Senate Judiciary Committee
Chair, Senator Floyd Prozanski
900 Court St. N.E.
Salem, OR 97301

February 4, 2026

Re: National Ski Areas Association's Opposition
Testimony to Senate Bill 1517

Dear Senator Prozanski,

On behalf of the National Ski Areas Association, I am providing this testimony in strong opposition to Senate Bill 1517 (SB 1517), which if enacted, would *expand* liability exposures for ski areas in Oregon, and actually *increase* liability insurance costs for Oregon's 12 ski areas. Given Oregon's insurance crisis impacting *all* providers of indoor and outdoor recreation—and the resulting affordability crisis affecting recreation across the state—members of the Senate Judiciary Committee should oppose SB 1517.

Since 1962, the National Ski Areas Association (NSAA) has been the national umbrella trade association representing the 480 ski areas across the U.S. in 37 ski states, including the 12 ski areas in Oregon. NSAA also represents the interests of manufacturers and vendors who operate in the ski industry, including chairlift manufacturers, snowmaking equipment, snowcat groomers, industry insurance companies, sport equipment manufacturers, and hundreds of other vendors who supply ski areas. NSAA provides industry education opportunities for ski areas and vendors, and we conduct injury research and provide information to the public and media on the inherent risks of skiing and snowboarding. We also advocate and educate legislators at the state and federal levels, as well as other regulatory agencies, impacting the ski industry, including SB 1517.

In my role as the Director of Risk and Regulatory Affairs, I oversee legislative issues and monitor legal issues impacting ski area operators, which gives me unique insights on how 37 ski states regulate the industry and the sport. I also work closely with ski industry insurance companies and attorneys who represent ski areas in lawsuits. Compared to other 36 ski states, proposed SB 1517 in Oregon would negatively impact ski areas in the state, *expose ski areas to expanded liability*, and will *actually deepen the insurance crisis* in Oregon which has slammed all recreation providers since the Oregon Supreme Court ruled in 2014 in Bagley vs. Mt. Bachelor that recreational releases or waivers of liability violate public policy.

Senate Bill 1517 is a stark deviation from how the other ski states regulate ski areas—for good reason, because SB 1517 is entirely unworkable, impractical, and would not remotely address the decade-long insurance crisis hurting all recreation providers in Oregon. As you are aware, Oregon is the lone outlier on enforcing releases of liability for ordinary negligence in the West—**every other western state enforces releases of liability for recreational activities**, **except Oregon.** Senate Bill 1517 purports to allow release enforceability, but only in very specific and limited circumstances, with gaping exceptions that would effectively make releases worthless under the legislation. No other ski state approaches liability releases with so many carveouts like SB 1517, and this bill proposal would *actually expand* overall liability exposure for ski areas. For more than a

decade, NSAA has worked closely with the 12 Oregon ski areas and the Oregon legislature involving numerous bills to enforce releases, and help the legislature understand the depth and extent of the insurance crisis in Oregon resulting directly from the Bagley ruling that held that releases violate public policy.

Notably, Oregon is also a stark outlier as it relates to *federal law* on releases of liability. On January 4, 2025, President Biden enacted a new law titled Expanding Public Lands Outdoor Recreation Experiences Act, commonly known as the EXPLORE Act, which passed both the U.S. House and the Senate *unanimously*. Notably, the Act specifically authorizes concessionaires, guides, and other recreational providers operating pursuant to special use permits on federal lands to have guests execute liability releases, and specifically prohibits any federal land agencies from denying recreational providers the right to use liability releases for recreational activities. Indeed, the statute specifically references the economic importance of outdoor recreation in the U.S, *citing the $1.2 trillion economic impact outdoor recreation has on economies.* Indeed, nearly all of the 12 Oregon ski areas operate on either U.S. Forest Service land or BLM Land, and SB 1517 would prevent Oregon ski areas from benefitting from this new federal legislation. As a result, Oregon ski areas will be far less competitive than ski areas in other western states, the vast majority which operate on federal lands.

Because SB 1517 carves out so many gaping exceptions to the enforceability of releases, the bill would not have the slightest impact on liability insurance premiums affecting all recreation providers in Oregon—which has been at the impetus for all the previous proposed bills on releases in Oregon for the last decade. Safehold Special Risk insurance, one of the two major insurance companies in the ski industry, has testified repeatedly before the Oregon legislation to underscore how serious the insurance crisis is in Oregon. According to previous testimony, Safehold has testified that due to the lack of enforceable releases, it had to entirely pull out of the Oregon insurance market, leaving only one other ski industry insurer in the state, MountainGuard. In fact, Safehold testified that in the 37 ski states where they insure ski areas, 50 percent of all the costs and settlements nationally for Safehold come from Oregon. Let that sink in: Oregon *alone* represents 50 percent of Safehold's national costs in ski area claims, with the other 50 percent coming from all the other 36 other ski states combined! At Timberline ski area, their liability insurance has seen a 600 percent spike in premiums in just the last five years, which is entirely the result of unenforceable releases.

More importantly, Oregon's ski areas have some of the most sophisticated operations and practices in the industry. Indeed, according to research conducted annually each season, Oregon's rate of catastrophic injuries is some of the lowest in the entire country, and far below the national average in the ski industry. According to NSAA research, nationally, in the last ten ski seasons, ski areas in the U.S. experienced on average 0.74 catastrophic injuries per one million skier visits. In Oregon, that rate is far, far lower than the national average, with a catastrophic injury rate in Oregon of 0.16 catastrophic injuries per one million skier visits. Simply put, the national catastrophic injury rate is nearly five times higher than Oregon's injury rate, reflecting an impressive safety culture at Oregon ski areas.

Moreover, it should be emphasized that SB 1517 would not remotely ameliorate the deteriorating insurance climate for Oregon ski areas. Safehold Special Risk and MountainGuard provide liability insurance for ski areas across the U.S., and that liability insurance covers *all* liability exposures under one single liability

policy. The liability insurance does not solely cover skiing and snowboarding—it extends to races and competitions, lessons, rentals, premises incidents, terrain parks, and, importantly, a wide range of summer activities, including mountain biking, zip lines, mountain coasters, rafting and guiding operations, and special events. *This is covered under one single liability policy.* Because SB 1517 has so many glaring exceptions to the enforceability of releases, this bill would do nothing to address this long-standing insurance crisis in Oregon.[1]

Members of the Senate Judiciary Committee should oppose SB 1517, especially given the depth of strong opposition from the Oregon ski areas for that proposed legislation. Instead, NSAA encourages the legislature to adopt release enforcement legislation—Senate Bill 1593 (ORCA)—which is currently proposed by Sen. Meek, Rep. Levy, Rep. Jeff Helfrich, and Rep. Wallan, as well as a broad, bi-partisan group of senators and representatives in the Oregon legislature. In fact, last session's proposed legislation on liability releases had more co-sponsors than *any other piece of legislation proposed in that term*.

Skiing and snowboarding are inherently risky activities—as are most recreational activities—and guests purposefully pursue these activities fully aware that these risks that cannot be entirely mitigated or eliminated from these activities. Like all other western states, Oregon public policy should reflect these inherent risks and the personal accountability of guests involved in these sports. NSAA strongly encourages the Oregon Judiciary Committee to support Senate Bill 1593, and oppose Senate Bill 1517, so that <u>*all*</u> Oregon recreation providers may have access to affordable insurance, allowing, in turn, Oregon families to have access to affordable recreation.

Sincerely,

/ s / Dave Byrd

Dave Byrd
Director of Risk & Regulatory Affairs
National Ski Areas Association

[1] Furthermore, ski areas in Oregon are facing a separate insurance crisis related to *property insurance*, which has separate premiums and policies apart from liability insurance coverage. Ski areas are doubly impacted by the crisis related to property insurance, especially in the West, given the huge spike in wildfires and other natural disasters stemming from climate change. Because ski areas are located in heavily forested and rural communities, ski areas are especially prone to the risk of wildfires, resulting in ski areas across the West experiencing quadrupling and quintupling of property insurance premiums over the last few seasons. Given the dual threat to both types of insurance, the ski industry has long sought legislation that would help improve the insurance market in Oregon. Senate Bill 1517 does absolutely nothing to improve this troubling insurance climate.