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Idaho Gov. Little unveils new wildfire plan that includes less liability for companies

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BY NICOLE BLANCHARD UPDATED AUGUST 23, 2024 6:21 PM

A new plan Idaho Gov. Brad Little unveiled Friday to mitigate wildfire risk had more than just policies aimed to protect areas from widespread blazes. A list of top priorities had a broad scope of goals from the executive office, including limitations on liability for electrical utilities that cause fires. Officials said they're looking to follow neighboring states, which have implemented laws restricting the amount residents can sue for if they lose property to a utility-caused fire and allowing utilities to raise consumer rates to create a "fire fund." The Idaho wildfire mitigation report said the threat of liability can "immediately destabilize the financial health of electric companies," particularly small customer-owned utilities in rural Idaho. It said utilities acting to mitigate wildfire risk shouldn't face liability for all wildfire damages "regardless of fault causation, or negligence." "We haven't reached consensus, but Utah's template serves as a good starting point to look at to address protecting ratepayers from liability and increased rates," Little's spokesperson Emily Callihan said. Those policies have earned pushback from consumer protection and environmental groups, and the Idaho Public Utilities Commission earlier this year rejected a similar proposal from an electrical company.

Little in a news conference said the myriad recommendations in the report were the result of months of discussion with stakeholders in insurance, public utilities and fire suppression, including the Idaho Department of Lands, the Office of Emergency Management, Department of Insurance and Boise Fire Department. Brad Heusinkveld, energy and regulatory counsel for the Idaho Conservation League, told the Idaho Statesman the wildfire priority report is "part of a much-needed conversation on fire." But the proposal for liability limitations raises additional questions about consequences for negligence, responsibility for fire risk, utility access to public funds and more, he added. "Altering fire liabilities does not make costs go away, it simply changes who pays for our increasingly costly wildfires," he said. "It's a hard policy problem. We need utilities to function, but we also need to protect ratepayers and those most vulnerable from fires that will only become more expensive as our forests warm."

UTILITIES COULD SEE LESS WILDFIRE LIABILITY Dean Cameron, director of the Department of Insurance, and Little said they've looked to Utah for a blueprint on utility wildfire liability — in particular, a 2020 law that requires utilities to create wildfire protection plans that could waive some of their liability and a 2024 law that capped the amount of money people can seek for non-economic damages in utility-caused wildfires. This year's law also allowed Rocky Mountain Power, which also operates in eastern Idaho, to create a fire fund through increased customer rates. The company can use the fund to pay costs if it's found liable for a fire. California has a similar law, though Utah's will allow the company to access its fund even if the fire was caused by negligence. Rocky Mountain Power's parent company, PacifiCorp, is on the hook for tens of millions of dollars for 2020 Oregon wildfires after a jury found it acted with "gross negligence and recklessness,"

Oregon news reports said. PacifiCorp's insurance rates increased twelvefold last year, according to reporting from the Salt Lake Tribune. The Idaho Public Utilities Commission earlier this year rejected a request from Rocky Mountain Power to limit its wildfire liability and called the proposal "unreasonable." Rocky Mountain Power was part of the subcommittee that recommended the liability changes in Little's report. The report echoed some of Rocky Mountain's argument before the Public Utilities Commission. The committee said electrical utilities are facing steep insurance rates as wildfires become more common and more destructive. Cameron said at the news conference that a new liability policy could protect Idaho utility customers and keep rates lower if utilities aren't paying expensive settlements or insurance bills. Another priority is retaining insurance options so homeowners are covered if their property is damaged by fire, Cameron said. Insurers have backed off of policies in states like California and Hawaii, which have seen devastating property damage and death from wildfires.

REPORT EMPHASIZES COMMUNICATION, COLLABORATION Dustin Miller, director of the Department of Lands, which manages fires on state-owned land, said during the news conference that population growth in Idaho is putting more people and homes at risk as communities extend farther into the wildland-urban interface, where development meets undeveloped land. As a result, he said, it's more important than ever for agencies and residents to collaborate on fire prevention. Miller's department will work with companies that own timberland to provide communication and personal protective equipment for crews to respond when wildfires start on private land. The Department of Lands will also work with other departments to set up a wildland fire detection camera network to help catch blazes early. The governor's priorities also task the Department of Lands with collaborating with the Idaho Department of Fish and Game and state IT services to launch firewatch.idaho.gov, a website where people can find all Idaho wildfire information in a single place. Officials also plan to create a statewide emergency notification system for fire evacuations that's available even in places without cell service. The report recommended collaboration with federal agencies to evaluate areas around transmission lines and streamline permitting or other red tape that could prevent fuel reduction and other fire mitigation. Several of the priorities point to grant funds to help accomplish state goals — including one priority to create a library of grant opportunities. The Department of Lands and Office of Emergency Management will seek federal emergency funds to help create a statewide building code for the wildland-urban interface. Firewise building codes typically ensure structures are built with less-flammable materials and landscaping includes "defensible space" to reduce fire spread and plant guidelines to minimize sparks. Some of the policy recommendations can go into effect immediately, like the grant library and fire information website. Others will rely on procuring grants or creating funding. Cameron said the Department of Insurance will make recommendations to legislators for next year's session to address other priorities through lawmaking. The report "is not the be-all, end-all," Cameron said. "There's lots of work to do."

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