may seek reimbursement for costs incurred by rendering interjurisdictional disaster assistance.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend**
3 24-33.5-705.4 as follows:

4 **24-33.5-705.4. All-hazards resource mobilization system -**
5 **creation - plan - duties - reimbursement for expenses incurred by**
6 **mobilized entities - eligibility - definitions - legislative declaration.**

7 ~~(1) (a) The office of emergency management shall prepare a statewide~~
8 ~~resource mobilization system to provide for the allocation and~~
9 ~~deployment of resources in the event of a disaster or local incident that~~
10 ~~requires more resources than those available under any existing~~
11 ~~interjurisdictional or mutual aid agreement~~ THE GENERAL ASSEMBLY
12 HEREBY FINDS, DETERMINES, AND DECLARES THAT THE STATEWIDE
13 ALL-HAZARDS RESOURCE MOBILIZATION SYSTEM, WHICH PROVIDES FOR
14 EFFICIENT MOBILIZING, TRACKING, ALLOCATING, AND DEMOBILIZING
15 EMERGENCY RESOURCES AND ENSURES THAT A REQUESTING UNIT OF
16 GOVERNMENT RECEIVES PROPER EQUIPMENT AND QUALIFIED PERSONNEL,
17 IS NECESSARY TO PROVIDE RESOURCES TO ANY EMERGENCY INCIDENT
18 BEYOND LOCAL CAPABILITIES AND THUS NECESSARY TO PROTECT LIFE,
19 PROPERTY, THE ENVIRONMENT, AND CULTURAL AND ECONOMIC

1 RESOURCES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES
2 THAT THE NEED TO ENSURE THAT THE STATE IS ADEQUATELY PREPARED
3 AND ABLE TO ADDRESS LARGE-SCALE EMERGENCIES AND DISASTERS
4 REQUIRES A MECHANISM TO REIMBURSE STATE AGENCIES, TRIBAL
5 GOVERNMENTS, AND LOCAL JURISDICTIONS THAT RESPOND TO REQUESTS
6 FOR HELP FROM OTHER JURISDICTIONS IN TIMES OF NEED. IT IS THEREFORE
7 NECESSARY TO:

8 (I) FORMULATE THE POLICY AND ORGANIZATIONAL STRUCTURE
9 FOR LARGE-SCALE MOBILIZATION OF EMERGENCY RESOURCES IN THE
10 STATE THROUGH CREATION OF A STATEWIDE ALL-HAZARDS RESOURCE
11 MOBILIZATION SYSTEM;

12 (II) ESTABLISH THE MEANS BY WHICH STATE AGENCIES AND
13 TRIBAL AND LOCAL JURISDICTIONS MAY BE REIMBURSED FOR EXPENSES
14 THEY INCUR WHEN MOBILIZED BY THE EXECUTIVE DIRECTOR PURSUANT TO
15 THE MOBILIZATION PLAN; AND

16 (III) PROVIDE A PROCEDURE TO REIMBURSE A HOST JURISDICTION
17 WHEN IT HAS EXHAUSTED OR WILL EXHAUST ALL OF ITS OWN RESOURCES
18 AND THE RESOURCES OF ITS LOCAL MUTUAL AID NETWORK AVAILABLE
19 UNDER A MUTUAL AID OR INTERJURISDICTIONAL AGREEMENT.

20 (b) IN ACCORDANCE WITH SECTION 24-33.5-713, IT IS THE INTENT
21 OF THE LEGISLATURE TO ENCOURAGE POLITICAL SUBDIVISIONS TO ENTER
22 INTO MUTUAL AID AND OTHER INTERJURISDICTIONAL AGREEMENTS. SUCH
23 AGREEMENTS PRODUCE ENHANCED EMERGENCY RESPONSE AND ARE THUS
24 ESSENTIAL TO PROTECTING THE PUBLIC PEACE, SAFETY, HEALTH, AND
25 WELFARE, INCLUDING THE LIVES AND PROPERTY, OF THE PEOPLE OF THE
26 STATE OF COLORADO.

27 (2) ~~The resource mobilization system created pursuant to~~
28 ~~subsection (1) of this section shall be developed in coordination with~~

1 ~~appropriate federal, tribal, state, local government, and private sector~~
2 ~~agencies and organizations. The system shall include mobilization~~
3 ~~procedures and may include provisions for reimbursement of costs. AS~~

4 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF
6 EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-705.

7 (b) "EMERGENCY MANAGER" MEANS THE DIRECTOR OR
8 COORDINATOR OF THE LOCAL OR INTERJURISDICTIONAL DISASTER AGENCY,
9 AS DESCRIBED IN SECTION 24-33.5-707 (4), OR OTHER PERSON, IDENTIFIED
10 PURSUANT TO SECTION 24-33.5-707 (6), RESPONSIBLE FOR LOCAL OR
11 INTERJURISDICTIONAL DISASTER PREPAREDNESS AND RESPONSE.

12 (c) "HOST JURISDICTION" MEANS THE JURISDICTION HAVING
13 AUTHORITY OVER THE DISASTER OR EMERGENCY.

14 (d) "INCIDENT COMMAND SYSTEM" HAS THE MEANING SET FORTH
15 IN SECTION 29-22.5-102 (3), C.R.S.

16 (e) "JURISDICTION" MEANS STATE AND TRIBAL AUTHORITIES AND
17 COUNTY, CITY, CITY AND COUNTY, TOWN, SPECIAL DISTRICT, OR OTHER
18 POLITICAL SUBDIVISIONS OF THE STATE.

19 (f) "MOBILIZATION" MEANS THE PROCESS OF PROVIDING, UPON
20 REQUEST AND SUBJECT TO AVAILABILITY, EMERGENCY RESOURCES
21 BEYOND THOSE AVAILABLE THROUGH EXISTING INTERJURISDICTIONAL OR
22 MUTUAL AID AGREEMENTS IN RESPONSE TO A REQUEST FROM A
23 JURISDICTION IN WHICH AN EMERGENCY OR DISASTER SITUATION OR LOCAL
24 EMERGENCY INCIDENT THAT HAS EXCEEDED OR WILL EXCEED THE
25 CAPABILITIES OF AVAILABLE LOCAL RESOURCES. THE TERM INCLUDES THE
26 REDISTRIBUTION OF RESOURCES EITHER TO DIRECT EMERGENCY INCIDENT
27 ASSIGNMENTS OR TO ASSIGNMENT IN COMMUNITIES WHERE RESOURCES
28 ARE NEEDED TO PROVIDE COVERAGE WHEN THOSE COMMUNITIES'

1 RESOURCES HAVE BEEN MOBILIZED TO ASSIST OTHER JURISDICTIONS.

2 (g) "MOBILIZATION PLAN" MEANS THE STATEWIDE ALL-HAZARDS
3 RESOURCE MOBILIZATION PLAN DEVELOPED AND UTILIZED PURSUANT TO
4 THIS SECTION.

5 (h) "MOBILIZATION SYSTEM" MEANS THE STATEWIDE
6 ALL-HAZARDS RESOURCE MOBILIZATION SYSTEM CREATED UNDER THIS
7 SECTION, WHICH SYSTEM INCLUDES THE MOBILIZATION PLAN AND THE
8 TECHNOLOGY AND PERSONNEL NECESSARY TO MOBILIZE RESOURCES
9 ACCORDING TO THE PLAN.

10 (i) "MUTUAL AID" MEANS EMERGENCY INTERAGENCY ASSISTANCE
11 RENDERED PURSUANT TO AN AGREEMENT BETWEEN THE JURISDICTIONS
12 RENDERING AND RECEIVING ASSISTANCE.

13 (j) "NONHOST JURISDICTION" MEANS A JURISDICTION PROVIDING
14 DISASTER OR EMERGENCY RESPONSE RESOURCES TO A HOST JURISDICTION.

15 (k) "UNIFIED COMMAND" HAS THE MEANING SET FORTH IN SECTION
16 29-22.5-102 (8), C.R.S.

17 (3) **Powers and duties.** (a) THE DIRECTOR SHALL DEVELOP AND
18 MAINTAIN A STATEWIDE ALL-HAZARDS RESOURCE MOBILIZATION PLAN
19 THAT SETS FORTH PROCEDURES FOR MOBILIZATION, ALLOCATION,
20 DEPLOYMENT, COORDINATION, TRACKING, COST ACCOUNTING, AND
21 DEMOBILIZATION OF RESOURCES DURING DISASTERS AND OTHER
22 LARGE-SCALE EMERGENCIES AND LOCAL INCIDENTS THAT REQUIRE MORE
23 RESOURCES THAN THOSE AVAILABLE UNDER ANY EXISTING
24 INTERJURISDICTIONAL OR MUTUAL AID AGREEMENT. IN DEVELOPING THE
25 MOBILIZATION PLAN, THE DIRECTOR SHALL CONSULT WITH AND SOLICIT
26 RECOMMENDATIONS FROM THE HOMELAND SECURITY AND ALL-HAZARDS
27 SENIOR ADVISORY COMMITTEE CREATED IN SECTION 24-33.5-1614 AND
28 OTHER APPROPRIATE REPRESENTATIVES OF STATE, TRIBAL, AND LOCAL

1 GOVERNMENTAL AND PRIVATE SECTOR EMERGENCY MANAGEMENT
2 ORGANIZATIONS. THE DIRECTOR SHALL ENSURE THAT THE MOBILIZATION
3 PLAN IS CONSISTENT WITH, AND INCORPORATED INTO, THE COLORADO
4 STATE EMERGENCY OPERATIONS PLAN.

5 (b) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, IS
6 RESPONSIBLE FOR MOBILIZING RESOURCES FROM STATE AND NONHOST
7 JURISDICTIONS, IN ACCORDANCE WITH THIS SECTION AND THE
8 MOBILIZATION PLAN, WHEN THE EXECUTIVE DIRECTOR OR HIS OR HER
9 DESIGNEE DETERMINES IT IS NECESSARY TO DO SO TO PROTECT LIFE,
10 PROPERTY, THE ENVIRONMENT, AND CULTURAL AND ECONOMIC
11 RESOURCES.

12 (c) THE DIRECTOR, OR HIS OR HER DESIGNEE, SHALL SERVE AS
13 STATE RESOURCE COORDINATOR WHEN THE MOBILIZATION PLAN IS
14 IMPLEMENTED.

15 (4) **Mobilization.** (a) (I) THE EXECUTIVE DIRECTOR, OR HIS OR
16 HER DESIGNEE, MAY ORDER MOBILIZATION PURSUANT TO THIS SECTION
17 ONLY IF HE OR SHE RECEIVES A REQUEST TO DO SO FROM THE GOVERNOR
18 OR FROM AN EMERGENCY MANAGER.

19 (II) AN EMERGENCY MANAGER MAY REQUEST MOBILIZATION ONLY
20 IF THE REQUEST IS IN RESPONSE TO A LARGE-SCALE EMERGENCY,
21 DISASTER, OR OTHER LOCAL INCIDENT THAT EXCEEDS OR WILL EXCEED THE
22 CAPABILITIES OF AVAILABLE LOCAL RESOURCES AND THOSE RESOURCES
23 AVAILABLE THROUGH EXISTING MUTUAL AID AGREEMENTS.

24 (III) UPON RECEIVING A REQUEST FOR MOBILIZATION AND FINDING
25 THAT THE LOCAL JURISDICTION HAS EXHAUSTED OR WILL EXHAUST ALL
26 AVAILABLE RESOURCES, THE EXECUTIVE DIRECTOR OR HIS OR HER
27 DESIGNEE SHALL DETERMINE WHETHER MOBILIZATION IS THE APPROPRIATE
28 RESPONSE TO THE EMERGENCY OR DISASTER. IF SO, THE EXECUTIVE

1 DIRECTOR SHALL MOBILIZE NONHOST JURISDICTIONS UNDER THE
2 MOBILIZATION PLAN.

3 (b) UPON AND FOR THE DURATION OF MOBILIZATION:

4 (I) THE STATE RESOURCE COORDINATOR AND ASSIGNED STAFF
5 SHALL SERVE JOINTLY WITH THE COMMANDER OF THE HOST JURISDICTION'S
6 DISASTER AGENCY UNDER UNIFIED COMMAND TO COMMAND THE
7 MOBILIZATION EFFORT CONSISTENT WITH THE INCIDENT COMMAND
8 SYSTEM AND MOBILIZATION PLAN AND PROCEDURES;

9 (II) ALL RESOURCES, INCLUDING THOSE OF THE HOST JURISDICTION
10 AND THOSE OF NONHOST JURISDICTIONS THAT RESPONDED EARLIER UNDER
11 AN EXISTING INTERJURISDICTIONAL OR MUTUAL AID OR OTHER
12 AGREEMENT, MUST BE MOBILIZED;

13 (III) PURSUANT TO THE MOBILIZATION PLAN, THE HOST
14 JURISDICTION'S DISASTER AGENCY RESOURCES ARE THE STATE
15 MOBILIZATION RESOURCES UNDER THE UNIFIED COMMAND OF THE STATE
16 RESOURCE COORDINATOR AND THE COMMANDER OF THE HOST
17 JURISDICTION AND SHALL BE ADMINISTERED CONSISTENT WITH THE
18 MOBILIZATION PLAN AND INCIDENT COMMAND SYSTEM PROCEDURES; AND

19 (IV) ANY LIMITS ON OR EXEMPTION FROM LIABILITY TO WHICH THE
20 JURISDICTIONS PROVIDING RESOURCES IN RESPONSE TO A MOBILIZATION
21 EFFECTED UNDER THIS SECTION ARE ENTITLED UNDER LAW APPLY AS
22 THOUGH THE JURISDICTIONS WERE OPERATING UNDER THEIR NORMAL
23 STATUTORY AUTHORITIES WITHIN THEIR JURISDICTIONAL BOUNDARIES.

24 (c) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE STATE
25 RESOURCE COORDINATOR AND LOCAL COMMANDER, SHALL DETERMINE
26 WHEN MOBILIZATION IS NO LONGER REQUIRED AND, AT THAT TIME, SHALL
27 DECLARE THE END TO THE MOBILIZATION.

28 (5) **Reimbursement.** (a) THE DIRECTOR, IN CONSULTATION WITH

1 THE OFFICE OF STATE PLANNING AND BUDGETING CREATED IN SECTION
2 24-37-102, SHALL DEVELOP PROCEDURES TO FACILITATE REIMBURSEMENT
3 TO STATE AGENCIES AND JURISDICTIONS FROM APPROPRIATE FEDERAL AND
4 STATE FUNDS WHEN STATE AGENCIES AND JURISDICTIONS ARE MOBILIZED
5 BY THE EXECUTIVE DIRECTOR PURSUANT TO THE MOBILIZATION PLAN. THE
6 DIRECTOR SHALL ENSURE THAT THESE PROCEDURES PROVIDE
7 REIMBURSEMENT IN AS TIMELY A MANNER AS POSSIBLE.

8 (b) (I) IN ORDER TO BE ELIGIBLE FOR SUPPORT UNDER THE
9 MOBILIZATION PLAN, A JURISDICTION MUST BE PARTICIPATING IN AN
10 INTERJURISDICTIONAL OR MUTUAL AID AGREEMENT ENTERED INTO
11 PURSUANT TO THIS PART 7.

12 (II) ALL MOBILIZED NONHOST JURISDICTIONS ARE ELIGIBLE FOR
13 EXPENSE REIMBURSEMENT FROM THE TIME OF THE MOBILIZATION
14 DECLARATION THROUGH DEMOBILIZATION.

15 (6) (a) NOTHING IN THIS SECTION LIMITS THE POWERS OF THE
16 GOVERNOR DURING A DISASTER UNDER 24-33.5-704.

17 (b) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, NOTHING IN
18 THIS SECTION LIMITS THE ELIGIBILITY OF ANY NONHOST JURISDICTION FOR
19 REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING RESOURCES FOR
20 MOBILIZATION.

21 (c) NOTHING IN THIS SECTION PRECLUDES A STATE OR LOCAL
22 GOVERNMENTAL ENTITY FROM SEEKING PUBLIC ASSISTANCE FUNDING
23 PURSUANT TO THE FEDERAL "ROBERT T. STAFFORD DISASTER RELIEF AND
24 EMERGENCY ASSISTANCE ACT", AS AMENDED, 42 U.S.C. SEC. 5121 ET
25 SEQ.

26 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-713, **amend**
27 (1) as follows:

28 **24-33.5-713. Mutual aid.** (1) THE OFFICE OF EMERGENCY

1 MANAGEMENT SHALL ENCOURAGE AND ASSIST political subdivisions not
2 participating in interjurisdictional arrangements pursuant to this part 7
3 ~~nevertheless shall be encouraged and assisted by the office of emergency~~
4 ~~management to conclude~~ ENTER INTO suitable arrangements for furnishing
5 mutual aid in coping with disasters. The arrangements ~~shall~~ MUST include
6 provision of aid by persons and units in public employ AND, WHENEVER
7 POSSIBLE, SHOULD BE WRITTEN WITHOUT STATED LIMITATIONS AS TO
8 RESOURCES AVAILABLE, TIME, OR AREA.

9 **SECTION 3. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.