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SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

February 5, 1997 Hearing Room C

9:00 AM Tapes 20 - 21

MEMBERS PRESENT:

Sen. Bob Kintigh, Chair

Sen. Bill Fisher, Vice-Chair

Sen. Bill Dwyer

Sen. Ted Ferrioli

Sen. Gary George

Sen. Veral Tarno

Sen. Thomas Wilde

MEMBER EXCUSED:

STAFF PRESENT:

Glen Stonebrink, Administrator

Brad Harper, Administrative Support

MEASURE/ISSUES HEARD:

SB 110 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

Tape/#	Speaker	Comments
TAPE 20, A		
005	Chair Kintigh	Convenes meeting at 9:06. Discussion of future schedule.
PUBLIC HEARING SB 110		
018	Chair Kintigh	Chair invites testimony.
022	Fred Robinson	Assistant State Forester, Department of Forestry (DOF). History behind SB 110. Presentation of written testimony (EXHIBIT A).
040	Robinson	Changes proposed by SB 110.
108	Chair Kintigh	Question regarding whether changes are minor.
111	Robinson	Depends on one's perspective.
114	Sen. Tarno	Question regarding conflagration act.
117	Robinson	Discussion of fire suppression cooperation agreements between state and federal agencies.
139	Sen. Kintigh	Comment
145	Rick Gibson	Representing DOF. Will present overview of individual elements of SB 110.
148	Chair Kintigh	Summary adequate, but may need additional detail of bill's provisions.
150	Gibson	Overview of SB 110.
189	Sen. Dwyer	Question regarding burning rights of incorporated communities.
197	Gibson	No impact on current burning rights - permits still necessary.
207	Sen. Dwyer	No burning permit necessary in Springfield. Potato Hill area used as example of possible conflict.
		Burning permit issue is complex due to overlapping regulations, but bill

221	Gibson	seeks to provide clearer authority.
233	Sen. Dwyer	Question regarding scope of section 12. Incorporated areas may not be subject to regulations.
242	Gibson	No exemptions for lands within city limits.
257	Robinson	Comment regarding rural interface and encroachment of cities into rural fire districts. DOF issues permits until rural fire districts become sufficiently urbanized to hire staff to administer permitting process by themselves. DOF remains responsible for wildfire suppression.
298	Chair Kintigh	Comment regarding slash burning.
300	Robinson	DOF almost always retains authority over slash burning.
302	Sen. Fisher	Question regarding rural interface.
305	Robinson	Discussion of dual protection fire areas.
321	Sen. Dwyer	Question to Chair.
327	Chair Kintigh	Response
330	Gibson	Discussion of closure system.
342	Sen. Dwyer	Question regarding definition of "routine road maintenance."
354	Gibson	Definition not being changed, just moved within statute. Discussion of new requirements proposed under SB 110, including reimbursement from National Guard for fire resulting from Guard exercises.
395	Sen. Dwyer	Question regarding liability.
411	Gibson	Approximately 10 such fires each year. Uncertain regarding liability.
422	Melinda Bruce	Assistant Attorney General. Explanation of impact of Tort Claims Act. National Guard not included in liability limitation.
435	Sen. Dwyer	National Guard not subject to liability cap?
440	Bruce	No
TAPE 21,A		
042	Sen. George	Question regarding scope of National Guard issue.
047	Robinson	Weapons exercises, not road building, most common cause of fires. Forest Practice Act has applicability.
060	Chair Kintigh	Question regarding camp fire provision.
067	Gibson	Definition of camp fire necessary to prevent garbage burns.
076	Gibson	Further discussion of definitions.

088	Sen. George	Question
090	Gibson	Discussion section one of SB 110.
100	Robinson	Will start with discussion of fire season.
103	Chair Kintigh	Question in aid of clarification.
107	Robinson	Response and discussion of fire season.
115	Sen. Dwyer	Statement
117	Robinson	Further discussion of fire season.
130	Sen. Tarno	Question regarding grass lands.
138	Gibson	Provision will not apply in Willamette Valley, only fire protection districts.
140	Sen. Tarno	Question
141	Gibson	Response
146	Gibson	Discussion of burning permit provisions.
155	Robinson	Comment regarding concerns over current language in SB 110 and proposal for amendment.
185	Gibson	Discussion of "operation area."
190	Sen. Ferrioli	Question regarding definition of grazing land.
196	Gibson	Response
200	Sen. Ferrioli	Question answered.
205	Gibson	Further discussion of operation area.
221	Gibson	Further proposed definition changes within section one.
240	Chair Kintigh	Question
242	Gibson	Response
245	Gibson	Discussion of section three of SB 110. Purpose to align policy statements.
258	Chair Kintigh	Deleting structural fire suppression from priority list?
260	Gibson	Affirmative; similar language appears throughout measure.
275	Sen. Fisher	Poses hypothetical situation involving potential fire hazard.
296	Gibson	Relevant section use. Discussion of additional sections.
363	Chair Kintigh	Interrupting testimony to allow other speakers time to be heard.

374	Robinson	Can return at a later date.
387	Chair Kintigh	Chair calls John Foster to testify.
400	John Foster	Representing Oregon Small Woodlands Association. Submits written material (EXHIBIT B). Seeking to have separate tax lots considered as one for tax purposes.
TAPE 20,B		
038	Chair Kintigh	Question in aid of clarification.
043	Foster	Discussion surrounding separate tax lot issues.
050	Chair Kintigh	Summarization of discussion.
053	Foster	Wishes to combine lots for purpose of tax assessment.
071	Sen. Tarno	Supports Mr. Foster's positions.
074	Foster	Further discussion.
077	Chair Kintigh	Will look into the necessary amendments. Invites next speaker to testify.
090	Mike Miller	Executive vice-president, Associated Oregon Loggers. Submits written materials (EXHIBIT C). Interested in proposed amendments. Minor concerns over particular wording.
120	Chair Kintigh	Welcomes next speaker.
124	Pete Test	Associate Director, Governmental Affairs, Farm Bureau. Concerns regarding rangelands being subject to Forest Practices Act. Seeking clarification within legislation.
158	Chair Kintigh	Invites DOF to field question regarding Forest Practices regulations.
160	Bruce	No impact foreseen.
170	Sen. Ferrioli	Concerned that grazing land could be subject to Forest Practices Act.
183	Bruce	Explanation of position.
190	Chair Kintigh	Comment regarding issue. Invitation to next speaker.
200	Dave Babits	Legislative Chair, Oregon Small Woodlands Association. Submits written testimony (EXHIBIT D). Discussion of SB 110 as effects fire fighters and their ability to investigate fires effectively. Requests time limit language.
290	Sen. Wilde	Question regarding proposal to allow investigation without denying landowners their right to return to their property.
310	Babits	Explanation of past practice.

338	Sen. George	Question regarding proposal for 72 hour limit to return to property.
345	Babits	Response
350	Sen. Tarno	Good reasons exist to temporarily ban entry to fire area to any person.
375	Chair Kintigh	Thanks speaker and requests DOF return to answer questions.
384	Robinson	Directs committee members to applicable provisions in SB 110. Discussion of fire investigation methods. Change in language might be clarifying.
TAPE 21,B		
023	Gibson	Possible language change.
025	Chair Kintigh	Comment
027	Sen. George	Measure should limit investigation scene to specific area, perhaps one acre.
035	Chair Kintigh	Discussion of "fire origin area."
042	Sen. Wilde	Due to potential criminal nature of fire, area must be protected for investigation.
050	Sen. George	Question to Melinda Bruce regarding legal issues involved.
053	Bruce	Major crime scenes can be tied up for a considerable amount of time and reasonableness must be determined on case-by-case basis.'
073	Sen. George	Reasonable for land owners to have right to limited duration fire investigation.
082	Sen. Tarno	Can not limit duration that crime scene investigation may require.
092	Sen. Ferrioli	Statement regarding specific non-arson fire which took considerable investigation. Shares Sen. George's concerns, but recognizes complexity of investigation process. Difficult to balance conflicting needs.
107	Sen. Dwyer	Question regarding past conflicts in this area.
110	Robinson	Growing concern within DOF over this issue. Fire origin area is commonly determined within first 48 hours and limits investigation to one or two areas.
131	Sen. Dwyer	How often does process result in landowner versus DOF conflict?
137	Gibson	Private investigations disturb fire scene.
144	Chair Kintigh	Question whether DOF uses warrants to compel compliance.
		Affirmative; DOF seeking clarification of authority. No specific cases

147	Robinson	where lack of this proposed statute has resulted in litigation, but DOF anticipated this situation arising.
165	Sen. Dwyer	Cannot anticipate every situation before it arises.
169	Sen. George	Poses hypothetical where landowner could not prove innocence.
178	Sen. Dwyer	Necessary to devise manner for cooperative fire investigation.
184	Robinson	Generally, landowners cooperate until potential liability becomes an issue.
190	Sen. Dwyer	Landowners have legitimate concern.
196	Sen. George	Anecdotal evidence of complexity of fire investigation issues facing landowners. All parties must be allowed to investigate, not just DOF.
212	Sen. Tarno	Comment regarding crime scene.
214	Sen. George	Fire not yet established to be criminal act.
220	Sen. Ferrioli	Must operate on reasonable man standard, as applied by fire marshall. Discussion of specific incident control measures.
242	Sen. Fisher	Question regarding assurances to landowners.
251	Robinson	Explanations of qualifying language within measure. Explanation of underlying policy and practical need for this proposed legislation. Willing to consider language to protect landowners rights.
295	Chair Kintigh	Requests DOF and Melinda Bruce work together to balance these concerns. Will schedule another hearing once amendments are prepared.
315	Sen. Fisher	Question regarding frequency of conflicts.
319	Robinson	Rare situation, but DOF anticipates future problems.
333	Sen. Tarno	Conflicts arise over culpability issues.
335	Chair Kintigh	Adjourns meeting at 10:52 AM.

Submitted By, Reviewed By,

**Brad Harper Glen Stonebrink,
Administrative Assistant Administrator**

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EXHIBIT SUMMARY

A - Written testimony with attachments, Fred Robinson, Oregon Department of Forestry (17 pp).

B - Sample forms, J. Foster (3 pp).

C - Written Testimony, Mike Miller, Associated Oregon Loggers (1 p).

D - Written Testimony, Dave Babits, Oregon Small Woodlands Association (2 pp).
