

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 17

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO WILDFIRE RISK MITIGATION AND STABILIZATION POOL;  
2 AMENDING THE HEADING FOR CHAPTER 24, TITLE 41, IDAHO CODE; AMENDING  
3 CHAPTER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
4 41-2402, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT AND A SHORT TITLE;  
5 AMENDING CHAPTER 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
6 TION 41-2403, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 24, TITLE  
7 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2404, IDAHO CODE,  
8 TO ESTABLISH PROVISIONS REGARDING A WILDFIRE RISK MITIGATION AND STA-  
9 BILIZATION POOL, FUND, AND BOARD; AMENDING CHAPTER 24, TITLE 41, IDAHO  
10 CODE, BY THE ADDITION OF A NEW SECTION 41-2405, IDAHO CODE, TO ESTABLISH  
11 PROVISIONS REGARDING A PLAN OF OPERATION; AMENDING CHAPTER 24, TITLE  
12 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2406, IDAHO CODE, TO  
13 PROVIDE FOR POWERS AND AUTHORITY OF THE POOL; AMENDING CHAPTER 24, TITLE  
14 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2407, IDAHO CODE,  
15 TO ESTABLISH PROVISIONS REGARDING FUNDING SOURCES; AMENDING CHAPTER  
16 24, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2408,  
17 IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN IMMUNITY AND LI-  
18 ABILITY; AMENDING SECTION 41-406, IDAHO CODE, TO PROVIDE FOR A CERTAIN  
19 DISTRIBUTION TO THE IDAHO WILDFIRE RISK MITIGATION AND STABILIZATION  
20 POOL; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That the Heading for Chapter 24, Title 41, Idaho Code, be,  
24 and the same is hereby amended to read as follows:

25 CHAPTER 24  
26 PROPERTY INSURANCE ~~CONTRACTS~~

27 SECTION 2. That Chapter 24, Title 41, Idaho Code, be, and the same is  
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
29 ignated as Section 41-2402, Idaho Code, and to read as follows:

30 41-2402. IDAHO WILDFIRE RISK MITIGATION AND STABILIZATION POOL ACT  
31 -- LEGISLATIVE INTENT -- SHORT TITLE. It is the intent of the legislature  
32 to assist homeowners and property owners in protecting their homes and  
33 property against wildfire risks and to reduce or mitigate wildfire risk to  
34 property owners, thereby reducing costs of property insurance, reducing  
35 or mitigating community-level wildfire risks, assisting in attracting and  
36 retaining insurers in the property marketplace, reducing concentration risk  
37 and increasing healthy competition, and promoting a stable and competitive  
38 property insurance marketplace by establishing the provisions of sections  
39 41-2402 through 41-2408, Idaho Code, which shall be known and may be cited as  
40 the "Idaho Wildfire Risk Mitigation and Stabilization Pool Act."

1 SECTION 3. That Chapter 24, Title 41, Idaho Code, be, and the same is  
 2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 3 ignated as Section 41-2403, Idaho Code, and to read as follows:

4 41-2403. DEFINITIONS. For the purposes of sections 41-2402 through  
 5 41-2408, Idaho Code, the following definitions apply:

6 (1) "Act" means the Idaho wildfire risk mitigation and stabilization  
 7 pool act.

8 (2) "Board" means the board of directors of the Idaho wildfire risk mit-  
 9 igation and stabilization pool.

10 (3) "Director" means the director of the department of insurance of the  
 11 state of Idaho.

12 (4) "Insurer" means any entity that provides or is authorized to pro-  
 13 vide property insurance as defined in section 41-504, Idaho Code, in this  
 14 state and includes an insurance company and any other entity providing prop-  
 15 erty insurance coverage in this state that is subject to state insurance reg-  
 16 ulation but excludes any entity providing only casualty insurance as defined  
 17 in section 41-506, Idaho Code.

18 (5) "Participating insurer" means an insurer that participates in a  
 19 program of the pool.

20 (6) "Participation charge" means the amount set by the board to be paid  
 21 by a participating insurer for a program of the pool.

22 (7) "Plan of operation" means the plan of operation of the wildfire risk  
 23 mitigation and stabilization pool.

24 (8) "Producer" means a producer as defined in section 41-1003, Idaho  
 25 Code.

26 (9) "Target area" means the area or areas determined by the board where:

27 (a) A substantially elevated wildfire risk is present;

28 (b) Property coverage is difficult to obtain or retain due to wildfire  
 29 risk;

30 (c) Community wildfire mitigation would protect other property; or

31 (d) The deconcentrating of wildfire risk would benefit the community.

32 (10) "Wildfire risk mitigation and stabilization pool" or "pool" means  
 33 an independent body corporate and politic that performs an essential govern-  
 34 mental function when exercising the power conferred to it pursuant to sec-  
 35 tions 41-2402 through 41-2408, Idaho Code.

36 SECTION 4. That Chapter 24, Title 41, Idaho Code, be, and the same is  
 37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 38 ignated as Section 41-2404, Idaho Code, and to read as follows:

39 41-2404. WILDFIRE RISK MITIGATION AND STABILIZATION POOL -- FUND --  
 40 BOARD. (1) There is hereby established an independent public body corporate  
 41 and politic to be known as the Idaho wildfire risk mitigation and stabiliza-  
 42 tion pool. The pool is established to:

43 (a) Receive funding from various sources;

44 (b) Use the fund created pursuant to subsection (2) of this section to  
 45 assist target areas and improve access to property insurance in target  
 46 areas; and

47 (c) Distribute funding to mitigate wildfire risk, including but not  
 48 limited to grants, matching programs, and educational efforts.

1 (2) There is hereby created in the state treasury the wildfire risk mit-  
2 igation and stabilization fund. The fund shall consist of moneys deposited  
3 pursuant to section 41-2407, Idaho Code. Interest earned on the investment  
4 of idle moneys in the fund shall be returned to the fund.

5 (3) The pool and any assessments imposed or collected pursuant to oper-  
6 ation of the pool shall, at all times, be free from taxation of any kind.

7 (4) (a) The pool created pursuant to this section shall operate subject  
8 to the supervision and control of the board. The board shall consist of  
9 twelve (12) appointed members:

10 (i) Ten (10) members shall be appointed by the director and serve  
11 at the pleasure of the director. In selecting members of the  
12 board, the director shall appoint three (3) members representing  
13 insurers, two (2) members representing property insurance produc-  
14 ers, one (1) member representing the surplus line association of  
15 Idaho board, two (2) members representing consumer interests, one  
16 (1) member representing the forest products industry, and one (1)  
17 member representing fire officials;

18 (ii) One (1) member shall be a member of the senate appointed by  
19 the president pro tempore of the senate; and

20 (iii) One (1) member shall be a member of the house of representa-  
21 tives appointed by the speaker of the house of representatives.

22 (b) The director or the director's designee shall serve as an ex-offi-  
23 cio member of the board. The director may request additional ex-offi-  
24 cio members of the board, such as the director of the Idaho department of  
25 lands or the director's designee or the Idaho state fire marshal or the  
26 state fire marshal's designee.

27 (c) The initial nonlegislative board members shall be appointed as fol-  
28 lows: three (3) of the members to serve a term of two (2) years; four  
29 (4) of the members to serve a term of four (4) years; and three (3) of  
30 the members to serve a term of six (6) years. Subsequent nonlegislative  
31 board members shall serve for a term of three (3) years. Legislative  
32 members of the board shall serve for a term of two (2) years. Vacancies  
33 shall be filled in the same manner as the original appointment pursuant  
34 to this section.

35 SECTION 5. That Chapter 24, Title 41, Idaho Code, be, and the same is  
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
37 ignated as Section 41-2405, Idaho Code, and to read as follows:

38 41-2405. PLAN OF OPERATION. (1) The board shall submit to the director  
39 a plan of operation and thereafter any amendments thereto necessary or suit-  
40 able to assure the fair, reasonable, fiscally responsible, and equitable ad-  
41 ministration of the pool.

42 (2) The director may, after notice and hearing, approve the plan of op-  
43 eration if the director determines it to be suitable to assure the fair, rea-  
44 sonable, fiscally responsible, and equitable administration of the pool and  
45 to provide for the sharing of pool gains or losses on an equitable and propor-  
46 tionate basis.

47 (3) The plan of operation shall become effective upon written approval  
48 by the director.

1 (4) (a) If the board fails to submit a suitable plan of operation, the  
2 director shall, after notice and hearing, adopt and promulgate a tempo-  
3 rary plan of operation.

4 (b) The director shall amend or rescind any temporary plan of operation  
5 adopted pursuant to this subsection at the time a suitable plan of oper-  
6 ation or amendment submitted by the board becomes effective.

7 (5) The plan of operation shall:

8 (a) Establish procedures for handling and accounting of pool assets and  
9 moneys and for an annual fiscal reporting of such assets and moneys to  
10 the director;

11 (b) Establish procedures for selecting an administrator and setting  
12 forth the powers and duties of the administrator;

13 (c) Establish procedures for providing grants to citizens or communi-  
14 ties for wildfire risk mitigation. Such grant amounts shall be limited  
15 in order to assist the largest number of citizens and may require match-  
16 ing funds;

17 (d) Establish procedures for funding property protection and for fire  
18 prevention and mitigation education and resources;

19 (e) Study, evaluate, and advance a program or programs to promote a  
20 stable and competitive property insurance market or to equitably reduce  
21 property insurance costs associated with wildfire risk. Any program  
22 established shall:

23 (i) Be actuarially sound with expenses not exceeding the pro-  
24 jected funding pursuant to section 41-2407, Idaho Code;

25 (ii) Not create a governmental entity that competes either di-  
26 rectly or indirectly with the private sector; and

27 (iii) Be created pursuant to Idaho Code;

28 (f) Identify target areas;

29 (g) Establish procedures for determining when an assessment from in-  
30 surers is recommended. Assessments shall only be recommended after ex-  
31 hausting all other efforts and all funds in the pool. The director shall  
32 only approve a recommended assessment that is in the best interest of  
33 the state and its citizens; and

34 (h) Provide for any additional matters necessary for the implementa-  
35 tion and administration of the pool.

36 SECTION 6. That Chapter 24, Title 41, Idaho Code, be, and the same is  
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
38 ignated as Section 41-2406, Idaho Code, and to read as follows:

39 41-2406. POWERS AND AUTHORITY. (1) The pool shall have the general  
40 powers and authority granted under the laws of this state to insurance com-  
41 panies licensed to transact business, except the power to issue property  
42 coverage directly to individuals.

43 (2) In addition, the pool shall have the specific authority to:

44 (a) Enter into contracts as are necessary and proper to carry out the  
45 provisions and purposes authorized pursuant to this act, including the  
46 authority, with the approval of the director, to enter into contracts  
47 with similar programs of other states for the joint performance of  
48 common functions or with persons or other organizations for the perfor-  
49 mance of administrative functions;

1 (b) Sue or be sued, including taking any legal actions necessary or  
 2 proper to recover any assessments and penalties for, on behalf of, or  
 3 against the pool or any insurer;

4 (c) Appoint appropriate legal, actuarial, and other committees as nec-  
 5 essary to provide technical assistance in the operation of the pool,  
 6 policy and other contract design, and any other function within the au-  
 7 thority of the pool;

8 (d) Borrow money to effect the purposes of the pool. Any notes or other  
 9 evidence of indebtedness of the pool not in default shall be legal in-  
 10 vestment;

11 (e) Define the terms, strategies, and conditions of all its programs  
 12 that attract insurers, equitably reduce costs to consumers, and stabi-  
 13 lize the marketplace, in accordance with the provisions of this act; and

14 (f) Establish rules, policies, and procedures as may be necessary or  
 15 convenient for the implementation of the provisions of this act and the  
 16 operation of the pool.

17 (3) The director shall have the authority to promulgate rules, subject  
 18 to legislative approval, to accomplish the provisions of this act.

19 SECTION 7. That Chapter 24, Title 41, Idaho Code, be, and the same is  
 20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 21 ignated as Section 41-2407, Idaho Code, and to read as follows:

22 41-2407. FUNDING. The Idaho wildfire risk mitigation and stabiliza-  
 23 tion pool shall be funded from the following sources:

24 (1) The ongoing appropriation of premium tax authorized pursuant to  
 25 section 41-406(1) (e), Idaho Code;

26 (2) Moneys from the reduced cigarette ignition propensity and fire-  
 27 fighter protection act fund allocated to the state fire marshal pursuant to  
 28 chapter 89, title 39, Idaho Code, not utilized for the processing, testing,  
 29 enforcement, and oversight activities authorized pursuant to chapter 89,  
 30 title 39, Idaho Code;

31 (3) Excess stamping fees as approved by the director at the recommenda-  
 32 tion of the surplus line association of Idaho board;

33 (4) Grants or other contributions available for fire prevention or mit-  
 34 igation, including private sector contributions;

35 (5) Participation charges, if any, paid by participating insurers for a  
 36 program as established by the board; and

37 (6) Assessments, if any, as deemed necessary to meet the obligations of  
 38 a program.

39 SECTION 8. That Chapter 24, Title 41, Idaho Code, be, and the same is  
 40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 41 ignated as Section 41-2408, Idaho Code, and to read as follows:

42 41-2408. IMMUNITY AND LIABILITY. (1) The board shall not be liable for  
 43 any obligations of the pool. No member of the board shall be liable, and no  
 44 cause of action of any nature may arise against any board member for any act  
 45 or omission related to the performance of any board member's powers and du-  
 46 ties pursuant to this act, unless such act or omission constitutes gross neg-

1     ligence, reckless, willful, or wanton conduct. The board may provide for in-  
2     demnification of and legal representation for its members.

3     (2) The participation of a participating insurer in any program, the  
4     establishment of rates, forms, or procedures, and any other joint or collec-  
5     tive action required pursuant to this act shall not be grounds for any legal  
6     action, criminal or civil liability, or penalty against the pool or any of  
7     its participating insurers either jointly or separately.

8     SECTION 9. That Section 41-406, Idaho Code, be, and the same is hereby  
9     amended to read as follows:

10     41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The direc-  
11     tor shall transmit all taxes, fines and penalties collected by him to the  
12     state treasurer as provided under section 59-1014, Idaho Code. The director  
13     shall file with the state controller a statement of each deposit thus made.  
14     All such funds received shall be deposited into the department of insurance  
15     suspense account. Such funds shall be distributed as follows:

16     (a) The director may deposit up to twenty percent (20%) of the funds  
17     received in the insurance refund account which is hereby created for  
18     the purpose of repaying overpayments of any taxes, fines, and penalties  
19     or other erroneous receipts. There is hereby appropriated out of the  
20     insurance refund account so much thereof as shall be necessary for the  
21     payment of refunds. Any unencumbered balance remaining in the insur-  
22     ance refund account on June 30 of each and every year in excess of forty  
23     thousand dollars (\$40,000) shall be transferred to the general fund and  
24     the state controller is hereby authorized and directed on such dates to  
25     make such transfers unless the board of examiners, which is hereby au-  
26     thorized to do so, changes the date of transfer or sum to be transferred.

27     (b) That portion of the premium tax, payable to the public employee re-  
28     tirement fund as provided in section 59-1394, Idaho Code, shall be dis-  
29     tributed to that fund.

30     (c) That portion of the premium tax necessary to cover administrative  
31     costs incurred by the department in placing insurance companies or any  
32     other insurance entities into receivership or under administrative su-  
33     pervision, and such costs cannot be satisfied from the assets of these  
34     companies or entities, shall be distributed to the insurance insolvency  
35     administrative fund which is hereby created. There is hereby appro-  
36     priated out of the insurance insolvency administrative fund so much  
37     thereof as shall be necessary, but not to exceed two hundred thousand  
38     dollars (\$200,000) in any one (1) fiscal year, for the payment of the  
39     department's administrative expenses incurred in carrying out such re-  
40     ceiverships or supervision. A balance of one hundred thousand dollars  
41     (\$100,000) shall be maintained in this fund on June 30 of each year.

42     (d) After all other the deductions authorized in paragraphs (b) and (c)  
43     of this subsection have been made, if the premium tax remaining exceeds  
44     forty-five million dollars (\$45,000,000), one-fourth (1/4) of such ex-  
45     cess is hereby appropriated and shall be paid to the Idaho individual  
46     high risk reinsurance pool established in chapter 55, title 41, Idaho  
47     Code.

48     (e) After the deductions authorized in paragraphs (b) through (d) of  
49     this subsection have been made, if the premium tax remaining exceeds one

1        hundred thirteen million dollars (\$113,000,000), one-fourth (1/4) of  
2        such excess is hereby appropriated and shall be paid to the Idaho wild-  
3        fire risk mitigation and stabilization pool established in chapter 24,  
4        title 41, Idaho Code.

5        ~~(e)~~ (f) The balance of the premium tax, fines and penalties shall be  
6        distributed to the general fund of the state of Idaho.

7        ~~(f)~~ (g) All moneys received for fees, licenses and miscellaneous  
8        charges collected shall be distributed to the insurance administrative  
9        account.

10        (2) The director shall make and file with the state controller an item-  
11        ized statement of the fees, licenses, taxes, fines and penalties collected  
12        by him during the preceding month.

13        SECTION 10. An emergency existing therefor, which emergency is hereby  
14        declared to exist, this act shall be in full force and effect on and after  
15        July 1, 2025.