

State of Oregon

Emergency Board

September 21 & 22, 2006

List of

Emergency Board Letters

September 2006 EMERGENCY BOARD LETTERS

Item	Agency	Subject	General Fund	Other Funds	Federal Funds	Lottery Funds	Pos/ FTE
ELECTED OFFICIALS							
JUDICIAL							
1	Judicial Department	Retroactive approval to apply for two juvenile court improvement grants; increase Federal Funds expenditure limitation for receipt of the grants and establish two limited duration positions			298,354		2/0.75
2	Judicial Department	Increase Other Funds expenditure limitation and establish five limited duration positions to spend grant funds awarded by the Criminal Justice Services Commission		275,034			5/1.29
3	Public Defense Services Commission	Report and allocation of GF in order to meet constitutionally and statutorily mandated caseloads through the end of the biennium.	7,853,000				
EDUCATION							
4	Dept. of Education	\$1.2M for academic assessment improvement federal grant			1,200,000		
** 5	Dept. of Education	Early Intervention/Early Childhood Special Education caseload funding	3,009,549				
6	Dept. of Education	Retroactive approval of grant application - \$5.0 M for Effective Behavioral and Instructional Support System					
7	Department of Higher Education	Shift \$7 million of \$12 million Other Funds approved for construction of the Oregon State University Veterinary Medicine Large Animal Hospital from Other Revenues to Article XI-F (1) bonds.					
8	Department of Higher Education	Increase the Other Funds (Other Revenues) capital construction expenditure limitation for the Oregon Institute of Technology Center for Health Professions by \$1 million.		1,000,000			
9	Department of Higher Education	Establish Other Funds capital construction expenditure limitations of \$33 million (Article XI-F (1) bonds) and \$6 million (Other Revenues) for phase two of the Oregon State University Reser Stadium project.		33,000,000			
HUMAN RESOURCES							
10	DHS - PH	Grant retroactive approval - Support Oral Health Workforce Activities Program					
11	DHS - OMAP	Oregon Health Plan Demonstration Waiver Renewal report					
12	DHS - SPD	Grant retroactive approval - Empowering Older People to Take More Control of their Health Through Evidence-Based Prevention Programs: A Public/Private Collaboration					
13	DHS - OMHAS	Report on Oregon State Hospital actions to improve patient safety and care as requested by January Emergency Board.					
14	DHS - SPD	Medicare Modernization Act (MMA) Implementation Update report					
15	DHS - OMAP	Grant retroactive approval - Medicaid Transformation Grant					
16	DHS - OMHAS and DAS	Planning for development of a new Oregon State Hospital Facility (joint request by DHS and DAS)		1,014,999 159,398			3 pos/ 1.10 2 pos/ 0.76
17	DHS - SPD	Grant approval - CMS Money Follows the Person Rebalancing Demonstration					
18	DHS	Implementation of DHS Operations Review Recommendations including Cash Flow report					
PUBLIC SAFETY							
19	Department of Justice	Request General Fund for unfunded workload in the Defense of Criminal Convictions program (DCC)	994,819				
20	Department of Justice	Request General Fund for litigation costs to protect Oregon's interest in the Tobacco Master Settlement Agreement (MSA) payments	2,500,000				
21	Department of Corrections	Request for expenditure limitation for US DOJ grant award: "Protecting Inmates and Safeguarding Communities." Part of federal prison rape elimination act compliance.			1,000,000		
22	State Police	Report on vacant and double-filled positions, agency financial status					
23	OSP/DPSST	Report on integrating OSP recruit training into basic training provided at new DPSST academy and evaluation of continued need for Camp Rilea facility for additional training not supplied by the academy.					
24	DPSST	Report on curriculum development, new academy costs, strategic plan development.					
25	Oregon Military Department	Establish Capital Construction Federal Funds expenditure limitation for construction of the McMinnville Armory tube storage building			725,000		

Item	Agency	Subject	General Fund	Other Funds	Federal Funds	Lottery Funds	Pos/FTE
26	Oregon Military Department	Establish Capital Construction expenditure limitation for construction of the Boardman Machine Gun Range		200,000	3,990,000		
27	Oregon Military Department	Funding to purchase 17.91 acres of land adjacent to Camp Rilea		600,000			
ECONOMIC AND COMMUNITY DEVELOPMENT							
28	Real Estate Agency	Increase Other Funds expenditure limitation and establish 9.78 FTE to continue agency operation for the last eight months of the biennium		2,507,701			0/9.78
29	Employment Department	Report on the Child Care Contribution Tax Credit					
NATURAL RESOURCES							
30	Parks and Recreation	Increase Lottery Funds Expenditure limitation for trails, paving and the State Fair				2,006,000	
31	Parks and Recreation	Increase Other Funds expenditure limitation for Stub Stewart State Park and Garrison Lake		1,550,000			
32	Parks and Recreation	Increase Other Funds limitation for water facilities projects		510,561			
33	DEQ	Authorization to apply for a federal grant for Brownfields abatement					
34	DSL	Increase Federal Funds expenditure limitation for acquiring a conservation easement near Eugene			412,000		
35	DSL	Increase Other Funds expenditure limitation for contractual payments to removed the shipwrecked New Carissa from the beach		18,000,000			
36	DOGAMI	Increase Other Funds expenditure limitation for geologic survey grants and mined land reclamation work.		589,000			
** 37	Department of Agriculture	Assistance to salmon fisher people	500,000				
38	Department of Agriculture	Canola research	235,000				
39	Department of Agriculture	Nature Conservancy federal grant limitation			700,000		
TRANSPORTATION							
40	ODOT	Debt Service for Connect Oregon and other debt service adjustment				657,642	
41	ODOT	Grant application - retroactive approval - for CDL program					
42	ODOT	Grant application - retroactive approval - for National Historic Covered Bridge Preservation					
43	ODOT	Fuel and materials cost increases		10,000,000			
44	ODOT	Winter Storm damage repair		22,000,000			
45	ODOT	Rebalance related to loss of non-limited budget authority		15,664,536			
46	Aviation	Status update on design and construction of Aviation Salem Office Building					
CONSUMER AND BUSINESS SERVICES							
47	Pharmacy	Report on Prescription Drug Monitoring Program and Pharmaceutical Wholesaler Rules.					
48	BOLI	Report on Budget Note - Request of additional FTE for Prevailing Wage Rate (PWR) unit.		41,635			1/0.38
49	BOLI	Request of increase in Prevailing Wage Rate (PWR) unit expenditure limitation.		400,000			
ADMINISTRATION							
50	Dept of Administrative Services	Request for \$4.1 million increase in OF Capital Construction expenditure limitation to renovate the Eugene State Office Building	--	4,100,000	--	--	--
51	Dept of Administrative Services	Report on Comp Plan changes per ORS 291.371	--	--	--	--	--
52	Dept of Administrative Services	Report on status of Computing and Networking Infrastructure Consolidation (CNIC) project per HB5166	--	--	--	--	--
TOTALS			\$ 15,092,368	\$ 111,612,864	\$ 8,325,354	\$ 2,663,642	

** From Emergency Fund special purpose appropriation or reservation.

State Emergency Board

**September 21-22, 2006
State Capitol**

**Summary Statement of the Financial Position of the State Emergency Fund
as of September 22, 2006**

**Full-Time Equivalent (FTE) Position Limitation Tracking 2005-07
Emergency Board and Department of Administrative Services Actions**

Analysis of Emergency Board Requests

List of Potential Items for Future Meetings

**Department of Administrative Services
Budget and Management Division**

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of September 22, 2006

2005-07 BIENNIUM

I. GENERAL PURPOSE EMERGENCY FUND

2005 Legislative Appropriation	\$30,000,000
Active Reservations	(3,509,549)
Allocations to Date	<u>(15,557,309)</u>
Unreserved and Unallocated Balance	<u><u>\$10,933,142</u></u>

II. STATE EMPLOYEE COMPENSATION CHANGES

2005 Legislative Appropriation	\$130,000,000
1st Special Session Disappropriation	(\$9,000,000)
Allocations to Date	<u>(118,253,888)</u>
Unallocated Balance	<u><u>\$2,746,112</u></u>

III. HOME CARE WORKER COLLECTIVE BARGAINING CHANGES

2005 Legislative Appropriation	\$10,000,000
Allocations to Date	<u>0</u>
Unallocated Balance	<u><u>\$10,000,000</u></u>

IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES

2005 Legislative Appropriations	\$23,800,764
1st Special Session	\$83,300,000
Allocations to Date	<u>(20,974,231)</u>
Unallocated Balance	<u><u>\$86,126,533</u></u>

<u>TOTAL UNRESERVED AND UNALLOCATED BALANCES</u>	<u><u>\$109,805,787</u></u>
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Please see following pages for categorical detail.

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of September 22, 2006

2005-07 BIENNIUM

	DETAIL	TOTALS
<u>I. GENERAL PURPOSE EMERGENCY FUND</u>		
A Chapter 794, sec 1, Oregon Laws 2005		\$30,000,000
B 2005 Legislative Session -- Reservations -- None		0
C Emergency Board Reservations		
1 Department of State Police		
From January 20, 2006 Emergency Board Meeting - #62		
- State Troopers - Available through April 30, 2006		(900,910)
Allocated April 7, 2006		900,910
2 Department of Education		
From June 23, 2006 Emergency Board Meeting - #1		
- Caseload growth for the Early Intervention/Early Childhood Special Education program		(3,009,549)
3 Department of Agriculture		
From June 23, 2006 Emergency Board Meeting - #64		
- Response to coastal salmon fishing disaster		(500,000)
Total Reservations		(3,509,549)
D <u>Allocations to Date</u>		
<u>October 28, 2005</u>		
Military Department		
# 16 - Administration of reintegration and public information services	(248,617)	
Oregon Youth Authority		
# 20 - Improved hiring practices, better training, policy review activities	(334,066)	
Oregon State Police		
# 21 - Public Safety Wireless Infrastructure Replacement Plan	(235,035)	
	(817,718)	
<u>January 20, 2006</u>		
Department of Human Services		
#17 - Oregon State Hospital Portland facility renovation	(2,103,716)	
#17 - Health Services	(7,166,123)	
Department of Justice		
#27 - Oregon Address Confidentiality Program	(75,666)	
Military Department		
#31 - Community Support Program	(426,926)	
Oregon Youth Authority		
#33-Implement Youth Safety and Abuse Prevention Review Committee recommendations	(214,607)	
Department of State Police		
#35 - Administrative services and information management	(40,790)	
#36 - Public Safety Wireless Infrastructure Replacement Plan	(231,013)	
#62 - Patrol services, criminal investigations and gaming enforcement	(659,254)	
Department of Geology and Mineral Industries		
#48 - Statewide Seismic Assessment Needs	(98,000)	
	(11,016,095)	
<u>April 7, 2006</u>		
Board of Parole and Post-Prison Supervision		
#19 - Board of Parole and Post-Prison Supervision - to address AG costs and predatory sex offenders evaluations	(92,237)	
Department of State Police		
#20 - Patrol services, criminal investigations and gaming enforcement - Increase number of state troopers	(900,910)	
Legislative Counsel Committee		
#52 - Legislative Counsel Committee - to establish permanent full-time position and reclassification of positions	(183,778)	
	(1,176,925)	
<u>June 23, 2006</u>		
Department of State Police		
#34 - Emergency Mgmt. State Fire Marshal and Criminal Justice Svcs - development of crisis communication plan	(90,000)	
Department of Administrative Services		
#42 - Operating Expenses	(283,430)	
Department of Land Conservation and Development		
#42 - Planning program	(2,173,141)	
	(2,546,571)	
Total General Purpose Emergency Fund Allocations to Date		(15,557,309)
Unreserved and Unallocated General Purpose Emergency Fund Balance		\$10,933,142

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of September 22, 2006

2005-07 BIENNIUM

	<u>DETAIL</u>	<u>TOTALS</u>
<u>II. STATE EMPLOYEE COMPENSATION CHANGES</u>		
A Chapter 794, sec. 2(1), Oregon Laws 2005		130,000.000
First Special Session - April 2006		
Disappropriation - Chapter 5, Sec. 1, April 2006 Special Session (SB 5644)		(9,000.000)
June 23, 2006 Emergency Board (#56)		(118,253.888)
Unallocated State Employee Compensation Changes Balance		<u>\$2,746,112</u>
<u>III. HOME CARE WORKER COLLECTIVE BARGAINING CHANGES</u>		
A Chapter 794, sec. 3(1), Oregon Laws 2005		10,000.000
Unallocated Home Care Worker Collective Bargaining Changes		<u>\$10,000,000</u>
<u>IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES</u>		
A. <u>Community Colleges and Workforce Development</u>		
1. Integrated K through 16 student data system (chapter 792, sec. 6(1), Oregon Laws 2005)	664.400	
Deduct: Allocations to date -		
January 20, 2006 (#13)	(664.400)	
B. <u>Department of Education</u>		
1. Local Option Equalization Grants Account (chapter 794, sec. 32(1), Oregon Laws 2005)	800.000	
Deduct: Allocations to date -		
June 23, 2006 (#5)	(153.961)	
2. Early Intervention services and early childhood special education programs (chapter 789, sec. 11(1), Oregon Laws 2005)	4,893.114	
Deduct: Allocations to date -		
October 28, 2005 (#1)	(4,893.114)	
3. Pre-K through 16 integrated data systems (KIDS) project (chapter 789, sec. 11(2), Oregon Laws 2005)	1,800,000	
Deduct: Allocations to date -		
January 20, 2006 (#4)	(1,500,000)	
January 20, 2006 (#13)	(300,000)	
C. <u>Department of Higher Education</u>		
1. Development of Integrated K through 16 student data system (chapter 781, sec. 6(1), Oregon Laws 2005)	2,081.250	
Deduct: Allocations to date -		
January 20, 2006 (#13)	(2,081.250)	
D. <u>Department of Human Services</u>		
1. Child welfare staffing and legal representation (chapter 713, sec. 7(1), Oregon Laws 2005)	2,500.000	
Deduct: Allocations to date -		
October 28, 2005 (#10)	(2,497.924)	
2. Increased caseload, increases in cost-per-case and other program needs (chapter 5, sec. 3, April 2006 Special Session)	83,300.000	
Deduct: Allocations to date -		
E. <u>Office of Private Health Partnerships and/or Department of Human Services</u>		
1. OHP Maintenance of Effort (MOE) requirements (chapter 581, sec. 4(1), Oregon Laws 2005)	4,000,000	
Deduct: Allocations to date -		
October 28, 2005 (#15) - Office of Private Health Partnerships	(2,910,293)	
2. OHP Maintenance of Effort (MOE) requirements	(1,089,707)	
Disappropriation - April 2006 Special Session (Chapter 5, Sec. 4, SB 5644)		
F. <u>Criminal Justice Commission</u>		
1. Grants for drug court programs (chapter 707, sec. 1(1), Oregon Laws 2005)	2,500.000	
Deduct: Allocations to date -		
January 20, 2006 (#32)	(2,500,000)	

STATE OF OREGON
 STATE EMERGENCY FUND SUMMARY
 as of September 22, 2006

2005-07 BIENNIUM

	DETAIL	TOTALS
<u>IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES CONT'D</u>		
G <u>Forestry Department</u>		
1. Fire protection expenses (chapter 791, sec. 5(1), Oregon Laws 2005)	3,562,000	
Deduct: Allocations to date -		
April 7, 2006 (#27) - Protection from fire	(2,018,788)	
H <u>Secretary of State</u>		
1. Voters' pamphlet for 2006 primary and general elections (chapter 724, sec. 4(1), Oregon Laws 2005)	1,000,000	
Deduct: Allocations to date -		
June 23, 2006 (#7)	(364,794)	
 Available Unallocated Special Appropriations for Specified Agencies Balance		\$86,126,533
 Total Unreserved and Unallocated Balance		\$109,805,787

**2005-07 FULL-TIME EQUIVALENT (FTE) AUTHORITY LIMIT TRACKING
EMERGENCY BOARD AND DEPARTMENT OF ADMINISTRATIVE SERVICES ACTIONS
September 22, 2006**

PROGRAM AREA/AGENCY	LEGISLATIVELY ADOPTED FTE	EMERGENCY BOARD	BUDGET EXECUTION ACTIONS	TOTAL FTE	EXEMPT FTE
EDUCATION					
Community Colleges and Workforce Dev.	49 70		0 00	49 70	
Education, Department of	441 05	1 84	3 98	446 87	
Higher Education, Department of	11,876 52	4 52	(5 52)	11,875 52	2,087 52
Student Assistance Commission	22 35		0 50	22 85	
Teacher Standards and Practices Comm	21 50		0 00	21 50	
HUMAN RESOURCES					
Blind, Commission for the	44 60		0 00	44 60	
Children and Families, Commission on	29 50		(0 83)	28 67	
Department of Human Services	9,061 51	64 11	13 75	9,139 37	
Office of Private Health Partnerships	51 50		5 30	56 80	
Long Term Care Ombudsman	8 00		0 00	8 00	
Psychiatric Security Review Board	4 75		0.00	4 75	
PUBLIC SAFETY					
Corrections, Department of	4,181.91		(11.30)	4,170.61	
Criminal Justice Commission	6 00		(0 75)	5 25	
District Attorneys and Their Deputies	36 00		0 00	36 00	
Justice, Department of	1,198 25	16 06	(2 95)	1,211 36	
Military Department	429 91	2 49	5 97	438 37	
Parole and Post-Prison Supervision, Bd of	15 00		0 00	15 00	
Public Safety Stnds and Trng . Dept of	134 84		(0 61)	134 23	
State Police, Department of	1,140.07	14 64	4 65	1,159 36	
Youth Authority, Oregon	1,045 21	2 01	0 88	1,048 10	
ECONOMIC & COMMUNITY DEVELOPMENT					
Economic and Community Dev. Dept	115 00	3 58	0 57	119 15	
Employment Department	1,368 12		(11 18)	1,356 94	1,368 12
Fair and Exposition Center, State	10 71		0 00	10 71	
Housing & Community Services Dept.	147 08		(0 08)	147 00	
Veteran's Affairs, Department of	112 50		(1 47)	111 03	
NATURAL RESOURCES					
Agriculture, Department of	368 93	0 76	(3 38)	366 31	
Energy, Department of	84 71		2 81	87 52	
Environmental Quality, Department of	776 57		(2 68)	773 89	
Fish & Wildlife, Department of	1,163 26		(5 29)	1,157 97	
Forestry, Department of	912 69		(1 41)	911 28	
Geology & Mineral Industries, Dept of	36 70		3 01	39 71	
Land Conservation and Develop., Dept. of	66 96	3 42	(0 75)	69 63	
Land Use Board of Appeals	6 00		0 00	6 00	
Marine Board	39 00		0 00	39 00	
Parks and Recreation Department	560 82	9 93	0 47	571 22	
State Lands, Department of	90 68	5.37	0 36	96 41	
Water Resources Department	138 00		0 00	138 00	
Watershed Enhancement Board	26 38		0 00	26 38	
TRANSPORTATION					
Aviation, Department of	16 00		1 92	17 92	
Transportation, Department of	4,562 87	5 50	(16.29)	4,552 08	
CONSUMER & BUSINESS SERVICES					
Accountancy, Board of	7 00		0 00	7 00	
Chiropractic Examiners, Board of	4 50		0 00	4 50	
Clinical Social Workers, State Board of	2 50		0 00	2 50	
Construction Contractors Board	60 38		(0 46)	59 92	
Consumer & Business Services, Dept. of	1,068 47		(10 23)	1,058 24	
Counselors and Therapists, Board of	2 00		0 00	2 00	
Dentistry, Board of	7 00		0 00	7 00	
Health Licensing Office	27 00		0 00	27 00	
Health-Related Licensing Boards	34 70		0 50	35 20	
Investigators, Board of	0 25		0 00	0 25	

**2005-07 FULL-TIME EQUIVALENT (FTE) AUTHORITY LIMIT TRACKING
EMERGENCY BOARD AND DEPARTMENT OF ADMINISTRATIVE SERVICES ACTIONS
September 22, 2006**

PROGRAM AREA/AGENCY	LEGISLATIVELY ADOPTED FTE	EMERGENCY BOARD	BUDGET EXECUTION ACTIONS	TOTAL FTE	EXEMPT FTE
Labor & Industries, Bureau of	108 00		(0 50)	107 50	
Medical Examiners, Board of	34 30		0 00	34 30	
Nursing, Board of	44 25		0 00	44 25	
Psychologist Examiners	3 00		0 00	3 00	
Public Utility Commission	124 00		(0 31)	123 69	
Real Estate Agency	18 52	1 19	0 14	19 85	
Tax Service Examiners, Board of	4 00		0 00	4 00	
ADMINISTRATION					
Administrative Services, Department of	892 74	2 12	7 40	902 26	
Employment Relations Board	12 00		0 00	12 00	
Govt Standards & Practices Comm	3 00		0 00	3 00	
Governor, Office of the	45 50		0 00	45 50	45 50
Advocacy Commissions Office	2 18		0 00	2 18	
Library, State	42 47		0 00	42 47	
Liquor Control Commission, Oregon	211 27	3 75	0 44	215 46	
Public Employees Retirement System	379 00		11 92	390 92	
Racing Commission	12 98		(0 20)	12 78	
Revenue, Department of	1,004 91		(6 36)	998 55	
Secretary of State	198 08	4 38	(1 96)	200 50	200 50
Treasurer of State	74 60		(0 50)	74 10	74 10
	0 00				
	0 00				
LEGISLATIVE BRANCH					
Indian Services, Commission on	2 00		0 00	2 00	2 00
Legislative Administration Committee	103 39		0 00	103 39	103 39
Legislative Assembly	216 95		0 00	216 95	216 95
Legislative Counsel Committee	46 27	0 54	0 00	46 81	46 81
Legislative Fiscal Officer	6 00		0 00	6 00	6 00
Legislative Revenue Officer	18 75		0 00	18 75	18 75
	0 00				
JUDICIAL BRANCH					
	0 00				
Judicial Department	1,851 25	2 97	10 77	1,864 99	1,864 99
Judicial Fitness Commission	0 50		0 00	0 50	0 50
Public Defense Services Commission	55 45		(0 20)	55 25	55 25
TOTALS	47,130.31	149.18	(9.87)	47,269.62	6,090.38
Total Subject to Limitation				<u>41,179.24</u>	
Authorized FTE (3,631,440 X 1.5%)				54,471 60	
< Less Current FTE >				<u>(41,179.24)</u>	
Difference Between Statutory Limit and Current FTE Count:				13,292 36	

Budget
And
Management
Analyses

1
Oregon Judicial Department
Analyst: Freels

Request: Retroactive authorization to apply for and accept two grants from the U.S. Department of Health and Human Services, Administration for Children and Families to continue work on the juvenile court improvement project; increase Federal Funds expenditure limitation by \$298,354 and establish two limited duration full-time positions (0.75 full-time equivalent).

Recommendation: The Oregon Judicial Department is not under executive budgetary control.

Discussion: The Judicial Department has used federal grant funds since the mid-1990s to finance the Oregon Juvenile Court Improvement Project. This project has three objectives:

- Increase the percentage of juvenile cases reaching jurisdictions within sixty days;
- Bring the level of timely permanency hearings held up to the standard of the Child and Family Service Review; and,
- Increase the number of local courts that have developed intergovernmental plans supporting permanency outcomes for children in care.

This request is for two new grants of \$149,177 each that will increase funding for the project by \$298,354 during 2006, with ongoing annual funding through 2010. The Department requested retroactive authorization to apply because of the application date, but they notified the Legislative Assembly within the required 10-day limit prior to the application.

The two new grants will fund increased data collection and analysis that will ensure that foster children's needs for safety, permanency, and well-being are met. Funding will also support training for judges, attorneys and other legal personnel in child welfare cases and conducting cross-training with agency staff and contractors in the child welfare system.

A 25 percent match requirement for the grants is included in the Department budget.

Establishment of two full-time limited duration new positions (0.76 full-time equivalent) is requested; one court Program Analyst and one Management Assistant 2.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 604, Section 4, Oregon Laws 2005, for the Oregon Judicial Department, by \$298,354 for the 2005-07 biennium.

Oregon Judicial Department
Analyst: Freels

Request: Increase Federal Funds expenditure limitation by \$275,034 for Drug Court grants from the Oregon Criminal Justice Commission and establish two full-time and three part-time limited duration Family Court Coordinator position (1.29 full-time equivalent).

Recommendation: The Oregon Judicial Department is not under executive budgetary control.

Discussion: The 2005 Legislative Assembly appropriated \$2.5 million, through a special purpose appropriate, to the Criminal Justice Commission (CJC) to address methamphetamine abuse. The CJC was directed to distribute these funds through a grant program to start or expand drug court programs; none of this funding was to supplant or replace existing drug court funding.

The Oregon Judicial Department applied for and received grants of \$275,034 to increase the number of drug court coordinators in the State. Coordinators will be added in the following counties:

0.38 FTE	Coos County (1.00 FTE effective October 1)
0.38 FTE	Crook & Jefferson Counties (1.00 FTE effective October 1)
0.15 FTE	Deschutes County (0.40 FTE effective October 1)
0.19 FTE	Linn County (0.50 FTE effective October 1)
<u>0.19 FTE</u>	Union County (0.50 FTE effective October 1)
1.29 FTE	

Drug courts involve partners – judges, prosecutors, defense counsel, substance abuse treatment specialists, probation officers, law enforcement and correctional personnel, education and vocational experts, community leaders, and others – working cooperatively as a team to force the offender to deal with his or her substance abuse program. The drug court coordinator is the pivotal person that provides necessary program administration, coordination and evaluation.

The Department is requesting to increase Other Funds expenditure limitation by \$275,034 and 1.29 full-time equivalent limited duration Family Court Coordinator positions to fully expend these resources by June 30, 2007. They plan to request General Fund in the 2007-09 biennium to continue funding for these positions and for additional drug court positions for other courts.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 604, Section 4, Oregon Laws 2005, for the Oregon Judicial Department, by \$275,034 for the 2005-07 biennium.

Public Defense Services Commission**Analyst: Kleiner**

Request: Report on the Public Defense Services Account and reasons for why the caseload model for projecting expenditures has historically underestimated the funding required to sustain it. Allocate \$7,853,000 from the State Emergency Fund in order to meet mandated caseloads through the end of the biennium.

Recommendation: Public Defense Services Commission is not under executive budgetary control.

Discussion: Expenditures in the Public Defense Services Account fund legal representation to financially eligible Oregonians who have a right to counsel under the U.S. Constitution, Oregon's Constitution and Statutes. State employees in the Legal Services Division of the Office of Public Defense Services handle both the majority of criminal and non-criminal appeals.

A model is used to estimate funds needed for non-death penalty, trial-level cases in which a Public Defender is required. The model assumes that death penalty cases and the number of appeals will be proportional to the trial-level caseload. It also assumes no cost increases beyond the cost-of-living-adjustments provided by the legislature. Historically, the agency has projected the caseload accurately. Considering the accuracy of the projection, the Public Defense Services Account should be sufficient.

However, based on the actual spending in the first year of the 2005-07 biennium, expenditure projections will exceed the Account by \$7,853,000. Underestimated funding is due to the fact that appeals funded from the Account haven't remained proportional to the trial-level caseload, the death penalty cases from previous biennia have continued to require funding, and some costs have increased beyond the 2.4% adjusted inflation.

Legal Reference: Allocation of \$7,853,000 from the State Emergency Fund, established by Section 1, Chapter 794, Oregon Laws 2005, to supplement the appropriation made by chapter 552, section 1(2), Oregon Laws 2005, for the Public Defense Services Commission for the 2005-07 biennium.

5
Department of Education
Analyst: Carbone

Request: Allocate \$3,009,549 reserved in the State Emergency Fund for caseload growth in Oregon's Early Intervention/Early Childhood Special Education programs.

Recommendation: Approve the request.

Discussion: The Early Intervention/Early Childhood Special Education (EI/ECSE) program, created in 1992, serves children with disabilities and their families. Program objectives include improving the developmental status and increasing the school readiness of each child. The EI component serves children from birth through age two whereas the ECSE component serves children from age three until the age at which schooling begins (usually age four or five). The ECSE component is federally mandated; the EI component is state-mandated. The Department contracts with providers, mostly education service districts, to deliver the services.

Since the program's inception, growth in caseload has been fairly steady – about five to six percent per year – until 2002-03. Caseload growth in 2002-03 was two percent and caseload actually fell by 0.3 percent for 2003-04. During the 2005 Legislative Session, caseload increases for the 2005-07 biennium were forecasted at about two percent per year. In keeping with past practice, the 2005 Legislature established a special purpose appropriation for these expected increases and directed the agency to provide the Emergency Board with updated data on caseload and federal funding available for the program when requesting allocation of part or all of the \$4.9 million special purpose appropriation.

The Department reported to the Emergency Board in October 2005. At that time, the data indicated that caseload increases during 2005-07 would be greater than the earlier assumptions. Rather than two percent per year, annual increases were expected to be around four to five percent per year. The increase over previous projections was attributed to, in part, the Department's work with program providers after the decline in caseload growth in 2002-03 and 2003-04 – to ensure eligible children are identified and served. The data indicated that the rebound from this decline actually started in 2004-05.

The Emergency Board allocated the entire special purpose appropriation for the EI/ECSE program. However, because of the greater than expected increase in caseload growth, the resulting funding per child was about \$6,800, an amount less than the 2001-03 funding per child. As a result, the Department indicated it might request an additional allocation from the Emergency Board at a later date. It estimated the additional General Fund need at \$7 million, including an inflation allowance of 2.4 percent.

At the June 2006 meeting of the Emergency Board the Department requested allocation of an additional \$3,009,549 which, it estimated, would raise the funding per child from \$6,858 to \$7,023, an amount equal to the funding per child for the 2003-05 biennium. The Department's calculations reflected no change from previous assumptions about the level of federal funding for 2005-07. The Emergency Board deferred action on the Department's request. However it did

establish a reservation of \$3,009,549 and directed the agency to return to the September meeting to request allocation of this reserved amount.

The latest caseload forecast, in August 2006, is nearly identical to the May forecast. Also, there is no additional information which might substantiate a change in the federal funding projection. Therefore, if the requested \$3,009,549 is allocated to the Department, it is estimated that the funding would rise to \$7,020 per child for 2005-07.

Legal Reference: Allocate \$3,009,549 reserved in the State Emergency Fund to supplement the appropriation made by chapter 789, section 2(1), Oregon Laws 2005, for the Department of Education, Early Intervention/Early Childhood Special Education programs for the 2005-07 biennium.

6
Department of Education
Analyst: Carbone

Request: Retroactive authorization to apply for a grant totaling \$5,000,000 from the U.S. Department of Education for the Effective Behavioral and Instructional Support System.

Recommendation: Approve the request.

Discussion: In early July, 2006 the Department of Education (DOE) became aware of a federal grant opportunity that could be used to fund staff training in Oregon schools and education service districts. The application closing date was July 24, 2006, so the agency applied immediately. They failed to submit a timely 10-day notification letter to Legislative leadership. However, they did send notification on August 16, 2006.

If this “State Personnel Development Grant” were awarded, the funds would be used to improve each school’s ability to get the right services to the right kids. In most cases contractors would be hired to train school staff to develop and use a systematic process for matching behavioral and academic support services to their students. This systematic process is being referred to as the Effective Behavioral and Instructional Support System. The training will be offered to schools throughout the state.

This would be a five year grant. It does not require any state match or cost sharing.

Department of Higher Education
Analyst: McGee

Request: Shift \$7,000,000 Other Funds capital construction expenditure limitation approved by the 2005 Legislature for construction of the Oregon State University College of Veterinary Medicine Large Animal Hospital from Other Revenues to Article XI-F (1) bonds.

Recommendation: Approve the request as modified: establish an Other Funds capital construction (Article XI-F(1) bonds) expenditure limitation and transfer \$7,000,000 from the Other Funds (Other Revenues) expenditure limitation established by the 2005 legislature.

Discussion: The Department of Higher Education is requesting a shift of \$7 million of the \$12 million approved for construction of the Oregon State University (OSU) College of Veterinary Medicine large animal hospital from Other Revenues to Article XI-F (1) bonds. The project was approved by the 2005 legislature with funding to be entirely received from gifts and donations. At that time, the university had received a \$5 million gift from the Wayne and Gladys Valley Foundation. The Foundation gift included a \$5 million matching requirement, bringing the total amount the university needed to raise to \$7 million.

In September 2005, OSU reported to the Board of Higher Education that it had the full \$5 million match in hand. The university had received \$3.1 million in donations and \$1.9 million was available in the Animal Disease Research Isolation Facility Bond Sinking Fund. The Fund was originally established to pay debt service on bonds sold in the 1971-73 biennium to construct the isolation facility. The bonds have been fully repaid and the remaining funds are available under Oregon Revised Statute 351.545 for “research related to veterinary medicine”. The university indicated its belief that construction of the large animal hospital constituted “the highest and best use of the balance in the Fund to fulfill the match on this project”. The Board approved use of the funds for this purpose.

The current request would shift the entire project cost, other than the amount that can be funded with the Valley Foundation gift, to Article XI-F (1) bonds. The university has not been able to raise the final \$2 million in time to allow projection completion by fall 2007. Instead, OSU plans to use the \$1.9 million from the sinking fund to pay debt service on the bonds for the first three years and then dedicate the majority of interest earnings on the \$15.4 million Lois B. Acheson Memorial Endowment Fund held by the OSU Foundation to pay debt service for the remaining 22 years. The Acheson Endowment Fund, which includes the \$3.1 million discussed with the Board in 2005, was established to support the College of Veterinary Medicine.

Legal Reference: Establish an expenditure limitation for the Department of Higher Education as the maximum limit for the payment of expenses from proceeds of Article XI-F (1) bonds received for the biennium beginning July 1, 2005 for Capital Construction for the College of Veterinary Medicine large animal hospital at Oregon State University.

Transfer \$7,000,000 Other Funds Capital Construction expenditure limitation made by chapter 787, section 2 (6) (n), Oregon Laws 2005, for the 2005-07 biennium, for the Oregon State University to the newly established Article XI-F (1) expenditure limitation for the College of Veterinary Medicine large animal hospital at Oregon State University.

8
Department of Higher Education
Analyst: McGee

Request: Increase the Other Funds (Other Revenues) Capital Construction expenditure for construction of a health professions facility at the Oregon Institute of Technology by \$1,000,000.

Recommendation: Approve the request.

Discussion: The Department of Higher Education is requesting a \$1 million increase in the Other Funds (Other Revenues) Capital Construction expenditure limitation established by the Emergency Board in January 2006 for the Center for Health Professions at the Oregon Institute of Technology (OIT). At its January meeting, the Emergency Board approved \$11.2 million in expenditure authority, of which \$10 million would be financed with sale of Article XI-F (1) bonds and the remainder with gifts and grants. The additional \$1 million would also be funded with donations.

This facility is part of a two-phase project to double enrollment in allied health education, increase degree and certification programs, hire additional faculty members, and construct a new facility. In its initial phase, the facility will consist of a 41,000 square-foot, three-story building, located on six acres along the eastern edge of the campus. The facility will include classrooms, laboratories, clinical space, offices, and state-of-the art equipment and technology to accommodate expansion of seven health professions programs and an additional 402 students. In the second phase, an additional 40,000 square foot facility would allow enrollment of an additional 350 students. Funds will be requested from the 2007 legislature for phase two construction.

OIT is requesting an additional \$1 million in expenditure authority for this project due to escalating costs of materials and labor. Costs for steel, concrete, and other construction materials have escalated significantly over the past several years; reasons include the building boom in China and the impact of last year's hurricanes. OIT is also experiencing labor shortages due to the volume of construction in southern Oregon; contractors are including costs in their bids to bring workers from outside the local area.

The university has performed several value engineering sessions to manage the overall cost of the project and will be able to reduce the project by 1,000 square feet without negatively affecting academic programs. Options to reduce the project by an additional \$1 million include elimination of a nine office pod and one large classroom. OIT believes this reduction would impact its ability to offer the range of programs planned and threaten enrollment targets. As debt service is to be paid from differential tuition charged to new students entering the health professions programs, failure to realize planned enrollment levels would require the university to redirect other resources to repay the bonds.

Legal Reference: Increase the Other Funds (Other Revenues) expenditure limitation established by the Emergency Board at its January 2006 meeting for the Department of Higher Education by \$1,000,000 for the biennium beginning July 1, 2005, for Capital Construction of a health professions facility at the Oregon Institute of Technology.

Department of Higher Education**Analyst: McGee**

Request: Establish a \$27,000,000 Other Funds (Article XI-F (1) bonds) capital construction expenditure limitation and a \$6,000,000 Other Funds (Other Revenues) capital construction expenditure limitation for the second phase of the Oregon State University Reser Stadium renovation and expansion.

Recommendation: Approve the request.

Discussion: The Department of Higher Education is requesting establishment of two Other Funds capital construction expenditure limitations for the second phase of the Oregon State University (OSU) Reser Stadium renovation and expansion project. Construction is scheduled to begin after the 2006 football season and be completed in stages between the start of the 2007 season and January 2008. The Department is requesting approval of the project prior to the 2007 legislative session to avoid a one-year construction delay and associated cost increases estimated at \$2 million or above. If this request is approved, bid requests for demolition, site utilities, and structural work will be issued in September 2006.

The first phase of the project is nearly complete at a cost of \$91 million, \$23 million less than was authorized by the Legislature. Work included addition of 8,300 new seats, 22 suites, a club area, and a founder's area. The savings resulted from reductions in the number of added seats from the 10,000 originally planned and other structural changes.

Phase two of the project involves the demolition and replacement of the south stands, new rest rooms, built-in merchant and concession areas, new will-call ticket windows, the replacement of the southwest corner gate, a new video board, team meeting rooms, academic space, and workout areas. In addition, the visitor's locker room will be relocated from Gill Coliseum to an area under the west stands. A new 24,000 square foot weight room will be built under the new north stands that will combine the current weight room located on the second floor of the Valley Football Center with a smaller weight room currently located in Gill Coliseum used by all student athletes. A training facility for the wrestling team may also be included in this space.

Debt service of approximately \$4.5 million per biennium on the Article XI-F (1) bonds will be paid with revenues from donations, sale of sponsorships, suite rental income, and endowment interest. The \$6 million in other revenues will also be generated from donations.

Legal Reference: Establishment of an expenditure limitation of \$27,000,000 for the Department of Higher Education as the maximum limit for the payment of expenses from proceeds of Article XI-F (1) bonds received for the biennium beginning July 1, 2005 for Capital Construction for the second phase of the Reser Stadium renovation.

Establishment of an expenditure limitation of \$6,000,000 for the Department of Higher Education as the maximum limit for the payment of expenses from fees, moneys, or other revenues, including Miscellaneous Receipts, excluding lottery and federal funds, collected or received for the biennium beginning July 1, 2005 for Capital Construction for the second phase of the Reser Stadium renovation.

10
Department of Human Services – Public Health
Analyst: Range

Request: Retroactive authorization to apply for Support Oral Health Workforce Activities Grant for funds up to \$300,000 for three years from the U.S. Department of Health and Human Services, Health Resources and Service Administration.

Recommendation: Approve the request, contingent on the agency confirming the commitment of in-kind match from public and community partners if the grant is awarded and when DHS returns to the Emergency Board for expenditure limitation.

Discussion: The Department of Human Services (DHS), Public Health Division, Office of Family Health, Oral Health Program, is requesting retroactive authorization to apply for funds up to \$300,000 for three years. The Emergency Board was alerted on August 9, 2006 of DHS intent to seek approval for the grant entitled, “Support Oral Health Workforce Activities”. The grant application was due on August 14, 2006, based on an announcement released on July 11, 2006. The expected start date of the grant is October 1, 2006. The grant requires 40 percent matching funds that may include an in-kind match. The DHS Oral Health Program presently budgets approximately \$53,000 General Fund per biennium to provide training and consultation in local communities. In-kind funds from private and public partners provide support for training and coordination of dental professionals. These existing services to local communities complement the scope of the grant and will be used to satisfy this match requirement if Legislative approval is granted.

The Oral health program proposes to use grant funding to contract with authorized dental hygienists to provide dental sealant services to approximately 2,100 children per year in roughly 30 targeted schools. In order to prioritize those counties most in need of sealant program services, the OHP created a booklet listing each county’s school districts where 50% or more of the students are on free and reduced lunch.

The number of dental school graduates has declined steadily in the past 20 years. The number of active private practitioners is expected to increase 10.5% through the first 20 years of the 21st century; during that same time, the U.S. Population is expected to increase 17.4%. Dentists who graduated in the mid-eighties will be looking to retire in the next ten years. There will not be enough dentists to replace those who are retiring. On the other hand, the number of dental hygiene graduates is steadily increasing. The ability of a dentist to expand his or her service capacity will lie in part on the ability to delegate tasks to dental hygienists and dental assistants. As a partial response to these professional shortages, the Oregon Legislature authorized dental hygienists the ability to provide dental hygiene services without the direct supervision of a dentist in locations authorized as underserved by the Oregon Board of Dentistry.

The Dental Care Health Professional Shortage Area is 55.6% in Oregon compared to 26.9% nationally. 56% of Oregon children aged 6-8 and over 63% of Oregon’s 9-year-olds have a history of dental caries. Oregon’s children of low-income households have nearly three times more untreated tooth decay than children from higher income homes. One causative factor for

Oregon's higher caries rate is likely its position of 48th of all states in population reached by optimally fluoridated water. Only 20% of Oregon's population has access to fluoridated water systems.

Protective sealants applied to the chewing surface of children's molars reduce the potential of decay and can be applied relatively inexpensively, but are used much too infrequently in Oregon. This grant program will help remove some of the barriers for authorized dental hygienists and create incentives to overcome reluctance to broaden the scope/venue of their traditional role and services. This grant will also allow approximately 2,100 children in about 30 school (having 50% or greater of students on free or reduced lunch) per year the opportunity to receive dental sealants that can greatly reduce potential tooth decay and cavities.

These efforts will improve access to oral health care through a needs-based program that increases the number of trained oral health providers for underserved populations. This grant supports the DHS mission of helping people become healthy by ensuring access to basic oral health preventative services by helping establish infrastructure at the local and community level. Additionally, it moves Oregon towards meeting the Healthy People 2010 goals of decreasing childhood dental decay and increasing access and use of dental sealants. If awarded, the program expects that these grant funds will help establish an infrastructure that will become self-sustainable at the end of the grant funding period and the program would not expect to pursue additional funding from the state.

11
Department of Human Services – Health Services
Analyst: Moore

Request: Report on Oregon Health Plan Demonstration Waiver status and renewal strategy.

Discussion: The original Oregon Health Plan Demonstration Waiver (Waiver) was granted by the Center for Medicare and Medicaid Services (CMS) in 1994. In 2002, it was restructured and renewed as a result of HB 2519 as a Health Insurance Flexibility and Accountability (HIFA) initiative. The Waiver is a Medicaid and Children’s Health Insurance Program (CHIP) demonstration project authorized under section 1115(a)(2) of the Social Security Act. The Waiver was renewed for a five year period and is set to expire in October 2007. The Department of Human Services (DHS) must submit a renewal application to CMS in October 2006, one year prior to the expiration date, to extend the demonstration for three years.

DHS plans to submit an application that extends the Oregon Health Plan (OHP) in its current form but with some increased flexibilities. The goal of the requested flexibilities is to allow the 2007 Oregon Legislative Assembly the ability to make limited changes to the OHP in order to implement policy and budgetary decisions made during the 2007 session.

The flexibilities to be included in the application include:

- Extending eligibility certification periods for children participating in the Poverty Level Medicaid (PLM) program from six months to twelve months, which would allow the legislature to provide a consistent eligibility period for the PLM and CHIP programs. The eligibility period for CHIP was extended to twelve months during the April 2006 special session beginning June 1, 2006.
- Allow the uninsurance period eligibility requirement for CHIP and the Family Health Insurance Assistance Program (FHIAP) to be reduced to under the current six month requirement.
- Allow the asset limit for CHIP and FHIAP to be eliminated or increased from the current \$10,000 limit.

The requested flexibilities do not, and are not intended to, obligate DHS, the Office of Private Health Partnerships (OPHP) or the Legislative Assembly to make any changes to current OHP or FHIAP programs. Nor will the flexibilities interfere with current or future policy discussions occurring in a variety of committees, task forces or in other settings including the legislative process. DHS and OPHP have no plans to implement any of the flexibilities in 2005-07.

If approved by CMS, these flexibilities would assist DHS and OPHP to more quickly implement changes related to the flexibilities if ultimately adopted by the Legislative Assembly and will assist DHS in meeting its goals of reducing barriers to OHP programs, improve access to health care to low-income and vulnerable Oregonians (especially children) and should reduce cost shifts by decreasing uncompensated health care costs that are ultimately paid by Oregonians, in part, through higher health insurance premium costs.

13
Department of Human Services – Health Services
Analyst: Moore

Request: Report on progress and actions to improve the safety and quality of treatment for patients at the Oregon State Hospital (OSH).

Discussion: In January 2006, the Emergency Board approved the Department of Human Services (DHS) requests for \$2,103,716 General Fund and one position (0.50 full-time equivalent) to convert the 6th floor of the OSH-Portland facility to psychiatric space; \$3,872,342 General Fund, \$2,999,210 Federal Funds and four positions (2.68 full-time equivalent) to create 71 new community placements as the first step to increasing the staff to patient ratio to 1.31:1; and \$3,293,781 General Fund and 30 clinical positions (15.00 full-time equivalent) as a second step to increase the staff to patient ratio to 1.31:1 by June 2007.

In April and June 2006, DHS submitted to the Emergency Board reports updating progress made on each step since the January meeting. Just prior to the June meeting, Governor Kulongoski was informed that the U.S. Department of Justice (U.S. DOJ) commenced an investigation into the conditions of care and treatment of patients at the OSH. The Emergency Board requested DHS include an update regarding the investigation at the September meeting.

Staffing

DHS has hired the four OMHAS staff and 22 (up from 16 in June) of the 30 OSH clinical positions. DHS continues to actively recruit for the remaining clinical positions, but continues to have difficulty finding qualified applicants for the three occupational therapist and four physician positions. Non-competitive pay and poor working conditions are still the major barriers for these positions. However, there are two physician interviews set to be conducted by September 12 and DHS hopes to offer a psychologist position by September 11.

DHS is also completing negotiations with Oregon Health and Science University (OHSU) to contract for the services of a chief psychiatrist and up to four psychiatric physicians to serve as treating physicians. Contract costs are expected to be \$2.3 million through August 31, 2008. The contracted services will provide significant benefits to DHS and OSH. In the short term, OSH will directly receive the services of additional trained psychiatrists to augment the physician staff there. The psychiatrists at OSH are covering very heavy caseloads of 35 to 40 patients, with some OSH physicians covering two treatment units. Adding up to four unit physicians will offer considerable relief to the OSH physicians. Long term, this relationship should also be valuable as DHS begins planning for the significant challenges of staffing the new OSH. In part, building a relationship between Oregon's largest psychiatric hospital and Oregon's only psychiatric teaching hospital will enable more psychiatrists to be trained. Ideally this will mean Oregon and OSH will have a greater number of trained psychiatrists to treat patients. A closer association with OHSU's Public Psychiatry program and other programs at Portland State University, University of Oregon, Southern Oregon University and Oregon's nursing schools is also recommended in the OSH Framework Master Plan Phase II Report.

Community Placement

Currently, DHS has budgeted the addition of 199 community placements in 2005-07, including the 71 placements approved at the January 2006 Emergency Board meeting. Currently, 56 are in place, with another 15 anticipated to be on-line by the end of 2006. DHS anticipated having more community placements available by the end of 2006, but has encountered barriers beyond their control that have prevented several planned facilities from moving forward.

Three planned residential projects, a total of 27 beds, have been discontinued. One project had significant opposition from the community and city officials. That project has not been able to locate an alternate site, but OMHAS is encouraging the provider to keep looking. The other two projects were discontinued due to the county's dissatisfaction with the funding structure.

Another project with ten beds for PSRB was significantly delayed when city officials expressed strong resistance to the facility being located in their rural community. The provider is aggressively pursuing development in a neighboring city that appears to be more inviting.

These issues are not new to DHS, but due to the nature of community placements, they continue to present significant challenges to creating sufficient community placements in a timely manner. A secure residential treatment facility that opened in May 2006 is another recent example of the kind of delays that can occur when a provider faces local opposition. This project involved the leasing of an existing facility to provide secure residential services. The project could have been completed in two months, but due to local administrative barriers the project took a year to open.

OSH Staff to Patient Ratio and Settlement Agreement Update

The *Harmon v. Fickle* settlement agreement provides that between January 1, 2006 and June 30, 2007, DHS will take all necessary steps within their control "to increase the ratio of direct care staff-to-patients on the OSH forensics units to 1.10 by March 31, 2006; 1.22 by June 30 2006; 1.34 by September 30, 2006; and 1.377 by December 31, 2006." As of July 31, 2006 the ratio was 1.25:1, up from 1.09:1 at the time the lawsuit was filed. However, due to the recent setbacks in creating new community placements described above, it is not likely that DHS will meet the goal of 1.377 by the end of 2006.

On August 30, 2006, the Oregon Advocacy Center (OAC) submitted a letter to the DHS Assistant Attorney General expressing dissatisfaction with the progress DHS has made. The OAC asserts DHS has not taken all necessary steps to comply with the settlement agreement. OAC is requesting a plan of correction, specifically focusing on community placements, but has not claimed a material breach of the settlement agreement. In response, DHS is preparing a chronology of efforts to develop community programs and a plan to increase the number and rate of community programs developed by June 2007.

Included in the settlement agreement is a section describing "Circumstances Beyond the Control of the Parties." In this section the parties acknowledge that DHS' ability to implement the plan "depends on circumstances not entirely within the control" of DHS, including "the possibility that additional community placements will not be created despite DHS' taking all necessary steps within its control to create those additional community placements."

OSH-Portland 6th Floor

The conversion of the 6th floor of the OSH-Portland facility is also moving forward as planned and is on schedule for occupancy by mid-April 2007. At this point, the design team Peck Smiley Ettl Architects (PSE), has completed the remodel designs with input from OSH and is finished with the construction documents necessary for the construction bid process expected to go out early in September.

U.S. DOJ Investigation

On June 14, 2006, the U.S. DOJ provided notice that they are commencing an investigation of conditions of care and treatment of patients at OSH pursuant to their authority under the Civil Rights of Institutional Persons Act (CIRPA).

DHS has contracted with Jeffrey Geller, MD, and Kris McLoughlin, DNP, to provide expert testimony and consultation regarding the CRIPA investigation. They will assist DHS in preparing for the investigation and will be present for the U.S. DOJ visit November 13-17. Both are experts in state hospital services and CRIPA investigations. They will review OSH policies and practices and provide technical and clinical assistance to support OSH responses to the CRIPA review. Each of the contracts for these experts has an hourly amount with a \$75,000 limit. These costs, as well as all other costs related to this investigation, are being documented in detail and monitored by OMHAS. A request to the U.S. DOJ to be reimbursed for costs related to gathering and copying the large number of requested documents has been denied.

14
Department of Human Services
Analyst: Johnson

Request: Report on Medicare Modernization Act (MMA) Implementation.

Discussion: The Department of Human Services (DHS) has submitted reports on the implementation of the Medicare Prescription Drug program to the last several Emergency Boards. In those reports, DHS outlined the problems encountered with the program and the steps the Department has taken to make sure eligible Oregonians get the prescriptions that they require. These steps included Governor Kulongoski's authorization for the state to begin paying for prescription drugs for clients who were unable to get their drugs through the program, as well as a meeting between the Governor and Secretary of Health and Human Services Leavitt to address the reimbursement of the costs of the medications and the administrative costs incurred by the state.

While there have been no major developments since the last report, DHS indicates that the number of clients requiring help with their prescription drug coverage has steadily decreased and is now running at about 300 clients per month. Also, the number of dual eligible clients in crisis requiring emergency drug coverage as authorized by the Governor has decreased from more than 250 in January to 42 in July. Correspondingly, the amount of emergency payments has decreased from a high of approximately \$33,000 per month to less than \$4,200 over that same period. DHS has filed a waiver with the Centers for Medicare and Medicaid Services (CMS) to receive reimbursement for these payments, as well as for the additional administrative costs, and expects to find how much will be reimbursed and to receive the funds some time in November.

There are two upcoming issues that should be highlighted. First, open enrollment starts November 15, 2006. This means that all the Medicare eligible clients who failed to sign up by the May 15 deadline will now be able to enroll in a drug plan. This could result in an up tick in the number of clients requiring help in enrolling in a prescription drug plan. The open enrollment does not apply dual eligible clients because they were auto enrolled into a plan by CMS.

Secondly, DHS expects significant changes to the subscription drug plans to take effect January 1, 2007. These include changes in the number of plans available as well as changes in formularies for individual plans and changes in specific plans accepted by each and every pharmacy. This could create problems for dual eligible clients if the plan they are on is dropped and they are auto enrolled into a new plan (which may not be adequate), or if their current plan's formulary changes and their drugs are not longer covered, or if their current plan is no longer accepted at their local pharmacy. It is unknown at this time how many dual eligible clients will be impacted by these changes, however DHS has experienced staff and will take a proactive approach to the extent possible to identify those dual eligible beneficiaries who are on plans that will be discontinued.

15
Department of Human Services - OMAP
Analyst: Range

Request: Retroactive authorization to apply for Medicaid Transformation Grant for up to \$8,000,000 over two years from the Department of Health and Human Services, Centers for Medicare and Medicaid Services for improved effectiveness and efficiency in providing medical assistance and long-term care services under Medicaid.

Recommendation: Approve the request.

Discussion: The Department of Human Services (DHS), Office of Medical Assistance Programs and Seniors and People with Disabilities Division is requesting retroactive authorization to apply for a federal grant; the grant application deadline was September 15, 2006; based on an announcement released on July 28, 2006. The Emergency Board was alerted on August 8th of intent to seek approval for this grant. The expected start date of this grant is November 1, 2006. This grant requires no state matching funds.

Because this is a CMS Medicaid grant, it is directed to meet the needs of the agency's existing clients and increasing the effectiveness of the services provided. Currently, five projects are proposed under this application.

The grant will be used to fund initiatives that will:

- Facilitate the adoption of electronic health records that emphasize interoperability between hospital, laboratory, pharmacy, and clinic settings.
- Enhance drug utilization program creating error reductions and cost savings in prescriptions.
- Implement Access-Care pilots creating universal access for Oregon communities, including preventative care and telephonic nurse advice lines.
- Start performance improvement project, directed toward mental and physical health professionals, which will result in identifying and eliminating barriers to better care coordination for those physical health needs and acute and chronic mental illnesses.
- Begin the planning effort needed to ensure the sustainability of Oregon's long-term care system in the face of aging baby boomers.

These grants were created for the adoption of innovative methods to improve effectiveness and efficiency in providing medical assistance under Medicaid. Through the use of the Transformation Grants, DHS will work with CMS to create programs that are more aligned with today's Medicaid populations and the health care environment.

The agency will contract with private and public partners to implement and evaluate the projects. Each project includes process and out come measures, as well as sustainability plans. The majority of the funds will go toward infrastructure development with the remainder toward evaluation and reporting. If the grant is awarded, DHS will return to the Emergency Board for any expenditure and position authority needed.

16
Department of Human Services
Department of Administrative Services
Analyst: Moore/Erickson

Request: Increase Other Funds expenditure limitation by \$159,398 and establish two permanent full-time positions (0.38 full-time equivalent each): a Principal Executive Manager E and a Procurement and Contract Specialist 3 in the Department of Administrative Services (DAS) to provide project management in the preliminary siting and design of the two campuses scheduled to replace the current State Hospital.

Increase Capital Construction Other Funds expenditure limitation by \$1,014,999 and establish three permanent full-time positions (0.38 full-time equivalent each): one Project Manager 2, one Fiscal Analyst 3, and one Operation Policy Analyst 3 in the Department of Human Services (DHS), Addiction and Mental Health Division to provide project management and program and budget analysis relating to the proposed replacement of the Oregon State Hospital project.

Recommendation: Approve the DAS request with the following modifications: Increase Other Funds expenditure limitation by \$146,673 and establish two permanent full-time positions (0.33 full-time equivalent each): a Principal Executive Manager E and a Procurement and Contract Specialist 3. The agency has determined since submission of the letter that the positions will more realistically be established in November 2006 than October 2006.

Approve the DHS request with the following modification: Increase Capital Construction Other Funds expenditure limitation by \$1,014,999 and establish two permanent full-time positions (0.38 full-time equivalent each): one Project Manager 2 and one Fiscal Analyst 3; and one permanent part-time Operations Policy Analyst 3 position (0.19 full-time equivalent). The agency inadvertently listed the Operations and Policy Analyst 3 position as a full-time position in the letter.

Discussion:

HISTORY: In November 2004, the Emergency Board authorized DHS to evaluate the current structure and future role of the Oregon State Hospital (OSH) within the state's mental health care system. This was in response to great concern over a rising forensics census and overcrowding at the State Hospital. The resulting report – Framework Master Plan Phase I – was released May 16, 2005 and focused on the physical conditions of the OSH Salem campus. It also noted that Oregon's system of publicly funded care for adults with severe and persistent mental illness needs significant improvement.

Phase II Report: In February 2006, the OSH Framework Master Plan Phase II report (Report) was issued. The Report's goal was to provide guidance to Oregon in setting the future of the state's mental health system.

The Report includes the following findings:

- Oregon's mental health system has been, and continues to be, under-funded.
- It is projected that the number of Oregon citizens with mental illness will grow by about 25 percent over the next 25 years.
- By 2030 there will be 935 individuals on a daily basis who will need significant mental health services best accommodated within the OSH. There will also be a need for approximately 2,630 residential program beds in the community, which is 900 more than are currently available. If no new community services are created, the OSH population could balloon to nearly 2,000 daily patients.
- Oregon is shifting to a "recovery model" system of mental health care. Integral to this model is the concept that persons will progress better in their home communities. There is evidence that most people with mental illness do recover and go on to live productive lives, reducing demand on state and local resources. Successful implementation of the recovery model requires improvements and investments in affordable housing, community-based services and early intervention, among others, all of which work to improve the flow of patients through a system of more responsive and functional care.
- The proposed investments in community services will allow Oregon to build a new state hospital system that is more efficient and will provide a more integrated continuum of mental health care.

The Report's conclusions and recommendations focus on Oregon's use of community based resources to facilitate more efficient and effective use of state hospital beds. The main recommendation made in the Report is for replacement of the current state hospital with one 620-bed facility located in the North Willamette Valley region, one 360-bed facility located south of Linn County on the west side of the Cascades, and at least two non-hospital level, 16-bed secure residential treatment settings placed strategically east of the Cascades. This would locate the facilities near the homes of approximately 93% of inpatients and provide needed alternatives to hospital services in Eastern and Central Oregon. Project cost estimates, not including the purchase of land, are estimated at \$326-337 million. NOTE: This is Option 2 recommended in the report and ultimately selected through a collaborative process by Governor Kulongoski, Speaker of the House Minnis and Senate President Courtney.

The Report further stresses that for any option to be successful, "the community based enhancements outlined ... need to be fully implemented." The full text of the community-based enhancements recommendations is set out below:

"Enhancing the breadth and depth of community-based services is a critical piece of the state hospital master plan. This report provides estimates of beds needed in community residential programs, as well as associated costs. Not part of this study, but equally as critical, are other community services such as supported employment, case management, crisis intervention, and respite. While more detail is provided later in this report, the recommendations include:

- More aggressive funding for 'front end' services that aid in the prevention and early intervention of those with mental illness. This master plan focuses on those services and settings that are needed when an illness has exacerbated to a point

where no other care option exists. A greater emphasis on prevention and early intervention could contribute to further declines in state hospital needs, while aiding a greater number of those with mental illness. Some communities within the State currently have treatment programs such as the EAST program. These programs effectively address the issues of early intensive intervention for adolescents and young adults who are experiencing their first severe mental health crisis.

- Continued financial support for the development and operation of community based residential programs to facilitate care in the least restrictive environment and promote a recovery orientation.
- Providing counties with the financial support necessary to oversee and monitor the expanded community based services as well as the increased numbers of individuals with mental illness residing in their communities.

It is important to note that some of the community cost estimates provided in this report can be accommodated in the current caseload growth factor within the OMHAS budgeting process.” (*Report page iii and iv.*)

Among other issues, the report also identifies a national shortage of qualified professional psychiatrists, psychologists and nurses as a challenge for OSH. In setting out advantages and disadvantages to siting one or more OSH campuses, the Report only indicates that the North Willamette Valley region would be “desirable for attracting and retaining qualified mental health professionals.” The Central Oregon region was the only other region listing staffing as an advantage indicating it “may be desirable for attracting and retaining qualified mental health professionals.”

Facility Siting: One of the first steps to creating a new OSH, is to determine where the facilities will be located. The Oregon State Hospital Site Selection Criteria Committee was created in late June 2006 and was charged with creating and finalizing site selection criteria for the two main campuses by September 1, 2006. Members of the committee included representatives from DHS, DAS and both houses of the Oregon Legislature. The committee agreed to the final siting criteria at a meeting on August 29, 2006. DAS will use the site selection criteria to create a list of suitable sites, after an open solicitation process, for review by the Governor and Legislature. Final site selections are scheduled to take place before the end of the 2007 Legislative Session. If necessary, land acquisition costs are estimated to range from \$38-58 million for the two main campuses.

Separate site selection committee processes have also begun for the planned facilities east of the Cascades. These processes are also bi-partisan and bicameral.

Next Steps: Both DHS and DAS have a good deal of work in order to begin ramping up the OSH project and preparing information for the 2007 Legislative Session. Over the next several months some of the major tasks include:

- Create and issue the land acquisition solicitation(s) that include the site selection criteria;
- Plan and set up the long term project management infrastructure, including an interagency agreement between DHS and DAS;
- Document the design and construction process that will lead to the operation of the new hospital facility;
- Contract for initial design services including guidance in assessing selected properties;

- Once solicitations are complete, rank sites and perform “due-diligence” checks on the highest ranked properties;
- Assess staffing and other logistical needs for the facilities for program planning and budgetary discussions;
- Create a detailed plan to address long term professional and other staffing needs that should include building relationships with Oregon’s higher learning institutions with mental health related programs. DHS should also assess the possibility of tuition or other incentive programs to attract professional staff to Oregon;
- Continue to review and improve the community program process, identify and remove barriers where possible and create a detailed long term community placement master plan;
- Work with Legislators, advocates, local and other partners and stakeholders to identify and resolve issues around all aspects of the overall project including: siting, construction, community programs, and OSH/ local mental health treatment programs in general;
- Prepare information requests for the legislative process.

CURRENT REQUEST: This request increases Other Funds expenditure limitation and adds permanent positions in both DHS and DAS. As described in more detail below, the limitation and positions are necessary in order to begin the complex planning for what is anticipated to be a ten year OSH project that is jointly managed by DAS and DHS. Permanent positions are being requested due to the anticipated length of the OSH project and are planned to be phased out as appropriate as the project winds down.

DAS Request: DAS requests two permanent positions, (0.76 full-time equivalent, phased in October 2006) and an increase in Other Funds expenditure limitation of \$159,398. The analyst recommendation reflects a November 2006 phase-in date.

The DAS Facilities Division’s purpose is to secure facilities that provide a functional work environment for state employees. Key services include:

- Building operations and maintenance
- Leasing and land sales/acquisitions
- Space planning and construction project management
- Parking; and
- Statewide facilities program management and resource conservation.

The Facilities Division, Planning and Construction Management Section, is responsible for ensuring that major renovations and improvements to building structures and systems meet quality standards and desired outcomes. DAS Planning and Construction Management will provide: project management of the overall State Hospital construction project and each site, quality control, leadership and coordination of the project team including members from DAS, DHS, consultants, contractors, and site inspectors. DAS will prepare and manage contracts.

The project will likely purchase both sites up front, and develop them sequentially. The North Willamette Valley region site is targeted to open in 2011; the southern, west-of-the-Cascades site is scheduled to open in 2015. DAS is expecting to need seven positions over the course of the project: two in 2005-07, four in 2007-09, one in 2009-11. In 2011-13, no positions would be added and in 2013-15, position reductions would begin. By 2015-17 the staff would be reduced to the level appropriate to the remaining program workload.

The methodology used to determine the necessary staffing level for the project was to adjust the industry standard of allocating 3-4 percent of a major construction budget to quality assurance and project management down to 1.5-2 percent. DAS based this calculation on their ability to maximize the current Planning and Construction Management section staff and ease peak project demand periods by the utilization of contracted project management consultants.

DAS considered several options for managing the State Hospital project: current staff, new permanent state staff, limited duration or temporary staff, contracted staff, and a combination of these options. The best option considering the size and complexity of the project, multiple-year timeline, cost, volume of contracted services, and desire for stability is to hire permanent state employees. The anticipated additional positions will be requested over time, as needed to meet project deliverables. DAS project management expenses will be paid for by DHS via interagency agreement.

DHS Request: DHS requests three permanent positions (one as a part time position for a total 0.95 full-time equivalent in 2005-07) and an increase in Capital Construction Other Funds expenditure limitation of \$1,014,999. DHS currently has Capital Construction Other Funds limitation of \$1. DHS is not requesting position related Other Funds expenditure limitation at this time as there should be sufficient other funds limitation in the current DHS budget to cover the requested positions.

DHS will use the requested positions to begin the OSH project planning described in more detail above. DHS is not able to absorb the extensive work that will be required over the next several months with current staff.

Timing of Request: The current request for capital construction limitation is necessary at this time in order to allow DHS to sign a "letter of intent" to spend Certificate of Participation (COP) proceeds prior to the actual issuance of the COP. If approved, one million dollars of COP are planned to be issued in February 2007. By signing the letter of intent, DHS is able to spend General Fund dollars and be reimbursed once the COP is issued. DHS and DAS plan to hire positions in October and early November, necessitating approval of positions at the September Emergency Board meeting.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 601, Section 2(3), Oregon Laws 2005, for the Department of Administrative Services, Operating Expenses, by \$146,673 for the 2005-07 biennium.

Increase the Capital Construction Other Funds expenditure limitation established by chapter 767, Section 1(4)(a), Oregon Law 2005, for the Department of Human Services by \$1,014,999.

17
Department of Human Services
Analyst: Johnson

Request: Authorization to apply for federal grant funds from the Center on Medicare and Medicaid Services for “Money Follows the Person Rebalancing Demonstration.”

Recommendation: Approve request.

Discussion: The Center on Medicare and Medicaid Services (CMS) recently announced a new competitive grant titled Money Follows the Person Rebalancing Demonstration, to be awarded to states to increase community-based capacity for people living in long term care institutions. The five year grant would provide an enhanced Federal Fund match for one year for each long term care client transitioned from an institutional setting to a community-based setting.

The Department of Human Services (DHS) is still in the preliminary planning stage of applying for this grant, the application is due November 1, 2006, so at this time it has not yet been determined how much additional Federal Funds would be received. However, DHS has indicated that the grant application may include a pilot project where more highly acute long term care clients, which are traditionally more likely to be in institutional settings such as nursing facilities, intermediate care facilities and hospitals, are transitioned into community-based settings such as foster care homes. Additionally, the funds generated from the enhanced federal match could be used to pay an enhanced rate to the providers due to the higher acuity level of the clients as well as to fund transition specialists which would assist in placing the clients in the community.

The federal enhancement would increase the Federal Funds/General Funds from approximately a 60/40 split to about an 80/20 split. Oregon would receive the enhanced rate for all qualified expenditures made for each client for twelve months from the date the client is moved out of the institutional setting. At the end of the twelve months the enhanced rate will end, however, the client will be in a less costly setting such as a foster care home instead of a nursing facility. DHS is still completing their analysis, but believe that the program could result in an overall cost savings to the state.

Because of the short timeframe to complete and submit the application, DHS will continue to evaluate the potential outcomes and costs of the program and have been assured by CMS that there would be no penalty should Oregon be awarded a grant and then decide to turn it down. Additionally, the grant allows for a planning process of up to twelve months from the date of the award for DHS to further refine the program.

18
Department of Human Services
Analyst: Johnson

Request: Report on implementation of the Department of Human Services (DHS) Operations Review Recommendations report.

Discussion: At the June 2006 meeting of the Emergency Board, DHS shared a report with the Committee titled “Final Report on Findings and Recommendations.” The report had been submitted to Director Goldberg by the DHS Operations Review Team on May 31, 2006 and contained an assessment, as well as recommendations for improvements, of the department’s accounting, budget, internal control, account receivable and recovery, and treasury processes. During the testimony, DHS agreed to submit a progress report to the September 2006 Emergency Board on the implementation of the recommendations.

In response to the Operations Review Team findings, DHS has created the following working groups to implement the recommendations:

- Executive Steering Committee – Senior DHS staff as well as members from DAS, Treasury, PERS, and LFO to provide leadership and mentoring for financial improvement initiatives.
- Working Capital – Representatives from DHS, DAS, Treasury, and LFO to identify and recommend corrective actions for DHS cash flow problems,
- Budget to Actual – DHS workgroup to develop processes and format for comparing actual to budgeted expenditures on a monthly basis.
- Code of Conduct – Develop a DHS Code of Conduct.
- Quality Staff – Recruit for key positions (Deputy Director of Finance, Controller, Internal Control Officer), implement exit interviews, bring performance review for all employees up to date, complete position classification review.
- Accounts Receivable and Recovery – Integrate collection and receiving systems, standardize procedures, establish performance measures.
- Invoicing, Payment, and Receipting – Document and map current functions, standardize and consolidate receipting functions, expand electronic payments and receipting.
- Reconciliations and Settlements – Standardize reconciliation format, phase out old reconciliation process.
- Policies, Procedures, and Internal Controls – Document and map processes, procedures, and workflow, implement standards.
- Forecasting Procedures – Establish forecasting feedback loops, revise and expand distribution of reports, analyze alternative forecasting methods.
- Financial Business Planning – Review and simplify cost allocation, analyze R*STARS structure, restructure Financial Services and Finance and Policy Analysis units.

Although these groups were established just a few months ago, many of the recommendations outlined by the Operations Review Team are substantially completed. These include:

- An interim Deputy of Finance has been hired to oversee both the budget and accounting functions.
- New financial controls have been implemented.
- Performance appraisals and position descriptions will soon be up to date.
- An exit interview process has been implemented.
- A code of conduct has been developed and training will begin in October.
- All forecasting improvement recommendations have been implemented.
- The Working Capital Committee has made short-term recommendations to resolve cash flow problems and is in the process of developing long-term solutions.
- Budget to actual reports have been developed and are being updated on a monthly basis.

One major recommendation that is still in the process of being addressed is a comprehensive business plan. The DHS workgroups are mapping current processes and the changes involved in current initiatives as well as designing a planning process to create a unified vision of DHS financial process going forward.

It should be noted that DHS holds monthly meetings with a Fiscal Oversight Committee comprised of legislators and other key professionals to keep them apprised of the progress in improving DHS financial operations.

19
Department of Justice
Analyst: Freels

Request: Allocate \$994,819 from the State Emergency Fund for unbudgeted workload in the Defense of Criminal Convictions Program (DCC).

Recommendation: Approve the request. The Department of Administrative Services will unschedule the \$994,819 Other Funds expenditure limitation pending receipt of actual expenditures.

Discussion: Department of Justice attorneys through the Defense of Criminal Convictions (DCC) program defend the state in cases when sentenced offenders challenge their conviction sentence, or adequacy of attorney. The 2005 Legislative Assembly approved a budget of \$10.6 million General Fund for DCC, which was a 3 percent reduction from the 2003-05 approved budget. It was understood that this reduction would have a significant negative affect on the operation of DCC, as the program already faced under-funding occasioned by previous reductions during the 2001-03 Special Sessions and sharply increasing caseloads. Although the Department has limited control over the case processing, it has no control over the number of cases it receives.

In an effort to manage program costs, the Department took actions to delay work on cases that go before the Court of Appeals, where extensions are granted, which has effectively reduced the costs in the current biennium, by simply moving the work to a future biennium.

In addition, the Department has taken a number of internal actions to manage within the resources appropriated, including:

- Instruct DCC attorneys to limit their work to core or most important issues in each case;
- Maximize the use of “abbreviated briefing” in which standardized arguments are substituted for portions or even entire briefs that previously have received individualized attention;
- Require managers to actively examine performance and product to help ensure that the cost-per-case is kept to a minimum; and,
- Work with the Court of Appeals and Public Defense Services Commission to coordinate the handling of cases to avoid duplication of workload.

All of these actions have successfully restricted cost growth in DCC; however, costs from caseload growth continue to outstrip approved resources. The Department has one final option available to control costs. They could stop appearing on certain cases and require the Court of Appeals to resolve the challenges raised without the benefit of the state’s legal advocacy. This action would require the court to serve not only as the judicial decision-maker, but also act as the advocate for the state. This is not a preferred solution by the Department and would only be considered after all other options were exhausted, including a request for additional funding from the Emergency Board.

As such, the Department is requesting \$994,819 General Fund. This is the estimated resource need to fully fund those cases already received by the Department that have been delayed to the maximum extent and must be processed during August 2006 to June 2007. Most new cases will be delayed until the 2007-09 biennium.

The Budget and Management Division will unschedule the \$994,819 expenditure limitation pending receipt of actual expenditures.

Legal Reference: Allocation of \$994,819 from the State Emergency Fund, to supplement the appropriation made by chapter 694, section 1, Oregon Laws 2005, for the Department of Justice for the 2005-07 biennium.

20
Department of Justice
Analyst: Freels

Request: Allocate \$2,400,000 from the State Emergency Fund for litigation costs to protect Oregon's interest in the Tobacco Master Settlement Agreement (MSA) payments.

Recommendation: Approve the request as modified: Allocate \$827,405 from the State Emergency Fund and request the Department of Justice to return to the November 2006 meeting of the Emergency Board to report on the status of the litigation and to request General Fund for remaining 2005-07 costs.

Discussion: Oregon is one of 46 states that receive annual payments stemming from the 1998 Master Settlement Agreement (MSA) with major tobacco companies. A provision in the settlement agreement allows the tobacco companies to cut their payments, after a two-year waiting period, if their collective market share drops below a certain threshold. Also part of the settlement provisions, states must require those tobacco manufacturers not participating in the agreement to set aside a similar payment into an escrow account to create a level playing field in the industry.

The market share of MSA companies has dropped from 99.7 percent in 1997 –the year before the settlement - to about 92 percent in 2003. An independent economist's ruling found that the burdens of the settlement agreement were a significant factor in the market-share loss. Oregon can avoid or significantly reduce a cut in payment if it can demonstrate that statutes were in place that requires non-participating manufacturers to set aside a similar payment and the State diligently enforced those statutes.

States that can successfully prove "diligent enforcement" of non-participating manufacturers (NPM) are excluded from the reduced payment. However, states that can not prove "diligent enforcement" must share in the total reduction on a pro rata basis – estimated to be \$1.1 billion. The total reduction in any state can not exceed the annual payment.

In April 2006, Oregon received its annual payment of about \$66 million from the MSA settlement. This was a reduction of about \$9 million, as several Participating Manufacturers placed a portion of their payment into a disputed payment account pending determination of their right to an NPM Adjustment as to Oregon for 2003. Even those manufacturers that made a full or partial payment assert the right to an NPM Adjustment as to Oregon for 2003.

The Department of Justice is working closely with the National Association of Attorneys Generals to defend this challenge and has contracted with a legal firm that has expertise in complex cases in which the "diligence" of a profession is the central issue.

The Department filed a complaint in Multnomah County Circuit Court challenging the actions of the Participating Manufacturers as to their 2006 annual payment to Oregon seeking a judicial determination that Oregon diligently enforced its NPM statute in 2003. Thirty seven other states filed similar complaints. The Multnomah County Circuit Court heard the case in late August

2006 and ordered the dispute to be arbitrated. This decision is consistent with rulings in 14 of the 15 other states in which the issue of arbitration has been decided. The Department, other states, and the National Association of Attorneys General are working to resolve uncertainties about the arbitration process and to try to establish a common position as to the details of that process.

The Department reported on costs related to the MSA lawsuit at the April 2006 and June 2006 meetings of the Emergency Board. They are now requesting \$2.4 million from the State Emergency Fund; \$900,000 for actual spending to-date and \$1.5 million for anticipated future biennial costs. They are also requesting that the Department of Administrative Services unreschedule the \$1.5 million.

The Budget and Management Division does not recommend approval of the \$2.4 million General Fund request because of constraints in the Emergency Fund. It does recommend \$827,405 General Fund to pay the Department's actual costs through August 2006 and recommends that the Department of Justice return to the November 2006 meeting of the Emergency Board to report on the MSA lawsuit and to request remaining General Fund for future 2005-07 costs.

Legal Reference: Allocation of \$827,405 from the special purpose appropriation made to the Emergency Board by chapter 794, section 1, Oregon Laws 2005, to supplement the appropriation made by chapter 694, section 1, Oregon Laws 2005, for the Department of Justice for the 2005-07 biennium.

21
Department of Corrections
Analyst: Gilbert

Request: Increase Federal Funds expenditure limitation by \$1,000,000 for expenditure of grant funds awarded by USDOJ to develop a program that will respond to the Prison Rape Elimination Act.

Recommendation: Approve as modified: Contingent on approval from the Joint Legislative Committee on Information Management and Technology, establish a Federal Funds expenditure limitation of \$1,000,000 for implementation of a US Department of Justice grant for work compliant with the Prison Rape Elimination Act, and request the Department of Administrative Services unschedule \$921,896 Federal Funds expenditure limitation for operations.

Discussion: The 2005 Legislature authorized the Department to apply for a grant from the US Department of Justice, Office of Justice Programs to develop a program that responds to the federal Prison Rape Elimination Act (2003). In July 2006 the USDOJ announced a \$1 million two-year award for the Department (June 2006 – May 2008). The award will fund three components of Oregon’s “The Right to be Safe in Prison” initiative:

Description	Amount
1. Develop an integrated conduct management data system to automate collection, tracking and assessment of data relating to prison sexual assault.	\$ 425,400
2. Install camera equipment in two older institutions to improve security for inmates in what are otherwise opportunity locations for sexual assault.	281,804
3. Develop training, education, and collaboration among state and local governments, community partners, and victims' advocates to fully implement PREA.	292,796
4. Educate, support, and treat vulnerable inmates; transition the victimized; and <u>prosecute the perpetrators.</u>	-
<u>Total</u>	<u>\$ 1,000,000</u>

The first component involves technological expansion using new technology and thus triggers review by the Joint Legislative Committee on Information Management and Technology, scheduled September 19, 2006.

Cameras are planned to be installed in the system’s oldest facilities: Eastern Oregon Corrections Institution and in Oregon State Penitentiary.

The third and fourth components address not only safety within the institution but safety in the community for released vulnerable inmates and for the public at large. There is no specific cost associated with the fourth component as it is part of the Department’s ordinary business, but is important to be highlighted as an integral element of the Right to be Safe in Prison initiative.

There is a 1:1 match requirement that the Department can meet using in-kind services provided by existing staff.

The Department requested additional Federal Funds expenditure limitation to accommodate the grant award. Not knowing exactly how much would be spent in the current biennium, the intent was to request the total amount now and to request carryover limitation for any unspent portion in 2007-09. Existing expenditure limitation, however, is for Department operations; the work described in the foregoing will be performed by Central Administration and the General Services divisions. Thus, rather than increase existing limitation, the Emergency Board is requested to establish a new expenditure limitation, subject to a positive recommendation by the JLCIMT on the technology component.

With respect to the existing expenditure limitation, discussions among the Budget and Management analyst, the Legislative Fiscal analyst, and Department staff have brought to light that \$921,896 of the existing Federal Funds expenditure limitation is unused. The limitation was originally designated for State Criminal Alien Assistance Program (SCAAP) funds; the federal government has not yet announced what the second year SCAAP awards will be. Given that uncertainty, it is recommended that the Department of Administrative Services un-schedule the unused amount until second year SCAAP awards are announced.

Legal Reference: Establishment of an expenditure limitation of \$1,000,000 for the payment of expenses from Federal Funds collected or received for the biennium beginning July 1, 2005, for grant expenditures in administration and general services.

22
Department of State Police
Analyst: Gilbert

Request: Report on vacant and double-filled positions and agency financial status by Oregon State Police.

Discussion: The Department is required to appear at each meeting of the Emergency Board to report on progress in eliminating double-filled positions and in filling vacant positions. In addition, the Department is to provide an overview of its financial position, highlighting areas of potential risk.

Double-fills and vacancies

The following display tracks position changes for the total Department since reporting to the Emergency Board began at the April 2006 meeting.

Total Department		Sworn			
Vacant positions		Troopers	Sgt/Lt/Capt	Professional	Total
	Apr-06	20	10	35	65
	Jun-06	12	11	37	60
	Sep-06	19	7	33	59
Double-filled positions					
	Apr-06	(8)	(1)	(6)	(15)
	Jun-06	(22)	(1)	(7)	(30)
	Sep-06	(17)	(1)	(7)	(25)
Pending Actions, such as anticipated retirements, resignations, transfers, or new hires					
	Apr-06	3	(1)	(17)	(15)
	Jun-06	1	2	(20)	(17)
	Sep-06	3	3	(1)	5
Net vacancy position assuming vacancies relieve doublefills and anticipated actions occur					
	Apr-06	15	8	12	35
	Jun-06	(9)	12	10	13
	Sep-06	5	9	25	39
Total authorized positions		466	147	553	1,166
September net vacancy % of total		1.1%	6.1%	4.5%	3.3%

Of note overall is that the vacancy rate in trooper positions is around one percent of the total authorized trooper positions as of September. Vacancies in Sergeant and above positions are down from June. While there is still a salary compression issue that presents a challenge in recruiting sergeants, there has been some positive movement.

There is also interest in the position status in the Fish and Wildlife Division, specifically that positions should not be held vacant for the purposes of vacancy savings. As shown in the following display, as of September, there are four vacant trooper positions of a total 97 authorized. The Department recruits for Fish and Wildlife positions both internally and externally when filling recruit schools. Of the five current total net vacancies, one is expected to be filled in early September.

<i>Fish and Wildlife Division</i>		Sworn			
Net vacancy position		Troopers	Sgt/Lt/Capt	Professional	Total
	Apr-06	9	1	-	10
	Jun-06	1	1	-	2
	Sep-06	4	1	-	5
Total authorized positions		97	22	1	120
September net vacancy % of total		4.1%	4.5%	0.0%	4.2%

With respect to the Department's overall financial position, the anticipated risk areas are:

- The cost of gasoline for the approximately one million miles driven per month, at a weighted-average \$2.788/gallon, up from \$2.222 in June 2005.
- Fire costs for both 2005 and 2006. The 2005 cost of \$143,000 is known. In 2006 it appears the state is responsible for another \$420,000. The Department is looking into using sources other than General Fund, but has not reached resolution on that issue.
- The April 2006 Oregon Supreme Court opinion resolving remaining Young case overtime compensation issues could create an unfunded \$1.2 million liability for the Department, but the actual cost is not yet known.

The Department expects to request a rebalance of the 2005-07 budget later in the biennium.

**Department of State Police and Department of Public Safety Standards and
Training
Analyst: Gilbert**

Request: Report on the progress of integrating State Police (OSP) recruit training into the basic Department of Public Safety Standards and Training (DPSST) academy training curriculum.

Discussion: The 2005-07 budget reports for the subject agencies included budget notes directing them to report on merging OSP recruit training into DPSST's new 16-week curriculum by January 2007. The work is on track.

Working with DPSST's Police Policy Committee, OSP participated in developing the curriculum that expanded basic police training from 10 to 16 weeks. The Police Policy Committee approved the training plan in August; the full DPSST Board will evaluate the training in October 2006.

OSP new hires currently train for 24 weeks in classes ranging from 25 to 40 recruits. The training is provided at the Oregon Military Department's Camp Rilea near Warrenton. Part of the justification for DPSST's constructing a new academy was efficiencies to be realized by merging some of OSP's basic training into the basic training provided for city police officers and county sheriffs' deputies. Prior to building the new campus, DPSST's facility on the Western Oregon University campus was too crowded to be able to bring in any state police recruits.

As a result of merging the curricula, OSP will be able to eliminate its 24-month lease at Camp Rilea and instead enter into an agreement with the Military Department to rent the facility on an as-needed basis. OSP expects to have terminated the lease by mid-October 2006. The savings on Camp Rilea will be used to offset expenses at DPSST for OSP training staff space and special classroom use. OSP and DPSST expect that each recruit training class can accommodate ten OSP recruits of the total 40 in the class, but the OSP number can be larger if needed. A new basic recruit class will start every four weeks with a maximum of four classes (160 recruits) running at any one time.

The types of training that are not included in the 16 week course will still be provided to OSP recruits to give them 24 weeks. For some types, such as Special Weapons and Tactics (SWAT) or rappelling, Camp Rilea or a similar venue that can provide the appropriate physical layout will be used. Negotiations with the Military Department are ongoing with respect to 2007-09 facility needs.

In other cases, such as fish and wildlife enforcement or tactical communications (verbal judo) training, the academy classrooms could be used after hours. Rifle and shotgun training may require another location, depending on the kind of ammunition used and the needed shooting distance (DPSST's facility uses green, not leaded, ammunition for environmental purposes).

Department of Public Safety Standards and Training**Analyst: Gilbert**

Request: Report on curriculum development, completion of and relocation to new academy, and strategic development plan.

Discussion: A budget note in HB 5136 (2005), the Department's budget bill, directed the Department to report to the Emergency Board no later than October 15, 2006 on the following topics:

Progress on curriculum development for the new 16-week training course, with close attention to expanding critical decision making and perishable skills training.

The additional six weeks of training time provides 240 more hours than were available in the ten-week course. Of those added hours, about 100 are dedicated to expanding scenario-based training, giving recruits many opportunities to put critical decision-making skills into practice. Perishable skills are such as use of force, pursuit driving, defusing hostilities, and responding to persons with mental illness. They require repeated practice and repetition so as to be automatic responses when an officer is under stress. Over 45 hours have been added to the curriculum in these skill areas. Additionally, these skills support other training areas, such as effective communication.

Progress on curriculum development in areas not able to be addressed fully in the ten week course: first responders to acts of terrorism, solo officer response, gang recognition, use of less lethal force, major injury accident investigation, cultural awareness, and diversity in hiring staff and recruiting officers.

Working with partners such as Portland Police Bureau and Oregon State Police as well as the curriculum committee the Department developed scenarios to address the subject areas. In many cases, the scenarios can be tailored for a specific environment or officer demand, such as lack of back-up or prevalence of disaffected youth activity. Terrorism first response cannot be comprehensive, but teaches basic response, to be augmented during the officer's field training time at his/her agency after basic training. Over 45 additional training hours focus on the subject areas.

Completion of the new facility in Salem.

Construction of the new academy is complete, on time and on budget. The Secretary of State's Audits Division performed a construction audit that had no negative findings. The Department relocated to the new academy in southeast Salem in June, 2006. The first two basic police officer training classes and a basic correctional officers training course are currently underway.

The Department used value engineering, a method to improve the ratio of function to cost, in evaluating what elements to retain and which to forego in order to adjust to cost and other

changes during the course of construction. As a result of making choices using the value engineering model, the Department stayed within the total construction budget of \$77.5 million.

The facility also made use of local contractors and suppliers, employed a number of sustainability strategies, partnered with the City of Salem and Department of Corrections for shared services, and built in energy efficiencies.

Relocation from the Western Oregon University campus.

The Department and the university negotiated an early lease termination at a cost of \$90,000 to the Department. An additional \$15,000 was invested to restore the former site of the Law Enforcement Memorial, which was moved to the new academy.

Development of an updated strategic plan.

The current strategic plan, 1999-2003, is being rewritten, with an expected completion at the end of 2006. The affected professional groups have evaluated and prioritized input from state and local public and private safety agencies and associations over the past year. Staff from the Mark O. Hatfield School of Government at Portland State University coordinated and facilitated the update process in close coordination with the Board and Department.

Oregon Military Department
Analyst: Upadhyay

Request: Establish a Capital Construction Federal Funds expenditure limitation of \$725,000 for design and construction of an artillery tube storage building in McMinnville, Oregon.

Recommendation: Approve the request with the understanding that the Department of Administrative Services will unschedule \$475,000 Federal Funds expenditure limitation from the agency's Operations program.

Discussion: The Oregon National Guard is currently going through a major Department of Defense mandated transformation requiring force restructuring and restationing of units. As a result, the infantry unit housed at the McMinnville Armory has been deactivated and will be replaced with an artillery battery. The storage and military vehicle parking requirements for an artillery battery are significantly greater than that of a light infantry company resulting in the need for construction of a 105 millimeter howitzer storage building and vehicle parking compound.

Originally, the scope of this project was smaller and did not meet the definition of a "Major Construction" project. As a result, the agency's 2005-07 Legislatively Adopted Budget includes \$475,000 Federal Funds under the Facilities Maintenance line item in the Services and Supplies expenditure category under the Operations program. Now, with the increase in scope, the project falls under the Major Construction category and requires \$725,000 Capital Construction Federal Funds expenditure limitation. The Department of Administrative Services is, therefore, also recommending that \$475,000 Federal Funds expenditure limitation be unscheduled in the Operations program.

The construction project consists of a new 60 feet x100 feet x16 feet pre-engineered metal storage building and the addition of 10,000 square feet of military parking area. The metal building will be insulated and have plywood walls to the bottom of steel trusses. Unit heaters shall be installed to prevent moisture damage to stored equipment and material. Site work will consist of construction of a new entrance to the armory.

According to the agency, approval of the request will not result in additional need for General Fund.

Legal Reference: Establishment of an expenditure limitation of \$725,000 for the Oregon Military Department for the payment of expenses from Federal Funds, collected or received for the biennium beginning July 1, 2005, for Capital Construction.

Oregon Military Department
Analyst: Upadhyay

Request: Establish a Capital Construction Other Funds expenditure limitation of \$600,000 to purchase 18 acres of land bordering the Camp Rilea training site in Warrenton.

Recommendation: Approve the request.

Discussion: The Oregon Military Department is requesting approval to establish a \$600,000 Capital Construction Other Funds expenditure limitation to purchase 18 acres of land adjacent to the northeast border of the Camp Rilea training site in Warrenton. This land has recently been made available for sale and the land owner is giving the Department an opportunity to purchase this property before putting it out on the open market.

The Department states that acquisition of this property will provide a necessary addition to the existing heavily used training areas and enhance the expanding Homeland Defense training mission for the training site. Additionally, the acquisition will limit dense residential and commercial development immediately proximate to the camp. The Department has been forced to limit its activities at Camp Adair in Corvallis and Camp Withycombe in Clackamas due to local development.

The Department proposes to finance the purchase of this property from funds in the Military Construction Account, the source of which is revenues received from sale of real property. According to the Department, there is currently an un-obligated fund balance of \$1,807,422 in this account. Although these funds are not legally committed to any projects, the Department may have to revise the planned use of these funds.

Legal Reference: Establishment of an expenditure limitation of \$600,000 for the Oregon Military Department for the payment of expenses from fees, moneys, or other revenues including Miscellaneous Receipts, excluding lottery and federal funds, collected or received for the biennium beginning July 1, 2005, for Capital Construction.

**Real Estate Agency
Analyst: Freels**

Request: Increase Other Funds expenditure limitation by \$2,507,701 and establish four limited duration full-time positions (9.78 full-time equivalent) to continue planned operations from November 2006 through June 2007, to cover unexpected costs, and to implement anticipated recommendations of the Joint Interim Task Force on Real Estate Agency Oversight.

Recommendation: Approve the request, with the following modifications: Increase Other Funds expenditure limitation by \$2,397,701, extend 30 permanent positions from November 1, 2006 to June 30, 2007 (9.90 full-time equivalent); and, establish 4 limited duration permanent positions (1.32 full-time equivalent). The Budget and Management Division, DAS will unschedule the \$169,891 Other Funds expenditure limitation that is intended to implement the Agency's action plan pending release of the Task Force report.

Discussion: The 2005 Legislative Assembly approved a budget of \$3.9 million Other Funds expenditure limitation and 18.52 full-time equivalent positions for the Oregon Real Estate Agency (OREA), which resulted in only 15 months of operating expenses and staffing resources (July 2005 through September 2006). This was done pending a report to the Emergency Board by an interim task force. The task force is charged with the review of the agency's operations and governance as indicated in the following budget note.

Legislative leadership will appoint a work group including at least two members from each chamber, one from the Joint Committee on Ways and Means that considered the agency's budget and one from an appropriate substantive committee; two members from the Real Estate Board including at least one public member; the Real Estate Commissioner; and one licensee that has not served on the Real Estate Board. The Real Estate Agency shall provide the necessary administrative support for the work group.

At a minimum, the work group shall review the following:

- role, function, and composition of the Real Estate Board;
- role and practices of the Real Estate Commissioner and the agency;
- alternative forms of licensure and regulation for the real estate industry;
- and
- the internal audit completed by the Department of Administrative Services.

By September 2006, the work group shall report its findings to the appropriate interim committees and the Emergency Board.

The Joint Interim Task Force on Real Estate Agency Oversight has held five meetings and expects to issue its report by September 2006.

The June 2006 meeting the Emergency Board approved one additional month of operating expenditure limitation for the agency (October 2006) pending the Task Force report. At that time, the Emergency Board also increased the agency's expenditure authority to allow for unbudgeted cost through October 2006 for several costs that were not anticipated by the 2005 Legislature.

The agency is returning to the September meeting of the Emergency Board with three requests. First, they want to increase Other Funds expenditure limitation by \$2,066,483 and 9.78 full-time equivalent positions to continue their basic operations for the remaining eight months of the biennium (November 2006 through June 2007). Based on updated information from the agency, base operating costs has been revised downward to \$1,956,483 Other Funds expenditure limitation and 9.90 full-time equivalent positions.

Second, they are requesting to increase Other Funds expenditure limitation by \$271,327 to continue the unbudgeted costs noted above for the remaining eight months of the biennium. This request includes \$153,181 to pay for real estate exam fees, \$54,256 for State Police fees for background checks, \$28,084 for licensing workload and \$25,706 for land Development workload. The request also establishes one limited duration full-time Public Service Representative 4 position (0.33 FTE) for the licensing workload and a limited duration full-time Administrative Specialist 1 (0.33 FTE) for the Land Development workload, both effective November 2006. The agency currently employees temporary staffing for this workload. Finally, \$10,100 is requested to pay for the maintenance agreement for their new licensing software.

Third, the Agency is requesting to increase Other Funds expenditure limitation by \$169,891 to implement those actions discussed with the Task Force that will address immediate concerns of the real estate industry for improved services and information from the Agency.

- Conduct a business process evaluation intended to improve current agency processes and communication. The agency would contract with a vendor to evaluate the needs of the industry, the agency and any legal requirements. (\$15,000)
- Update the agency website to better meet the real estate community needs. The agency would contract with a vendor to define the needs of licensees, determine what improvement is cost effective and within the scope of the State of Oregon system. (\$40,000)
- Survey real estate industry. The agency proposes to use an on-line survey tool to query licensees via email several times each year to identify industry needs. (\$20,000)
- Establish two limited duration full-time Compliance Specialist 2 positions (.66 FTE) that will advise real estate agencies and property management offices on state regulations and best practices. This is the first step in reorganizing the agency to focus more on compliance and education and less on regulation. (\$94,891).

The Task Force report with recommendations has not been released at this writing. Absent that information, the Budget and Management Division (BAM) recommends approval of the Agency's updated request of \$2,397,701 Other Funds expenditure limitation and 11.22 full-time equivalent positions. However, BAM will unschedule the \$169,891 Other Funds expenditure limitation that is intended to implement the Agency's action plan pending release of the Task Force report.

Legal Reference:

Increase the Other Funds expenditure limitation established by chapter 602, Section 1, Oregon Laws 2005, for the Real Estate Agency, by \$2,397,701 for the 2005-07 biennium.

29
Employment Department
Analyst: McGee

Request: Report on the Child Care Contribution Tax Credit Program.

Discussion: The Employment Department is reporting on the Child Care Contribution Tax Credit program, as directed in a Budget Note to House Bill 5127 (2005). In 2001, the Legislature authorized the Employment Department to issue credits against personal or corporate income taxes for certified contributions made to the Child Care Division. Taxpayers receive a credit of 75 cents for each dollar contributed. Credits are capped at \$500,000 per year, which generates \$666,667 annually for the Division. The funds are to be used to improve the quality of care for the children of low- and moderate-income families. The 2003 Legislature modified the program, enhancing marketability of the tax credits and extending the sunset until December 31, 2008.

The Department received maximum contributions in 2004 and 2005. As of August 15, 2006, approximately 65 percent of available contributions have been received. Based on this history, and communications with financial planners who market the credits to their clients, the Department anticipates receiving maximum revenues each year through 2008.

The Child Care Division has contracted with Lane Community College Family Connections for a pilot program designed to promote affordability and quality in family and center-based child care settings. The program is providing increased wages and professional development scholarships to child care providers along with financial assistance to parents to offset the cost of child care. Providers that meet specific criteria are eligible to receive funds to support providing quality child care to low and moderate-income families. The amount of money disbursed to a participating provider will be based on the incomes of the families the provider serves, the fees the provider charges, and the actual cost to the provider of providing care. Providers agree to develop an individualized training plan, obtain additional professional development opportunities, and complete an assessment on their child care program. Parents who are enrolled with participating child care providers will have a portion of their child care fees paid based on family income level and the child care fee charged.

The Department of Administrative Services (DAS) was requested to unschedule \$1 million of the \$1.53 million expenditure limitation established for the tax credit program “pending sale of the 2005 and 2006 tax credits” to ensure that the program would be successful. Based on the success of the program to date, DAS plans to reschedule the funds in early September to allow the Child Care Division to expand the program.

30
Parks and Recreation Department
Analyst: Pearson

Request: Increase Lottery Funds expenditure limitation by \$506,000 for the Operations program, by \$1,000,000 Lottery Funds for the Facility Repair and Maintenance program, and \$500,000 Lottery Funds for the State Fair program.

Recommendation: Approve the request.

Discussion: The Oregon Parks and Recreation Department (OPRD) is requesting to increase Lottery Fund expenditure limitation in three programs. The department's Lottery Funds come from a constitutional dedication under Measure 66 (1998). Additional Lottery revenue has been forecast with each quarterly revenue forecast, resulting in sufficient uncommitted revenue to cover the requested expenditure limitation increases. The three expenditure limitation increases involve the development of recreation trails, paving projects, and State Fair projects.

Recreation Trails: The request includes \$506,000 Lottery Funds for recreation trail development. The department would use the additional expenditure limitation for seven projects. This includes actual development of specific trails and creation of statewide trail information. The following table summarizes this part of the request.

Project	Location & Description	Amount
Cazadero:	Clackamas County (Boring to Estacada). Hiking/biking trail following old rail line along north fork of Deep Creek	50,000
Stub Stewart:	Washington County. New full-service park includes hiking/biking trails	100,000
Oregon Coast Trail:	Entire 360 miles of Oregon Coast. Signs for finding the trail and interpretive displays	50,000
Willamette Water Trail:	Marion, Clackamas, Multnomah counties (Willamette River from Wheatland Ferry to Columbia confluence). Planning, campsites, toilets, picnic tables, other improvements, signs	56,000
Map Oregon State Parks trails:	Statewide. Collect map coordinates for all trails in Oregon State Parks	30,000
Rogue Valley Recreation and Trail	Jackson & Josephine counties. Rogue River Greenway Trail through Valley of the Rogue State Park. Recreation planning, trail development	200,000
Oregon State Trails webpage:	Statewide. Begin developing Oregon State Trails webpage	20,000
		506,000

Paving Projects: The requested increase in expenditure limitation includes \$1,000,000 Lottery Funds for nine paving projects. One of the original purposes of Measure 66 was to reduce a backlog of maintenance projects. Each biennium since 1999, progress has been made on reducing the backlog, but the agency would like to eliminate the backlog by 2014 if possible. To accomplish this goal, OPRD would like to use some of the additional Lottery Fund revenue to accelerate paving projects at nine sites. The following table summarizes this part of the request.

Project	Location	Amount
Banks-Vernonia Linear Trail Connection	Columbia County	300,000
Cove Palisades State Park Deschutes Campground	Jefferson County	250,000
Champoeg State Park Riverside Parking Lot	Marion County	180,000
Fort Rock State Park Entrance Road	Lake County	78,000
Oswald West State Park Campground Parking Lot	Tillamook County	60,000
North Santiam State Park Parking Lot	Marion County	50,000
Shore Acres State Park Parking Lot	Coos County	42,000
Catherine Creek State Park Parking Lot	Union County	20,000
Emigrant Springs State Park (entrance road and parking lot)	Union County	20,000
		1,000,000

State Fair: In its ongoing effort to revitalize the State Fair, the department has identified improvements to the fairgrounds that would make the property more pleasant. The department is requesting to use \$500,000 of additional Lottery Fund revenue to pay for fencing, three entry gates, outdoor furniture, and shade planting. The fencing would complete the iron fencing from the Armory to the Beef Barn. Surveys of fairgoers in previous years identified a need for cool places to sit and rest, so this request addresses that need.

Legal Reference: Increase Lottery Funds expenditure limitation established by chapter 697, section 2(4), for the Parks and Recreation Department, Operations program, by \$506,000 for the 2005-07 biennium.

Increase Lottery Funds expenditure limitation established by chapter 697, section 2(5), for the Parks and Recreation Department Facility Repair and Maintenance program, by \$1,000,000 for the 2005-07 biennium.

Increase Lottery Funds expenditure limitation established by the Emergency Board at its April 2006 meeting by \$500,000 for the Parks and Recreation Department State Fair program for the 2005-07 biennium.

31
Parks and Recreation Department
Analyst: Pearson

Request: Increase Other Funds expenditure limitation by \$1,550,000 for the Operations program.

Recommendation: Approve the request.

Discussion: This request relates to two issues: development of the new Stub Stewart state park in Washington County, and a permanent solution to a drainage problem at Garrison Lake on the south Oregon coast.

Stub Stewart Park. The Stub Stewart park project will experience an expenditure limitation shortfall without Emergency Board action. There are two reasons for this situation:

1. The project plan included a \$12.3 million budget. This budget depended on expenditure limitation from various sources, including a specific policy package in the 2005-07 Legislatively Adopted Budget, as well as earmarks in the Facilities Improvement Program and in the Land and Water Conservation program. The \$12.3 million project budget also included \$500,000 nonlimited Other Funds expenditure authority from the Acquisition/Development Trust Fund.

The agency's total 2005-07 Legislatively Adopted Budget included only \$11.8 million expenditure limitation to support the project. The \$500,000 difference between the Legislative Adopted Budget expenditure limitation and the planned \$12.3 million project budget resulted from a change to the agency's Legislatively Adopted Budget that eliminated nonlimited Other Funds and provided Other Funds expenditure limitation instead. In changing from nonlimited expenditures to expenditure limitation the \$500,000 for the Stub Stewart project did not get recorded in the Legislatively Adopted budget. Since it wasn't clear at the time that the expenditure limitation would be needed, the department decided to wait and see if the project actually needed the budget authority. It now appears that it does.

2. Events beyond the control the department (such as Hurricane Katrina and global competition for building goods) have increased the cost of construction elements in excess of the original estimated budget. While some elements are estimated to come in under budget, others are expected to significantly exceed the amount budgeted for them, and these overages exceed any project savings by \$139,000. The department hopes to cover these cost overages to some extent through project cost control efforts, but cannot control costs enough to cover both the omitted \$500,000 Trust Fund expenditure limitation and the \$139,000 cost overages.

Garrison Lake. This lake is in the city of Port Orford, on the south coast. It is a shallow freshwater coastal lake that lies behind a sand dune, which abuts the beach. In 2003, OPRD acquired 36.5 acres of land lying between the ocean and Garrison Lake to provide better beach access and because of drainage issues. The property was named Tseriadun State Recreation Site. The drainage issues resulted from the drainage outlet becoming plugged, and this threatened homes and other buildings with flooding. Also, archaeological sites were threatened, and fishing at the lake was affected.

OPRD has entered into an agreement with Curry County and the City of Port Orford to implement a permanent solution to the drainage problem. The department contracted with SHN Consulting Engineers to design a solution. The final design is for installation of a 6x12-foot box culvert at the south end of Garrison Lake. This culvert will direct drainage toward a small body of water south of the Tseriadun State Recreation Site; from there it will drain the ocean. The amount requested is \$1,050,000.

Legal Reference: Increase Other Funds expenditure limitation established by chapter 697, section 1(3), for the Parks and Recreation Department, Operations program, by \$1,550,000 for the 2005-07 biennium.

32
Parks and Recreation Department
Analyst: Pearson

Request: Increase Other Funds expenditure limitation of \$510,561 to expend additional funding available from the Oregon State Marine Board through its marine facilities grant program.

Recommendation: Approve the request.

Discussion: The Oregon State Marine Board operates a marine facilities grant program, which accepts applications for grants from other state agencies as well as local government. The Oregon Parks and Recreation Department (OPRD) applied for grant funding for several marine facilities projects, and the Oregon State Marine Board approved grants for those projects.

Because OPRD was successful in applying for the grants, it will receive funding that was not anticipated in the 2005-07 Legislatively Adopted Budget. So, an increase of \$510,561 Other Funds expenditure limitation is being requested. The following table summarizes the grant awards.

Project	Grant Award
Ona Beach, Beaver Creek Day Use Area Vault Toilet, Up to \$4,200 Cash by Park	10,000
Joseph Stewart State Park, Lost Creek Reservoir Floating Restroom Retrofit	15,000
Government Island Floating Restroom	41,000
Sandy Beach New Boating Facility Design, Engineering, Permitting	68,061
River Mill Dam (Milo McIver) New Boating Facility [Estacada Lk]	80,000
The Cove Palisades, Lake Billy Chinook Floating Restroom	98,000
Prineville Pumpout/Dump Station	198,000
TOTAL	510,061

Legal Reference: Increase Other Funds expenditure limitation established by chapter 697, section 1(4), for the Parks and Recreation Department Facility Repair and Maintenance program, by \$510,561 for the 2005-07 biennium.

34
Department of State Lands
Analyst: Pearson

Request: Increase Federal Funds expenditure limitation by \$412,000 for a Cooperative Endangered Species Conservation Fund grant that would be used by the Nature Conservancy to obtain a conservation easement on property near Eugene.

Recommendation: Approve as requested, with the following modification: Increase Federal Funds expenditure limitation by \$412,000, with the understanding that the Department of Administrative Services will unschedule this amount until official notice of the grant award is received.

Discussion: At its April 2006 meeting, the Emergency Board authorized the Department of State Lands (DSL) to apply for a Cooperative Endangered Species Conservation Fund grant (section 6 of the Endangered Species Act). The grant would assist the Nature Conservancy in purchasing a conservation easement on 1,244.19 acres in the Coburg Hills northeast of Eugene-Springfield.

DSL applied for the grant because it is the state agency qualified to apply for section 6 invertebrates grants in Oregon. Because state agencies must apply for these particular grants, DSL agreed to make the application and, if successful, pass the grant through to the Nature Conservancy. No state match is required for the grant.

The application was successful, so DSL has returned to the Emergency Board to request increasing its Federal Funds expenditure limitation by \$412,000, \$400,000 of which will go to the Nature Conservancy. The remaining \$12,000 will cover DSL administrative expenses.

The property is owned by a local couple and includes 66 acres occupied by the Fender's Blue Butterfly and Kincaid's lupine. The other 1,178.19 acres support other species of concern. An adjoining property owned by Weyerhaeuser already has a conservation easement on it. The conservation easement reportedly will not affect the local tax base because the land will not be taken out of agricultural production. Prior to DSL applying for the grant, the Nature Conservancy discussed the purchase with the Lane County Commission and reported support by the Commissioner in whose district this property is located.

The fair market value is \$6.3 million. Aside from this federal grant, the Nature Conservancy was also seeking about \$5.0 million in funding from the Bonneville Power Administration through its wildlife mitigation program. Private funding was also an option for a portion of the costs not covered by the Cooperative Endangered Species Conservation Fund grant. Reportedly, if the Bonneville Power Administration request is unsuccessful, the Nature Conservancy would also look for other public funds, such as Oregon Watershed Enhancement Board capital grants or Landowner Incentive Funds.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 776, section 3(1), Oregon Laws 2005, for the Department of State Lands, by \$412,000 for the Natural Heritage Advisory Council, for the 2005-07 biennium.

35
Department of State Lands
Analyst: Pearson

Request: Increase Other Funds expenditure limitation by \$18,000,000 to remove the wreck of the New Carissa from state land.

Recommendation: Approve as requested, with the following modification: Increase Other Funds expenditure limitation by \$18,000,000 with the understanding that the Department of Administrative Services will unschedule \$7,570,000. This is the amount currently estimated to be paid in the 2007-09 biennium.

Discussion: The Department of State Lands (DSL) is in discussions with Titan, A Crowley Company (Titan) for the removal of the wreck of the New Carissa. This ship went aground in 1999. Various attempts to remove the wreckage have been made previously, but the ship's carcass remains buried partially in sand on the beach near Coos Bay. The wreck is on state lands and presents a potential safety liability to the state.

Legal action against the owners of the New Carissa resulted in \$27.1 million held in trust pending final legal action. In spring 2006, the owners and the State Land Board entered into a settlement which would award the state \$22.1 million. The state now has responsibility to remove the remaining wreckage. Titan is reportedly the only marine salvage company capable of removing the New Carissa.

The plan for removal calls for jacking up the wreckage using salvage barges and cutting up the ship, then removing the pieces. Because a portion of the wreck lies below the waterline, hydraulic pullers will also be used.

The scope of work calls for planning, mobilization, towage and site preparation, on-site removal, and demobilization and disposal. The amount of time each phase takes depends on a number of variables, most importantly weather and site conditions.

Work is expected to start in February 2007, with the removal possibly occurring in June and July. The current estimate of expenses that will be paid within the 2005-07 biennium is \$10,430,000. The remaining \$7,570,000 of the total \$18 million project cost is expected to be spent in the 2007-09 biennium. The total project cost of \$18 million includes \$15,950,000 for actual removal work, \$1,550,000 for contingencies, and \$500,000 for an agent to oversee the work on behalf of the agency.

The difference between the \$18 million cost of removing the wreckage and the final settlement of \$22.1 million will pay for legal costs incurred by the state.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 776, section 2(3), Oregon Laws 2005, for the Department of State Lands, Common School Fund program, by \$18,000,000 for the 2005-07 biennium.

36
Department of Geologic and Mineral Industries
Analyst: Pearson

Request: Increase Other Fund expenditure limitation by \$589,000 for contracts with various state agencies, increased recreation pass sales, and for mined land reclamation legal costs.

Recommendation: Approve the request, with the following modifications: Increase Other Funds expenditure limitation by \$589,000 with the understanding that the Department of Administrative Services will unschedule \$561,965 until final agreements are reached.

Discussion: The department is requesting an increase of Other Funds expenditure for three reasons: contractual work opportunities have become available since the Legislatively Adopted Budget was approved, recreation pass sales have exceeded budgeted amounts, and attorney costs for the Mined Land Reclamation program are higher than budgeted. The net effect of these additional expenses is \$589,000.

Contractual work opportunities: DOGAMI receives much of its Other Funds revenue through contracts with other state agencies. The agreements are for technical expertise and for studies other state agencies need to fulfill their missions. The number of contracts and the amounts per contract can vary from biennium to biennium. Four contracts became available after adoption of the agency's budget. These agreements are:

1. US Highway 101 monitoring: The Gregory Creek landslide closed highway 101, leading the Oregon Department of Transportation to contract for monitoring of this area.
2. Oregon Emergency Management: This agency has contracted with DOGAMI for work related to the Pre-Disaster Mitigation program.
3. Neskowin Littoral Cell: The Oregon Parks and Recreation Department, the Department of Land Conservation and Development, and the City of Seaside have contracted with DOGAMI to monitor coastal erosion, including mapping paleotsunami deposits and evaluating erosion.
4. Geoscientific databases: The Department of Energy and the Department of Administrative Services Geospatial Enterprise Office have contracted with DOGAMI for work related to statewide distribution of digital maps.

Recreation pass sales: The department, through its Nature of the Northwest information center, sells recreational passes for other natural resource agencies and the US Forest Service. Sales have grown in recent biennia, and are expected to exceed the amount budgeted in the 2005-07 biennium budget. Since the passes are sold at cost, revenues equal expenditures, so the department needs additional expenditure limitation.

Attorney costs: The Mined Land Reclamation program has had higher-than-expected attorney costs for compliance issues for surface mining regulation. This increase is \$27,035 and it is assumed that these costs need to be paid without delay, so this amount is not included in the recommendation to unschedule the requested expenditure limitation.

Legal Reference: Increase Other Funds expenditure limitation established by chapter 430, section 2, for the Department of Geology and Mineral Industries, by \$589,000 for the 2005-07 biennium.

37
Department of Agriculture
Oregon Economic & Community Development Department
Analyst: Upadhyay

Request: Allocate \$500,000 reserved in the State Emergency Fund to provide assistance to Oregon's salmon troll fleet.

Recommendation: Approve the request.

Discussion: The closure of commercial salmon fishing by the federal government in the Oregon coast has caused a serious economic crisis for the salmon troll fleet and coastal communities. In response to this disaster, the State Emergency Board, at its June 2006 meeting, approved an Other Funds expenditure limitation increase of \$500,000 for the Department of Agriculture to expend funds from the Strategic Reserve Fund and established a reservation of \$500,000 in the general purpose Emergency Fund to provide additional state support to assist commercial salmon fishers along most of the Oregon coast. The Department was instructed to return to the State Emergency Board's meeting in September 2006 to report on the details of the direct cash assistance payment program designed to pay for certain fixed expenses of Oregon based salmon fishing boat owners unable to fish due to the federal government's closure of the salmon fishing season. As instructed by the State Emergency Board, the Department of Agriculture is providing a report including responses to questions and is requesting the release of the \$500,000 from the State Emergency Fund to the Oregon Economic & Community Development Department to provide additional direct financial assistance to Oregon's salmon troll fleet.

The Governor and Legislative Leadership agreed to the release of \$500,000 from the Strategic Reserve Fund in June 2006 with clear direction to the Department of Agriculture to maintain the infrastructure of the salmon troll fleet and target funds to the most in need. The Department aggressively worked with the Oregon Salmon Commission, the Oregon Coastal Zone Management Association, coastal legislators and several other state agencies to create a process and timetable that ultimately released the aid to the fleet within an eight week period. Assistance payments were mailed on August 11, 2006. The Department working together with the Oregon Economic and Community Development Department received and processed over 340 applications of which 283 received financial assistance. Total requests exceeded \$1.5 million. The average aid was \$1,764 with a minimum payment of \$75 and a maximum payment of \$7,500.

The Department is prepared to again assist the salmon fishers with funds provided by this request. Based on lessons learned from the initial assistance process, the Department will be recommending changes for the second round. Also, since it is the Oregon Economic and Community Development Department that will be writing the checks to the recipients, it is requested that the allocation of \$500,000 from the State Emergency Fund be made to that agency.

Legal Reference: Allocation of \$500,000 from the State Emergency Fund for the Oregon Economic & Community Development Department, Oregon Community Development Fund program for the 2005-07 biennium.

38
Department of Agriculture
Analyst: Upadhyay

Request: Allocate \$235,000 from the State Emergency Fund to begin research that would assist in 1) understanding interactions between canola and other specialty seed and vegetable crops grown in Oregon; 2) development of potential management strategies for production of canola crops while protecting the specialty seed and vegetable crop industry; and 3) the investigation of alternative oilseed crops that do not conflict with specialty seed and vegetable crop production.

Recommendation: Approve the request.

Discussion: The Department of Agriculture is requesting an allocation of \$235,000 from the State Emergency Fund to begin work at Oregon State University to address the strong and aggressive interest in bio-diesel production in Oregon.

Many farmers are interested in making their own bio-diesel by using canola or rapeseed to offset the high costs of petro-diesel. This interest has created concerns to growers of specialty seeds and vegetable crops about cross-pollination with canola, or sharing of common pests and diseases. There is fear that canola will become widespread and establish itself as a weed or become a seed contaminant to specialty seeds and vegetables.

To address these concerns, the Department has created “protected” and “open” districts by rule to enable time to gather additional information needed to determine whether and how canola production can occur in areas in proximity to specialty seed and vegetable crop production. These rules are currently in place with a mandatory review required in the summer of 2007. The Department is also working with Oregon State University Crop and Soil Sciences Department and other Extension specialists to find answers to issues like isolation distances, flower synchrony, pollen flow, and local weather and topographic conditions needed for canola and specialty seeds.

If the request is approved, plans are in place to plant the canola field trials this fall. Otherwise, the field trial plantings will be delayed until fall of 2007 assuming resources are obtained during the 2007 Legislative Session. In addition, GIS mapping of specialty seed and vegetable crops is also critical to better understand specifically which areas need to be protected and where canola production might be allowed.

The Department states that it is estimated to take three years to complete the project. The Department is also requesting \$470,000 General Fund in its 2007-09 Agency budget request.

Legal Reference: Allocation of \$235,000 from the State Emergency Fund to supplement the appropriation made by chapter 716, section 1(4), Oregon Laws 2005, for the Department of Agriculture, Agricultural Development program for the 2005-07 biennium.

39
Department of Agriculture
Analyst: Upadhyay

Request: Increase Federal Funds expenditure limitation by \$700,000 to expend a Cooperative Endangered Species Conservation Fund federal grant received from the U.S. Department of the Interior, Fish and Wildlife Service.

Recommendation: Approve the request with the understanding that the Department of Administrative Services will unschedule the increased \$700,000 Federal Funds expenditure limitation pending award of the grant.

Discussion: The Emergency Board, at its April 2006 meeting, granted retroactive approval to the Department of Agriculture in cooperation with The Nature Conservancy (TNC) to apply for a Cooperative Endangered Species Conservation Fund (CESCF) federal grant. The purpose of the grant is to acquire land to protect and enhance populations of the federally threatened *Silene spaldingii*, Spalding's catchfly, which falls under the Department's jurisdiction. The Department's understanding is that the federal grant will be awarded around the middle of September and that the piece of property which is to be purchased with the grant dollars is only available until the end of September. As a result, the Department is requesting an increase of \$700,000 Federal Funds expenditure limitation to be able to expend the grant dollars in anticipation that the agency will be awarded the federal grant.

On December 21, 2005, the U.S. Department of the Interior, Fish and Wildlife Service (USFWS) announced that it is accepting funding proposals from States and Territories under the Cooperative Endangered Species Conservation Fund (under Section 6 of the Endangered Species Act) for voluntary, non-regulatory habitat conservation actions on non-federal lands. On February 1, 2006, TNC asked the Department of Agriculture to act as the state recipient agency for a CESCF grant proposal. Since the proposals to the USFWS were due March 20, 2006, a letter was submitted to the Co-Chairs of the State Emergency Board on March 9, 2006 notifying about the Department's intent to submit this grant application.

The Recovery Land Acquisition Grants Program of the CESCF uses a competitive process to provide grant funds to reduce the threats to federally listed species. In the case where the action occurs on private land by a non-profit organization such as TNC, the state agency with jurisdictional responsibility for the specific federally listed species must submit the application in coordination with the organization and act as the "pass through" agency for the receipt of the federal funds.

TNC has an option to purchase a 6,065-acre tract of land from willing sellers for the purpose of protecting and enhancing the federally listed plant, Spalding's catchfly (*Silene spaldingii*). This species is also listed by the State of Oregon as Endangered. The property is located adjacent to TNC's current Zumwalt Prairie Preserve in the Blue Mountain Basin of Wallowa County. The Zumwalt Prairie area has the largest known population of Spalding's catchfly in Oregon.

The preliminary Fair Market Value of this property is estimated at \$3,000,000. TNC plans to apply for public funding for a total of \$1,200,000, including this \$700,000 federal grant, and raise private dollars for the remainder. TNC has applied to the Oregon Watershed Enhancement Board for the remaining \$500,000 of public funding.

In discussions with county opinion leaders, TNC decided to apply for public funding in an amount approximately equal to the increased cost of the land over its value as ranching property (in essence its “development rights” value). In consultation with local ranchers, bankers, the Oregon State University extension agent, and real estate appraisers, TNC determined that the value a ranching family would pay for the property if they intended to make a ranch operation economical was about \$1,800,000. Therefore, TNC concluded that the “development rights” are probably equal to about \$1,200,000.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 716, section 4(2), Oregon Laws 2005, for the Department of Agriculture, Natural Resources program, by \$700,000 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone

Request: Establish Lottery Funds Debt-Service expenditure limitation of \$613,708 for the Connect Oregon project. Establish Lottery Funds Debt-Service expenditure limitation of \$43,706 for the South Metro Commuter Rail project. Increase Lottery Funds Debt-Service expenditure limitation by \$230 for debt payments on certain other lottery-backed bonds.

Recommendation: Approve the request.

Discussion: The purpose of this letter is to provide the Oregon Department of Transportation (ODOT) with sufficient lottery fund debt service expenditure limitation to pay the principle and interest due on certain lottery-backed bonds this biennium. Adequate lottery revenues have already been allocated to the Department in Senate Bill 5520 (2005).

The *Connect Oregon* project (approved by the 2005 Legislature) authorizes \$100 million in lottery bonds to finance grants and loans for certain non-State Highway Fund transportation projects. The first lottery bond sale (\$25 million) was completed in August 2006. The Emergency Board, at its June 2006 meeting approved expenditure limitation for ODOT and the Department of Aviation to allow for expenditure of these funds. An interest payment of \$613,707.19 will be due in April 2007. Approval of this Emergency Board request will provide expenditure limitation for this payment.

In 2002, lottery-backed bonds were issued to support the start-up and administrative costs for the South Metro Commuter Rail project. The start-up costs were for ODOT's work relating to planning and developing the project. Debt service on this bond will total \$43,705.58 in the current biennium.

The 2001 Legislature approved the sale of \$2 million in lottery bonds to establish a Short Line Credit Premium Account for financial assistance to short-line railroads. In addition, \$8 million in lottery bonds were approved for Industrial Rail Spur infrastructure project. This Emergency Board letter requests an adjustment in the original Short Line limitation to reflect actual debt costs. Also, this adjustment will accommodate a rounding adjustment on the Industrial Rail debt service limitation.

Legal Reference:

- Establishment of an expenditure limitation of \$613,708 for the Oregon Department of Transportation for payment of debt-service expenses from Lottery Funds for the biennium beginning July 1, 2005 for the Connect Oregon project.

- Establishment of an expenditure limitation of \$43,706 for the Oregon Department of Transportation for payment of debt-services expenses from Lottery Funds for the biennium beginning July 1, 2005 for the South Metro Commuter Rail project.

- Increase the Lottery Funds Debt-Services expenditure limitation established by chapter 721, section 4(2) , Oregon Laws 2005, for the Oregon Department of Transportation, Short Line Infrastructure Assistance by \$230 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone

Request: Increase Other Funds expenditure limitation by \$10,000,000 for fuel and material cost increases.

Recommendation: Approve the request.

Discussion: The rapidly rising costs for fuel and materials could reduce the level of service for Department of Transportation (ODOT) maintenance activities if spending authority is not increased. For example, fuel costs are projected to be \$9.2 million (47%) greater this biennium than the 2003-05 actual expenditures for these items. Most of these additional costs, \$7.3 million, are in the maintenance program.

Material costs are also escalating. The rising cost of asphalt has increased the cost of chip sealing and paving by \$8,000 per mile. Asphalt is a key ingredient in highway maintenance. Costs for this product have increased nearly 77 percent over the past year. The cost of striping paint has increased by 30% (\$0.86 to \$1.12 per gallon). ODOT uses 2.3 million gallons per biennium. De-Icer materials costs have increased by 56% (\$4.81 to \$7.53 per gallon). ODOT uses 450,000 gallons per biennium. The department has estimated the increases in these three items at \$11.8 million for the current biennium.

In order to address a portion of these rising fuel and materials costs, the Oregon Transportation Commission has allocated an additional \$10,000,000 in funding for maintenance. The purpose of this letter is to request corresponding Other Funds expenditure limitation.

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 721 section 2(2), Oregon Laws 2005, for Maintenance and Emergency Relief program, by \$10,000,000 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone

Request: Increase Other Funds expenditure limitation by \$22,000,000 to repair damage sustained during the December 2005/January 2006 winter storms.

Recommendation: Approve the request.

Discussion: The winter storms of 2005-2006 caused damage from flooding, slides and washed out highways. The scope of the damage (estimated to be over \$25 million) resulted in a federal emergency declaration. As a result of the declaration, the State requested and received approval from both Federal Highway Administration (FHWA) and Federal Emergency Management Agency (FEMA) to be reimbursed for damage caused by these storms. A total of \$21,956,060 of these reimbursement funds has been made available for Oregon Department of Transportation (ODOT) repairs. These funds are retroactive back to when the Emergency was declared, so that ODOT can submit for reimbursement for any actual expenditures incurred to date.

The following work is 100% reimbursable:

- The entire amount for “temporary fixes” occurring within the first 180 days of the event. Temporary fixes are any work that is needed to help open the roadway and provide a safe road system for the traveling public and freight movement
- Any “permanent fixes” on federal lands. Permanent fixes are work that requires ODOT to rebuild or add to the pre-emergency condition

Any remaining temporary fixes (in excess of 180 days) and permanent fixes will be reimbursed by FHWA at 89.73%.

The purpose of this letter is to request Other Funds expenditure limitation to support these additional costs. ODOT’s Maintenance limitation will not be able to absorb storm damage related costs without significantly reducing other responsibilities such as the regularly scheduled paving of highways.

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 721 section 2(2), Oregon Laws 2005, for Maintenance and Emergency Relief program, by \$22,000,000 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone

Request: Increase Other Funds expenditure limitation by \$15,664,536 for the Reimbursable Program, the Fleet Services Program, the Traffic Services Unit and the Photo/Video Services Unit.

Recommendation: Approve the request.

Discussion: The Oregon Department of Transportation (ODOT) provides a variety of “as needed/as requested” services to other state agencies, local governments and the private sector. In addition it makes expenditures to repair department property that has been damaged by others. The related events and requests leading to these expenditures are not predictable. In the past these types of expenditures were categorized as “non-limited”. The legislature would define the purpose for the expenditures but would set no dollar limitation in law. However they would be subject to administrative allotment control. Non-limited expenditure authority for certain of these services was not included in the 2005-07 Legislatively Adopted Budget.

The purpose of this letter is to request Other Funds expenditure limitation for these types of expenses, based on actual experience to date this biennium. They are divided into four programs:

- Reimbursable Program – primarily responsible for repairing department property which is damaged by others. In the case of property damage, ODOT works with insurance companies of the responsible party to seek reimbursement. The Department is projecting these costs to total about \$12.2 million this biennium.
- Fleet Services Program – a portion of these services is actually used by other state agencies, such as the Oregon State Police, cities and counties. The Department is projecting these costs to total \$2,813,067.
- Traffic Signal Services – the cost of these services provided to and paid for by non-ODOT entities (cities and counties) is expected to total \$420,000.
- Photo/Video Services – including aerial photography, video production, publications, graphic design and general reprographic services. Providing these services to non-ODOT entities is expected to require an increase in limitation amounting to \$231,469.

Legal Reference:

- Increase the Other Funds expenditure limitation established by Chapter 721 section 2(2), Oregon Laws 2005, for Maintenance and Emergency Relief program, by \$2,813,067 for the 2005-07 biennium for Fleet Services expenses.
- Increase the Other Funds expenditure limitation established by Chapter 721 section 2(8), Oregon Laws 2005, for Special Programs, by \$12,620,000 for the 2005-07 biennium for the Reimbursable Program and for the Traffic Signal Services Unit.

- Increase the Other Funds expenditure limitation established by Chapter 721 section 2(18), Oregon Laws 2005, for Central Services, by \$231,469 for the 2005-07 biennium for the Photo/Video Services Unit

Oregon Board of Pharmacy
Analyst: Kleiner

Request: Report on the Prescription Drug Monitoring Program, specifically the drug abuse and diversion problem in Oregon, and the agency budget bill, HB 5170, regarding Pharmaceutical Wholesaler Rules.

Discussion: Since spending up to \$50,000 was approved at the October 2005 meeting of the Emergency Board to plan and develop Oregon's Prescription Drug Monitoring Program, efforts by the agency have been focused upon educating staff and coalition members about drug diversion and reaching out to stakeholders. Throughout this education process, it has become increasingly clear that the Prescription Drug Monitoring Program is critical to the overall welfare of Oregonians. In addition to Physicians throughout Oregon expressing interest in using such a program, the Interim Senate Public Health Committee is exploring the concept as potential legislation. The Committee has requested more information regarding the Program.

Prescription Drug Monitoring Programs help prevent and detect the diversion and abuse of pharmaceutical controlled substances. This tool is most frequently used in retail Pharmacies. Such programs provide the capability to collect and analyze prescription data in order to detect abuse trends. Oregon is at high risk for prescription drug abuse due to the fact that surrounding states have such programs. No comprehensive data set has been identified which defines the prescription drug problem in Oregon. This impacts policy decisions which in turn prohibit the progress of successful prescription drug abuse prevention and intervention. Through information gathering from a variety of sources, the board has come to the conclusion that the Prescription Drug Monitoring Program it is planning and developing for Oregon will be the program that successfully provides a comprehensive data set that will aid in policy decisions aimed at addressing the prescription drug abuse problem in Oregon.

Bureau of Labor and Industries**Analyst: Kleiner**

Request: Report on the prevailing wage workload, the workload of the individual prevailing wage rate investigators, and the timeliness of investigations. Increase Other Funds expenditure limitation by \$41,635 and establish of 1 permanent, full-time position (0.38 FTE) for a Wage and Hour Compliance Specialist position for the prevailing wage rate (PWR) unit of the Bureau's Wage and Hour Division.

Recommendation: Approve the request.

Discussion: In a budget note to House Bill 5126 (2005), the Bureau of Labor and Industries (BOLI) was directed to report back to the legislature on the status of the workload of the prevailing wage rate (PWR) unit of the Bureau's Wage and Hour Division. In addition to conducting PWR investigations, an increasing portion of the PWR unit's workload is dedicated to issuing predeterminations regarding coverage under the law. BOLI encourages public agencies to seek predeterminations before commencing construction which avoids the bureau having to conduct a disruptive and time-consuming investigation if coverage is determined after contracts have been executed and workers have already begun working and receiving improper rates of pay. Predeterminations provide numerous benefits for both the Bureau and parties, giving the parties the opportunity to receive an early analysis of whether a potential project is subject to the state's prevailing wage rate law. With the increased emphasis on issuing these predeterminations, the Bureau is working with the Department of Justice to identify ways to provide predeterminations in a timely manner in order to assure a quick turnaround for the parties.

The Bureau's report also includes the past and current states of the timeliness of PWR investigations. At the time the Bureau developed its 2005-07 budget, the PWR unit which was comprised of 4 Full-time equivalent (FTE) Wage and Hour Compliance Specialist positions was not able to meet its performance measure goal of completing 50% of investigations in 90 days or less. The addition of 1 FTE Wage and Hour Compliance Specialist in 2005 increased the completion of PWR investigations to over 50% completion of investigations in fewer than 90 days and approximately 75% completion of investigations in less than 120 days.

The 2005 Legislature requested the Bureau report back regarding approval to obtain authorization to hire an additional FTE if workload justified it. The addition of an additional Wage and Hour Compliance Specialist is needed to help manage the increasing number of predetermination requests that the Bureau is receiving. In addition to managing the predetermination requests, the additional staff person would help the Bureau achieve other predetermination related goals such as, establishing a method for parties to appeal predeterminations issued as part of the administrative process so those that disagree with the Bureau's interpretation are able to file an appeal expeditiously.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 599, section 2, Oregon Laws 2005, for the Bureau of Labor and Industries, by \$41,635 for the 2005-07 biennium.

Bureau of Labor and Industries**Analyst: Kleiner**

Request: Increase Other Funds expenditure limitation by \$400,000 to support costs related to an unanticipated increase in legal costs associated with the Prevailing Wage Rate (PWR) unit compliance investigations and pre-determinations.

Recommendation: Approve the request.

Discussion: The Bureau is requesting an Other Fund expenditure limitation increase for the PWR Fund due to the rise in increasingly complex PWR cases which necessitate substantial legal work provided by the Oregon Department of Justice (DOJ). This request is necessitated by the fact that the costs associated with the legal services provided by DOJ for PWR cases are dramatically higher than the amount budgeted in the agency's Legislatively Approved 2005-07 budget. This is a one-time request. The Bureau has made an inclusion in their 07-09 budget to mitigate for these legal services costs.

Although an effort has been made by the Bureau to encourage public agencies and other parties to request pre-determinations prior to entering into contracts for construction and development, the fact remains that the pre-determination work still constitutes a complex and lengthy process in and of itself. Work is ongoing to communicate with DOJ to identify ways in which assistant attorney general time can increasingly be devoted to PWR cases. In addition, ways in which parties can appeal a predetermination decision are being explored in order to expedite this lengthy and complex process, resulting in benefits for both the Bureau, outside public agencies, and other parties.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 599, section 2, Oregon Laws 2005, for the Bureau of Labor and Industries, by \$400,000 for the 2005-07 biennium.

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Department of Administrative Services
Analyst: Erickson

Request: Increase Capital Construction Other Funds expenditure limitation by \$4,100,000 to renovate the Eugene State Office Building (ESOB).

Recommendation: Approve the request with the following modification: Establish a Capital Construction Other Funds expenditure limitation of \$4,100,000 for the renovation of the ESOB.

Discussion: The Department of Administrative Services (DAS) Facilities Division's purpose is to secure facilities that provide a functional work environment for state employees. Key services include:

- Building operations and maintenance
- Leasing and land sales/acquisitions
- Space planning and construction project management
- Parking
- Statewide facilities program management and resource conservation

The Facilities Division Planning and Construction Management Section is responsible for ensuring that major renovations and improvements to building structures and systems meet quality standards and desired outcomes.

During the 2003 Legislative Session, \$100,000 Other Funds expenditure limitation was authorized to conduct a study regarding the future of the ESOB. The ESOB has been used for offices for state and local public agencies since being erected in 1961. Quoting Pivot Architecture, the firm DAS contracted with to perform the feasibility study: "There are numerous architectural, structural, and building mechanical and electrical system deficiencies that make it a poor location for long-term modern public offices without the major investment of resources." DAS reports that deteriorating conditions may require closing the building if action is not taken soon.

The feasibility study reviewed three basic options: renovation, renovation with an addition, and demolition and reconstruction. DAS found that renovation of the existing structure is the most cost-effective approach and best meets the needs of the tenant population in the Eugene area.

The following table displays the estimated total renovation costs of the ESOB.

EUGENE STATE OFFICE BUILDING ESTIMATED RENOVATION COSTS	
Construction	3,276,000
Design, Project Management, Space Planning, 1% for Art, Contingency, Inspections, Commissioning	924,000
Total Cost	4,200,000
Feasibility Study authorized by 2003 Legislature	- 100,000
Current Request for Limitation	\$4,100,000

The outline of the project timeline is as follows: architectural design upon Emergency Board approval, demolition beginning near the end of the design phase, construction in the summer of 2007, and completion of the project in summer of 2008. DAS will return to a future Emergency Board to request additional expenditure limitation authority if fluctuations in the construction market warrant it.

The revenue source for this project is the Capital Construction Fund. This account is primarily funded by the depreciation component of uniform rent paid by occupants of DAS-owned facilities. The cost of the renovation will be recovered over a 40-year period through uniform rent.

Legal Reference: Establishment of an expenditure limitation of \$4,100,000 for the Department of Administrative Services, for the payment of expenses from fees, moneys, or other revenues, including Miscellaneous Receipts, excluding Lottery or Federal funds, collected or received for the biennium beginning July 1, 2005, for Capital Construction.

STATE OF OREGON
 POTENTIAL ITEMS FOR FUTURE MEETINGS OF THE EMERGENCY BOARD
 2005-07 Biennium

	Estimated Amount	Estimated Date
<u>POTENTIAL ALLOCATIONS FROM STATE EMERGENCY FUND</u>		
<u>I. 2005 LEGISLATIVE SESSION RESERVATIONS</u>		
Subtotal	\$ 0	
<u>II. EMERGENCY BOARD/SPECIAL SESSION RESERVATIONS</u>		
Department of Agriculture and Oregon Economic & Community Development Department Assistance to salmon troll fleet	500,000	Sep-06
Department of Education Early Intervention/Early Childhood Special Education caseload growth	3,009,549	Sep-06
Subtotal	\$ 3,509,549	
<u>III. EMPLOYEE COMPENSATION ADJUSTMENTS</u>		
Department of Forestry Funding for the Public Share Fire Fund from remaining salary pot	611,000	Nov-06
Department of Human Services Home care worker collective bargaining changes	10,000,000	Not needed
Subtotal	\$ 10,611,000	
<u>IV. SPECIAL PURPOSE APPROPRIATIONS</u>		
Department of Education Local Option Equalization Grants	646,038	Nov-06
Department of Forestry Forest Fire Suppression Resources	1,543,212	Nov-06
Department of Human Services Rebalance Appropriation	83,300,000	Nov-06
Secretary of State 2007 Voters' Pamphlets	635,206	Nov-06
Subtotal	\$ 86,124,456	
<u>V. OTHER POTENTIAL GENERAL FUND REQUESTS</u>		
Statewide Funding for additional costs of the Young case	Unknown	Nov-06
Oregon Military Department Funding to reimburse expenses incurred during Katrina emergency response	2,500,000	Nov-06
Department of Corrections Funding for unanticipated facility and equipment repairs/maintenance	Unknown	Unknown
Department of Justice Funding for workload in Defense of Criminal Convictions	994,819	Sep-06
Litigation cost to protect Oregon MSA revenue stream	2,400,000	Sep-06
Department of State Police Funding for budget shortfall due to gasoline expense, fire costs, if shortfall cannot be managed in a rebalance or other revenue source cannot be determined	Unknown	Unknown
Department of Human Services Rebalance of financial resources for the 2005-07 biennium (see also SPA above)	Pending	Nov-06

	Estimated Amount	Estimated Date
Department of Agriculture		
Canola research funding	235,000	Sep-06
Public Defense Services Commission		
Funding to meet mandated caseload	7,853,000	Sep-06
Subtotal	\$ 13,982,819	
TOTAL POTENTIAL GENERAL FUND	\$ 114,227,824	

POTENTIAL EXPENDITURE LIMITATION REQUESTS

Department of Administrative Services

To provide State Hospital project management (2 positions/ 0.76 FTE) -- OF	159,398	Sep-06
Capital Construction for Eugene State Office Bldg renovation -- OF	4,100,000	Sep-06
If awarded Natl Inst on Disability and Rehab Devl (H I R E) Grant - FF	150,000	Nov-06

Department of Environmental Quality

Air Quality Permitting software carryover -- OF	300,000	Unknown
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Geology and Mineral Industries

Geologic Survey - OF	589,000	Sep-06
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Parks and Recreation Department

Trails, paving, State Fair projects -- LF	2,006,000	Sep-06
Stub Stewart and Garrison Lake projects -- OF	1,550,000	Sep-06
Marine Board grants -- OF	510,561	Sep-06

State Lands

New Carissa settlement - OF	18,000,000	Sep-06
Nature Conservancy acquisition grant - FF	412,000	Sep-06
Fire suppression costs - OF	unknown	Nov-06
South Slough National Estuarine Research Reserve grant limitation increase and position authority increase - OF and FF	unknown	Nov-06

Department of Higher Education

Education and General Services expenditure limitation increase	Unknown	Unknown
Portland State University University Place Redevelopment - phase 1	Unknown	Unknown
University of Oregon Music School	Unknown	Unknown
University of Oregon Haywood Field	Unknown	Unknown
University of Oregon basketball arena, land acquisition, parking structure	Unknown	Unknown
Oregon State University research park tenant #1 and #2	Unknown	Unknown
Southern Oregon University land acquisition	Unknown	Unknown
Oregon State University Reser Stadium renovation phase 2	33,000,000	Sep-06
Oregon State University Large Animal Hospital	0	Sep-06
Oregon Institute of Technology Center for Health Professions	1,000,000	Sep-06
Oregon Institute of Technology housing project	Unknown	Unknown
Other Capital Construction projects	Unknown	Unknown

Department of Community Colleges and Workforce Development

Workforce Investment Act Federal Funds expenditure limitation increase	2,100,000	Unknown
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Bureau of Labor and Industries

Prevailing Wage Rate unit workload - OF	41,635	Sep-06
Increase OF limitation for legal costs assoc with the PWR unit	400,000	Sep-06

Public Employees Retirement System

Costs related to <i>City of Eugene vs. PERS</i> case	Unknown	Unknown
Fiscal impact of House Bill 2189	Unknown	Unknown
Individual Account Program remediation	Unknown	Unknown

	Estimated Amount	Estimated Date
Secretary of State		
Add three state auditor positions	315,616	Unknown
Various		
Licensing boards -- Other Funds expenditure limitation for criminal background checks	Unknown	Unknown
Department of Human Services		
Rebalance of financial resources for the 2005-07 biennium (see also SPA above)	Unknown	Nov-06
MMIS Project - Additional FF limitation for eXPRS enhancement - FF	Unknown	Nov-06
Capital Construction limitation for the Oregon State Hospital project	1,014,999	Sep-06
Real Estate Agency		
OF limitation for the last eight months of the 2005-07 biennium	2,507,701	Sep-06
Department of Consumer and Business Services		
Increase limitation for Oregon Medical Insurance Pool if additional CMS federal grants awarded -- FF	Unknown	Unknown
If SHIBA grant is awarded at total amount requested -- FF	1,170,009	Nov-06
Department of Agriculture		
Increase Federal Funds limitation to expend Nature Conservancy grant -FF	700,000	Sep-06
Department of Transportation		
Limitation for previously non-limited activities - OF	15,664,536	Sep-06
Connect Oregon remaining funding -OF	75,000,000	Unknown
Debt Service for Connect Oregon & true-up other debt service - LF	657,644	Sep-06
Winter Storm Damage - OF	22,000,000	Sep-06
Inflation on fuel and materials - OF	10,000,000	Sep-06
Oregon Military Department		
Capital construction expenditure limitation for McMinnville Armory tube storage building-FF	725,000	Sep-06
Capital construction expenditure limitation to purchase land at Camp Rilea -OF	600,000	Sep-06
Capital construction expenditure limitation to construct Boardman Machine Gun Range -OF	200,000	Sep-06
Capital construction expenditure limitation to construct Boardman Machine Gun Range -FF	3,990,000	Sep-06
Department of Education		
Increase in limitation for Enhanced Assessment Grant - FF	1,200,000	Nov-06
Increase in limitation for Personnel Development Grant - FF	5,000,000	Nov-06
Judicial Department		
Increase OF limitation for a Drug Court grant	275,034	Sep-06
Increase FF limitation for a Drug Court grant	298,354	Sep-06
Employment Department		
Eco-health child care grant expenditure limitation	Unknown	Nov-06

POTENTIAL REPORTS

Department of Administrative Services		
Report on CNIC		Sep-06, Nov-06
Report on compensation plan changes		Sep-06
Department of Consumer and Business Services		
Report on any substantial changes to administration or operation of the Manufactured Dwelling program		Unknown
Report on progress of e-permitting portal expansion per HB 3097		Nov-06
Employment Department		
Report on implementation of the new Child Care Contribution Tax Credit		Sep-06

	Estimated Amount	Estimated Date
Department of Energy		
Report on the status of projects associated with the new Principal Contributor 2 position		Nov
Department of Forestry		
Report on the availability of federal grants and engaging the insurance industry in reducing risks to the urban-rural interface		Nov-06
Report on outcomes of the harvest model project		Nov-06
Department of Higher Education		
Report on increased fee remissions		Nov-06
Department of Human Services		
Report updating progress of the Children's Mental Health Change Initiative To update PSU evaluation.		Nov-06
Report on Oregon Health Plan Demonstration Waiver status and renewal strategy		Sep-06
Report on alternatives to alleviate DHS cash flow problems		Sep-06, Nov-06
Report on actions to improve patient safety at OSH including update on capital construction project to convert 6th floor of OSH-Portland to psychiatric treatment space and update on US-DOJ inquiry		Sep-06, Nov-06
MMA implementation status report		Sep-06, Nov-06
DHS and CCF update report on recommendations and findings for increased community based delivery of services		Nov-06
Report on efforts to improve the coordination of care in the children's developmental disabilities and mental health system		Nov-06
Report on Staffing Study		Nov-06
State Lands		
Report on effectiveness of land management positions on creating Common School Fund revenue		Nov-06
Parks and Recreation		
Fee waiver report		Nov
Salmon plate revenue report		Nov-06
State Fair transfer status report		Nov-06
Department of Fish and Wildlife		
Report on expenditures, revenues, balances and actions to avoid/reduce fee increases in the 2007-09 biennium		Nov-06
Department of Geology and Mineral Industries		
Report on SB 2 seismic retrofit assessment		Nov-06
Oregon Liquor Control Commission		
Report on review of apportionment of state liquor revenues to local governments		Nov-06
Report on liquor agents compensation		Nov-06
Department of State Police		
Report (with Department of Public Safety Standards and Training) on integration of Oregon State Police into basic police academy training		Sep-06
Report on statewide staff vacancies and double-filled positions		Sep-06
Department of Public Safety Standards and Training		
Report on construction of new public safety academy and expansion of basic police training program		Sep-06
Report (with Department of State Police) on integration of Oregon State Police into basic police academy training		Sep-06
Department of Transportation		
Report on outcome of efforts to manage available cash for projects		Nov-06
Pharmacy		
Report on the Prescription Drug Monitoring Program		Sep-06
Student Assistance Commission		
Jobs Plus Individual Education Account		Nov