

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS - April 8,
1991 Hearing Room E 8 30 a.m. Tapes 93 - 95 MEMBERS
PRESENT: Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair Rep.
Marie Bell Rep. Mary Alice Ford Rep. Tom Novick Rep. Carolyn Oakley
MEMBER EXCUSED: Rep. Lonnie Roberts VISITING MEMBER: Rep. Kevin
Mannix, District 32 Rep. Bob Repine, District 49 STAFF
PRESENT: Randall Jones, Committee Administrator Carolyn Cobb,
Committee Assistant MEASURES CONSIDERED: HB 2017 - Continues
Department of Justice Regulation of Bingo, Lotto and Raffle Games
Beyond June 30, 1991, PH, WS HB 2684 - Prescribes Division of Purse
Money for Off-Race Course Mutuel Wagering on Horse Races Held Outside
This State, PH HB 2685 - Limits Off-Race Course Mutuel Wagering on Races
Conducted at Race Courses Outside This State, PH HB 2854 - Enacts
Interstate Forest fire Suppression Compact, PH

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statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes. . TAPE 93, SIDE A

003 CHAIR MARKHAM: Calls the meeting to order at 8:36 a.m.

HB 2017 - CONTINUES DEPARTMENT OF JUSTICE REGULATION OF BINGO. LOTTO AND
RAFFLE GAMES BEYOND JUNE 30. 1991 - PUBLIC HEARING Witnesses: Jack
Elder, Oregon Sports Action Ross Laybourn, Assistant Attorney General,
Department of Justice Chuck Richards, Oregon Sports Academy House
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Janna Starr, Association for Retarded Citizens of Oregon

010 ROSS LAYBOURN, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE:
Submits and reviews proposed amendments to HB 2017 (EXHIBIT A). Explains
the Department of Justice and Jack Elder of Oregon Sports Action have
agreed to the wording of the proposed amendments. 039 REP. NOVICK: I
see this goes back to 1987. If we enact this bill, what would it make at
this point? 040 LAYBOURN: I do not know, I believe the inflation rate
over the last three years has averaged about four percent. 044 REP.
NOVICK: What was the rationale for going back to 1987?

046 LAYBOURN: I think it was that if the legislature decided that a
million dollars was the appropriate figure in 1987, and if we were going
to adopt the philosophy that it ought to be adjusted for inflation, why
not go back to the original figure. -Resumes review of proposed
amendments.

076 CHAIR MARKHAM: This was put in to keep management from pulling out
too much?

077 LAYBOURN: That is correct. I think the original theory was that
those would be the people in the most likely position to abuse the game.

086 CHAIR MARKHAM: There is agreement between the Attorney General and
the people that operate the games on these amendments?

088 LAYBOURN: We have not had a lot of input from other licensees,
these were offered by Mr. Elder. Our office has no objection to the way
these are drafted.

095 JACK ELDER, OREGON SPORTS ACTION: We have had many hours of discussion on this and felt the few compromises we arrived at would benefit all games in general.

097 CHAIR MARKHAM: How does this affect the local Lions Club that runs a small game once a week?

100 ELDER: A small game is not going to be impacted at all.

102 REP. BELL: I am not clear about the lottery and what we are talking about here.

114 ELDER: Oregon Sports Action is a non-profit 501(c) 3 organization, not the Oregon lottery "Sports Action". We are an organization for the development of Olympic amateur sport in Oregon. My group operates a bingo game and then uses those monies to provide office space for non-profit organizations. In addition I thought I might clarify a couple of points about the inflation increase. Four percent of the net is no longer going to whatever charitable purpose the organization was established for. Each year the amount going to the organization in that inflationary increase, is being reduced. This will allow those 1987 dollars to continue in the

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same amount they were going before. In addition, in the discussion of the increase of the hourly wage, you are looking at what is going to be the maximum. Not everyone is going to receive the maximum immediately. In the fifteen hours that were originally established for operating the game, five hours of other time is left to do all of the additional paperwork. The Department of Justice has also made demands on us to increase our oversight and reporting. Currently if we have twenty hours of management time available, and we have put in fifteen hours in operating the game, and five hours in management time, if we get to the twenty first hour we are not allowed to manage. If there is a fire at my building and I have put in the twenty hours for the week, if I go to the fire, is that management time?

160 REP. FORD: What do you do with the money? Is it in a trust?

162 ELDER: In the last one year time period, we have taken all our money and put it into office space. We are providing free office space for a number of non-profit organizations.

176 CHAIR MARKHAM: Give us an example of who takes advantage of your training.

180 ELDER: Currently in our building we have the Oregon Track Association, Oregon Sports Union, Mount Hood Ski Education Foundation, Portland Table Tennis Association, and U. S. Fencing Foundation.

194 JANNA STARR, EXECUTIVE DIRECTOR, ASSOCIATION FOR RETARDED CITIZENS OF OREGON: Submits and summarizes written testimony (EXHIBIT B) asking that a sunset clause for four years be added to the bill, and the allowable expenses be raised to 20% of the annual handle. 293 CHAIR MARKHAM: You are suggesting the next to the last line be worded "not to

exceed 20% "? 299 STARR: Yes. 305 CHAIR MARKHAM: Can you live with
15%? 306 STARR: I am not sure. If our expenses increase as we go into
paying higher wages, and our handle does not increase even though the
limitation may be lifted, then we may be caught where our expenses
exceed 15% of handle. 315 REP. FORD: I want to know how the
Department of Justice feels about the proposed amendments. 328 REP.
NOVICK: My concern is that if we do that, then everyone will move to
20%, and 5% less will go to the worthy causes. 342 STARR: I would
share that concern. In a sense we bring it upon ourselves when we make
the game susceptible to heavier competition. 349 CHAIR MARKHAM: Do
you feel the Attorney General has done a good job in keeping these games
working to the benefit of everyone?

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356 STARR: I would really want the Commission to continue to come under
review by the Legislature. I am not so sure other smaller organizations
around the state have the opportunity for input we have. It is a lot for
the Commission to keep on top of and I would like to see them ask for
more input from all around the state more often.

378 CHAIR MARKHAM: I have never been particularly enamored of sunset
clauses. I think the Attorney General is a good backup to the whole
system, and you are asking for more protection by the sunset.

395 CHUCK RICHARDS, PRESIDENT, OREGON SPORTS ACADEMY: Expresses support
of the printed amendments (EXHIBIT A). Our bingo proceeds go to a
variety of amateur sport activities, primarily to individuals for
training, travel, and equipment.

417 CHAIR MARKHAM: If an individual athlete needs help with expenses in
order to compete, can they come to you for financial assistance?

420 RICHARDS: Yes they can. We support seven different sports. When the
law was established in 1987 it seemed like a good rational process.
Describes how expenses have gone up. The adjustment of the expense
limitation needs to be retroactive. I think the State of Washington has
an 18% limitation on their expenses. Fifteen percent keeps us on our
toes, but it might be a little bit tight. Another factor we have to deal
with is some of our snack bar costs. They add 1.5% to our normal bingo
expenses and I do not think that is fair. I think to exclude the snack
bar is a really good idea and it would alleviate part of the problem of
the expenses. The sunset provision is not a bad idea.

TAPE 94, SIDE A

061 CHAIR MARKHAM: Do you favor raising the expense limitation from
15% to 20%?

062 RICHARDS: I would not favor it, but take the snack bar
consideration out of it, and raise it based upon the rate of inflation.

068 CHAIR MARKHAM: What are you recommending?

069 RICHARDS: I would recommend the 15% be adjusted by the rate of
inflation each year.

079 LAYBOURN: The 15% is in the statute so a amendment would be required. There was not a lot of effort put into determining if it was a reasonable figure. Over time, I have come to the opinion that the Legislature did amazingly well in arriving at a figure. Most of the organizations come in under the 15%, although many are in the 13% to 15% range. Those that exceed the 15% must by rule be given a conditional license for the next year, after filing a plan to get back into compliance. To date, we have not been in the position of revoking or denying licenses because of their inability to figure out how to stay under the 15% limit.

106 REP. FORD: But with the increase in the minimum wage, it is going to be more and more difficult. Would you have any objection to the Department being able to establish that by rule under inflationary guidelines?

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110 LAYBOURN: The problem I have is what we are doing with the other amendments and raising the 15% cap. Particularly with respect to the larger organizations, if they are going to increase their expenses, then let us allow them to increase their revenues. The question is, can the small organizations take advantage of the increased revenue cap which will in turn increase their allowed expenses. I am a little hesitant to say lets build in an increment for inflation. The Attorney General has been more interested in allowing an increase in the handle than jumping to 20% on the expenses. If you jump to 18% or 20%, I think you will see expenses rise to that level. -I have not talked with the Attorney General about the sunset provision. The Department of Justice is very comfortable in administering this program as it exists today. As long as we have this limited activity as it exists now, it is a function we are comfortable performing. If the legislature decides to legalize more forms of non-profit gaming, and give regulatory authority to someone, then at some point the Legislature ought to consider a gaming commission. If it is just raffles and bingo, I question whether there needs to be a requirement to come before the legislature every two or four years.

173 CHAIR MARKHAM: The legislature is going to hold you accountable whether there is a sunset or not.

175 LAYBOURN: That is correct.

HB 2017 - CONTINUES DEPARTMENT OF JUSTICE REGULATION OF BINGO, LOTTO AND RAFFLE GAMES BEYOND JUNE 30. 1991- WORK SESSION

185 MOTION: REP. SOWA moved to adopt the amendments presented by the Department of Justice and Jack Elder dated 4/8/91 to HB 2017 (EXHIBIT A), subject to review by legislative counsel.

192 CHAIR MARKHAM: Hearing no objections, it is so ordered.

HB 2685 - LIMITS OFF-RACE COURSE MUTUEL WAGERING ON RACES CONDUCTED AT RACE COURSES OUTSIDE THIS STATE - PUBLIC HEARING Witnesses: Steve

Barham, Executive Director, Oregon Racing Commission Don Johnson, Oregon Racing, Incorporated Dave Nelson, Racing Division, Oregon Quarterhorse Association Russ Spencer, Oregon Racing, Incorporated

202 DAVE NELSON, RACING DIVISION, OREGON QUARTER HORSE ASSOCIATION: Submits and summarizes written testimony (EXHIBIT C) in support of the bill.

TAPE 93, SIDE B

034 REP. NOVICK: You mentioned some concern with the Birmingham case, in my experience it is relatively easy to get a temporary restraining order. What has happened since then?

036 NELSON: It is still in court and it has not been settled. .

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039 REP. NOVICK: What you would like us to do would cause a net loss of revenue of about \$200,000.

045 NELSON: The preparation of the fiscal impact statement cannot take into consideration anticipated increases in live track handle which would generate the same amount of money. Only assuming the reduction, the fiscal impact statement is accurate. If you include an assumption that doing away with some of the simulcast wagering will move wagering back to the live race days, then revenue would be recaptured by the same percentages.

071 STEVE BARHAM, EXECUTIVE DIRECTOR, OREGON RACING COMMISSION: The logic I went through to figure out the fiscal impact has been correctly stated. The counter argument that the money would move to live performances probably has some merit. How much I do not know, so I stated the worst case loss amount. When the off-track wagering bill went through, revenue was not predicted. 084 VICE CHAIR SOWA: Do you think live racing monies have been damaged permanently or for several years by this experiment? 090 NELSON: I believe there is some term length effect of live racing attendance and participation, which will take a year or two to be recaptured. Racing is the entertainment business and it competes with other activities for the public's disposable income. It has to be aggressively marketed. 103 REP. FORD: What happened in the two years prior to when simulcast began? 112 NELSON: Those seasons in my recollection were in a modest growth pattern. The Legislature had given tax relief to Portland Meadows, lowering the overall tax rate from an average of 4.95% down to a flat 2% during the 1987 session. The fortunes of Portland Meadows were probably on the rise. 135 REP. BELL: What would a fiscal impact statement look like if we do not pass this bill? 142 NELSON: I think you would have to make more assumptions about the future of Portland Meadows after their Chapter 11 bankruptcy than I can make. If Portland Meadows does not operate, then the fiscal impact would be a negative \$500,000 to \$750,000. The impact on the horsemen would be very negative. No one wants to see Portland Meadows not succeed, but it has to be in a manner that both the horsemen and the race track can live with. 163 REP. NOVICK: Does the Racing Commission support or oppose this bill? 169 BARHAM: The Chair and the Vice Chair are here and policy type questions should be directed to

them. The Commission is neutral or weakly opposes this bill. The Birmingham issue came up after the Commission looked at the bill. Our Assistant Attorney General has told us that either position would be legally defensible. 190 REP. FORD: Will this affect the kennel club also? 202 NELSON: I have discussed the bill with Multnomah Kennel Club and they are not opposed to

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the bill.

211 RUSS SPENCER, OREGON RACING, INCORPORATED (PORTLAND MEADOWS): To say there is some disagreement over this bill would be an understatement.

219 DON JOHNSON, PRESIDENT, OREGON RACING INCORPORATED (PORTLAND MEADOWS): The Chapter 11 bankruptcy was filed because of a provisional process case that was a decision handed down by Judge John Warden. In order to get a jury trial the stockholders of Oregon Racing, Inc. decided to file the Chapter 11 to stay the orders until the disputes could be settled. To imply the bankruptcy was the result of simulcasting is incorrect. -We met with the Horsemen's Benevolent and Protective Association who voted to oppose this bill. They represent a majority of the horse owners who run at the track. -Simulcasting became a new tool in increasing revenue. We may not have found the proper distribution for that new revenue. It will be negotiated with the horsemen before we go back to the State Racing Commission with a signed agreement for next year's racing season. Each year when we sign one of these agreements, they are predicated on projections for the upcoming season. Placing the blame of purses being down solely on the simulcasting is somewhat of an apriori statement. We also have a bigger problem this year in that Yakima Meadows is simulcasting into the Seattle area and just north of our border. Reducing some of our options when we negotiate with the horsemen's group, may hinder us even more in trying to combat some of our problems. -In the Birmingham case that was cited, they were granted a ten day temporary restraining order. I am not sure the specifics of that case would apply to the Oregon situation.

367 VICE CHAIR SOWA: This bill does not take away simulcast, it just takes it away on the days live racing is running.

373 JOHNSON: It also limits the number of simulcasts. We have had some projections that indicate you do not get all the money back no matter what you do.

391 VICE CHAIR SOWA: This still allows you to broadcast in satellite locations around the state.

396 JOHNSON: It would not limit the number of off-track wagering facilities, but it would impair our program as far as bringing programs in from out of state.

418 CHAIR MARKHAM: Recesses meeting at 9:57 a.m.

-Resumes meeting at 10:08 A.M.

TAPE 94, SIDE B

HB 2684 - PRESCRIBES DIVISION OF PURSE MONEY FOR OFF-RACE COURSE MUTUEL WAGERING ON HORSE RACES HELD OUTSIDE THIS STATE - PUBLIC HEARING

Witnesses: Rob Douglas, Oregon Thoroughbred Breeders' Association Don Jackson, Southern Oregon Horse Racing Association Don Johnson, President, Oregon Racing, Incorporated Dave Nelson, Racing Division, Oregon Quarter Horse Association Bob Repine, State Representative, District 49

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Alan Westoff, Manager, Josephine County Fair

015 DAVE NELSON, RACING DIVISION, OREGON QUARTER HORSE ASSOCIATION: Explains HB 2684 was introduced to solve the problem of division of revenues from simulcast racing at Portland Meadows. That problem has now been solved through negotiations between Portland Meadows, the Thoroughbred Horsemen, the Quarter Horsemen and Oregon Racing Commission. The purpose of the bill is no longer needed. -The Josephine County Fair and the Southern Oregon Horse Racing Association have the operates one of the most successful fair race meets in the state. They propose what they propose looking at the simulcast wagering law in Idaho and what the Laboy race track in Boise has done. That is to run simulcasts at the opposite time of the year, and put the revenue into improving the racing facility and purses. We want to run the concept by the committee and if there is sympathy for the idea, we will go to Legislative Counsel to have the necessary amendments drafted. 067 BOB REPINE, STATE REPRESENTATIVE, DISTRICT 49: Gives recent history of the Josephine County Fair. They are trying to diversify the use of the fair grounds to year around activity. This would be an opportunity during the off-season to bring in additional revenue. This authority would apply only to Josephine County. 116 CHAIR MARKHAM: You would like to have a sports club on the fair grounds where you already have a liquor license, so it would produce revenue for both the fair and the horses. 121 REP. REPINE: That sums up what we have available and how we believe we can deliver the service.

124 REP. BELL: How does your racing season compare with others around the state?

127 REP. REPINE: We are probably the second largest racing event at a fair grounds in the State of Oregon.

131 REP. BELL: Off-season would not compete with any other live racing?

134 REP. REPINE: Only Portland Meadows operates at the same time, and it is outside the 200 mile ring.

144 REP. NOVICK: I assume if we do get past the conceptual stage, you would not mind some sort of limit on the number of days.

149 REP. REPINE: Some of the technicians will be able answer what kind of time frame would be involved.

155 DON JACKSON, SOUTHERN OREGON RACING ASSOCIATION: The bill would only be for Grants Pass. Will seek Legislative Counsel amendment to HB 2684. We propose to put half of the net into purses and the other half into racing facilities. When people would bet at Grants Pass, they would get the same payoff as if they were betting live at Bay Meadows or Golden Gate Park. We would have to pay 3.5% for the signal and the rest would be kept. At our race meet at Grants Pass during the '70s and '80s we made \$25,000 or \$30,000 net each year. The last three years we are not much more than breaking even. Simulcasting from the Bay ~ . These minutes contain materials which paraphrase and/or summarize stateracats made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceed IgS, please refer to tbe tapes. Howe Committee on State and Federal Affait s April 8, 1991- Page 9

area would give us money to continue a first class live race meet. It would be supervised by the Oregon State Racing Commission, the same as live racing. The State of Oregon would get the same revenue as they do from the live meet. It is a good business for our area.

265 ALAN WESTOFF, MANAGER, JOSEPHINE COUNTY FAIR: The economic impact this has on Grants Pass and Josephine County is almost immeasurable. A seventy five to one hundred day race meet has somewhere in the vicinity of a \$2.5 million economic impact on our area. We expect the fair will get no more county aid. We want to enhance live racing.

300 REP. BELL: If you are using this 250 mile radius exclusion, why would it not be appropriate for other county fairs to do the same thing?

307 JACKSON: The only ones to have simulcasting are those that have a live race meet. We want to protect the live race industry.

314 WESTOFF: Klamath Falls has a county fair meet and so does Prineville.

320 NELSON: There are probably six or seven other small meets around the state where it does not seem appropriate for this type of activity.

336 REP. NOVICK: What is the current purse for the twenty three day racing season?

340 WESTOFF: About \$220,000. 346 REP. NOVICK: Boise in 165 days only generated \$100,000. What will adding 165 days add to the purse?

450 WESTOFF: I would like to think we could add from \$25,000 to \$50,000 to the purse account.

358 REP. NOVICK: So you think Grants Pass would generate about 50% of what Boise does?

360 WESTOFF: We average about 1,400 people a day. Within two to three years we would approach what Boise has done in their first year.

378 ROB DOUGLAS, OREGON THOROUGHB RED BREEDERS ASSOCIATION: You will hear opposition to this concept from those who feel it will hurt their operations. I would encourage sending this proposal to Legislative Counsel for drafting. Without live racing we do not have a market for our thoroughB red horses. We urge you to advance the proposal.

424 DON JOHNSON, PRESIDENT, OREGON RACING INCORPORATED: Several points are unclear as to why it will not conflict with our racing, since we have an off-track betting facility in Medford. But I am sure it can be worked out.

TAPE 95, SIDE A

HB 2854 - ENACTS INTERSTATE FOREST FIRE SUPPRESSION COMPACT - PUBLIC HEARING Witnesses: John Bora, Fire Operations Coordinator, State of Oregon, Department of Forestry

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Martin Desmond, Northwest Reforestation Contractors Association Denis Dowd, State of Oregon, Department of Corrections Kevin Mannix, State Representative, District 32 Mike Miller, Executive Vice President, Associated Oregon Loggers

025 KEVIN MANNIX, STATE REPRESENTATIVE, DISTRICT 32: It is the desire of the Department of Corrections to make more effective use of prison inmates in fighting forest fires, and to cooperate with adjoining jurisdictions in making use of their inmates in fighting fires. HB 2854 moves us toward greater employment of inmates, particularly in border regions where there is concern about inmates going across state lines during the course of fighting a forest fire. Forest Fires do not stop at the state lines. -Describes problems to be addressed when inmates are working across state lines. The ultimate corrections authority will be exercised by the sending state.

067 REP. NOVICK: How are inmates chosen to work on fire crews and what kind of training do they receive?

075 DENNIS DOWD, STATE OF OREGON, DEPARTMENT OF CORRECTIONS: The inmates chosen are minimum security inmates and they are trained by the Forestry Department. Submits written testimony (EXHIBIT D) in support of the measure.

089 MIKE MILLER, EXECUTIVE VICE PRESIDENT, ASSOCIATED OREGON LOGGERS: Supports the use of inmate crews when appropriate. -It is my opinion that this type of interstate compact may require congressional approval. -Under definitions it talks about the use of inmate crews on federal lands, which is prohibited. -Private suppliers of crews sometimes provide certification under the National Incident Command System involving some stringent requirements. -Inmate use is appropriate only after every reasonable effort is made to use private sources of personnel and equipment. -There has been some concern expressed because of the security problems involved. -Because of disruptions in the logging industry, there may be a desirable option of using logging crews during periods of fire fighting need. To replace them with inmate crews would be unacceptable. 154 REP. NOVICK: Department of Forestry has come back to the Emergency Board on a regular basis asking for more money. To utilize inmates at less cost is somewhat attractive.

173 MILLER: It is attractive to use inmates. But if loggers are out of work, there may be demands on other state agencies such as Human Resources for benefits. When you have a fire situation that requires inmate use, generally the local logging crews are utilized. If it became the practice to move inmate crews back and forth across state lines because they are cheap, then we would have a problem. 188 REP. BELL: What do you want to see happen to this bill? 190 MILLER: I think the bill would be acceptable with some amendments that would speak to the

state making every reasonable effort to utilize local resources of private enterprise, and not

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substitute inmate labor on a regular basis.

194 MARTIN JACK DESMOND, NORTHWEST REFORESTATION CONTRACTORS: Submits and summarizes written testimony (EXHIBIT E) suggesting changes in the bill. 215

VICE CHAIR SOWA: The conflict of prison labor with the private enterprise system is the reason we do not have a very well run and effective inmate labor force in our prison systems in Oregon today. I hope when amendments are drawn, it is kept in mind that if we are going to use everyone else before we use inmates, we are going to be where we are now with inmates sitting in state institutions who are not allowed to do anything because they would be interfering with other people's jobs. Not that I want to interfere with other people's jobs, but we have to have a balance somewhere. 222

JOHN BORO, FIRE OPERATIONS COORDINATOR, STATE OF OREGON, DEPARTMENT OF FORESTRY: The Oregon Department of Forestry supports HB 2854 from the standpoint of a potential additional fire fighting resource. -Normally we do attempt to exhaust other fire fighting resources in large fire situations, before going to out of state resources. In seasons like 1987, we would like to have this as an additional resource. -Traditionally Oregon inmates are used in larger fire situations, where we can use them for the duration of the fire and then keep them for mop up operations. They are trained by our fire district firemen. 267

REP. MANNIX: Proposes amendments which would add a new Section 4. 286 DOWD: My understanding is the Forestry Department does not use any inmates until other resources have been used. 294

REP. MANNIX: Then it makes more sense to say the Director of the Department of Forestry shall make reasonable efforts.

295 BORO: I do not have any problem with that as long as it does not lock us into total use of all of Oregon before we go to inmate crews.

313 REP. MANNIX: This is not an interstate compact that affects elements of federal regulation, so it should not require congressional approval. Submitted by: Jones Assistant Reviewed by: Carolyn Cobb Randall Administrator

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EXHIBIT LOG:

A - Amendments to HB 2017 - Ross Laybourn - 8 pages B - Testimony on HB 2017 - Janna Starr - 2 pages C - Testimony on HB 2685 - Dave Nelson - 6 pages D - Testimony on HB 2854 - Denis Dowd - 2 pages E - Testimony on HB 2854 - Martin Jack Desmond - 3 pages

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