

State of Oregon

Emergency Board

November 30 & December 1, 2006

List of

Emergency Board Letters

December 2006 EMERGENCY BOARD LETTERS

Item	Agency	Subject	General Fund	Lottery Funds	Other Funds	Federal Funds	Pos/ FTE
LEGISLATIVE							
** 1	Legislative Fiscal Office	Requests transfer of special purpose appropriation balances to the general purpose appropriation to the State Emergency Board.	12,127,188				
ELECTED OFFICIALS							
** 2	Secretary of State	Reimbursement for 2006 General Election Voters' Pamphlet costs.	1,237,000				
3	Secretary of State	Costs to implement Ballot Measure 47, passed on November 7, 2006.	1,200,000				
4	BOLI	Report on Prevailing Wage Rate (Placeholder).					
JUDICIAL							
5	Oregon Judicial Dept.	Allocation from the Emergency Fund to cover increased interpreter costs.	1,657,462				
6	Oregon Judicial Dept.	Increase expenditure limitation and report on a plan to spend funds in the State Court Securities Account.			1,112,043		
7	Oregon Judicial Dept.	Federal grant application.					
8	Public Defense Services Commission	Allocation from the general purpose Emergency Fund to meet mandated caseloads through the end of the biennium.	3,926,500				
9	Commission on Judicial Fitness and Disability	Allocation from the general purpose Emergency Fund to supplement the Commission's 2005-07 budget.	75,000				
EDUCATION							
10	Dept. of Higher Education	Establish Other Funds expenditure limitation for phase one of the Portland State University PCAT Redevelopment Project.			51,000,000		
11	Dept. of Higher Education	Increase an Other Funds (Other Revenues) Capital Construction expenditure limitation for improvements to Hayward Field at the University of Oregon.			25,000,000		
12	Dept. of Higher Education	Establish Other Funds (Other Revenues) Capital Construction expenditure limitation for purchase of the Romania car lot property in Eugene by the University of Oregon.			5,700,000		
13	Dept. of Higher Education	Report on fee remissions.					
14	Dept. of Higher Education and Dept. of Community Colleges and Workforce Development	Report on implementation of Senate Bill 342 (2005) requiring improvements in student transition among educational sectors.					
** 15	Dept. of Education	Local Option Equalization Grant	646,039				
16	Dept. of Education	Increase Federal Funds Expenditure Limitation for the Youth Corrections Education Program				449,837	
17	Dept. of Education	Increase Federal Funds Expenditure Limitation for a State Personnel Development Grant				657,905	
18	Dept. of Education	Increase Federal Funds Expenditure Limitation for an Enhanced Assessment Grant				1,060,204	
19	Teacher Standards & Practices Comm.	Increase expenditure limitation to continue program operations	0	0	120,000	0	0.00

20	Oregon Student Assistance Commission	Increase Other Funds expenditure limitation to support the ASPIRE program			166,300		
HUMAN RESOURCES							
21	Dept. of Human Services	Staffing Study report					
22	Dept. of Human Services	Children's Mental Health System Change Initiative report					
23	Dept. of Human Services	Actions to improve OSH Patient Safety report					
24	Dept. of Human Services/Commission on Children and Families	Report on Community-based Delivery of Services Partners for Children and Families					
25	Dept. of Human Services/Oregon Student Assistance Commission	Recommendations for changes to JOBS Plus Individual Education Account (IEA) system report					
**26	Dept. of Human Services	DHS Rebalance	73,429,053		-25,093,598	115,704,626	79/16.75
27	Dept. of Human Services	OSH Siting, Design and Construction for the Facility Replacement Projects report					
28	Dept. of Human Services	MMA Implementation report					
29	Dept. of Human Services	Financial Management Plan report					
PUBLIC SAFETY							
30	Oregon State Police	Rebalance, fire cost reimbursement, report on vacant positions and double-fills.	598,610	0	10,675,996	0	0.00
31	Dept. of Justice	Allocation from the Emergency Fund for costs related to the Master Settlement Agreement (MSA) litigation	359,292				
32	Oregon Military Dept.	Katrina costs reimbursement to sustain Operations program	1,000,000		2,727,801		
33	Oregon Military Dept.	Increase expenditure limitation for 2005-06 forest fire costs			454,724		
ECONOMIC AND COMMUNITY DEVELOPMENT							
34	Employment Dept.	Increase Federal Funds expenditure limitation for Eco-Health Child Care grant.				94,000	
35	Oregon Housing and Community Services	Increase Federal Funds expenditure limitation to reflect increased expenditure projections for four federal programs administered by OHCS.				10,500,000	
NATURAL RESOURCES							
36	Parks and Recreation	Retroactive authorization to apply for a federal grant for acquiring land in Lincoln County		--			
37	Parks and Recreation	Report on the use of salmon license plate sales revenue			--		
38	Parks and Recreation	Report on State Fair and Exposition Center strategic planning.			--		
39	Parks and Recreation	Report on fee-related rules adopted by the Parks and Recreation Commission.					
40	Dept. of State Lands	Increase Federal Funds expenditure limitation for acquiring a conservation easement near Eugene				412,000	
41	Dept. of State Lands	Increase Federal Funds expenditure limitation for South Slough National Estuarine Research Reserve grants and establish related position authority.	107,000				0/.21

42	Dept. of State Lands	Authorization to apply for a federal construction grant for the South Slough National Estuarine Research Reserve.						
43	Dept. of State Lands	Report on position effect on long-term return to the Common School Fund.						
44	Dept. of Agriculture	Increase Federal Fund Expenditure limitation in Plant Health program	0	0	0	713,431		
45	Dept. of Agriculture	Increase Federal Fund Expenditure limitation for Nature Conservancy Grant				700,000		
** 46	Dept. of Forestry	Report on the 2006 fire season and request for severity cost reimbursement and catastrophic fire insurance premium costs	1,866,592					
47	Dept. of Forestry	Funding for the Fire Program 2005-07 Employee Compensation Plan .	621,000					
48	Dept. of Forestry	Report on the work done with the insurance industry in reducing risks to the urban-rural interface						
49	Dept. of Forestry	Funding for Tillamook Circuit Court judgment	10,000,000					
50	Oregon Dept. of Fish & Wildlife	Increase Federal Funds expenditure limitation to acquire oak savanna and prairie habitat in the southern Willamette Valley.				3,900,000	0/0.00	
51	Dept. of Geology & Mineral Industries	Report on Senate Bill 2 seismic assessment project						
52	Dept. of Energy	Report on the status of projects associated with a new Principal Contributor 2 position.						
TRANSPORTATION								
53	Oregon Dept. of Transportation	Report on managing ODOT's ending cash balance						
54	Oregon Dept. of Transportation	Report on the Oregon Innovative Partnerships Program (alternative to contracting process)						
55	Oregon Dept. of Transportation	Report on ODOT's civil rights programs (Workforce Development, Small Bus. Initiative, DBE, ESB)						
56	Oregon Dept. of Transportation	FHWA grant for rest area at Exit 99 on I-5. Retroactive request to apply & request to spend.						
57	Oregon Dept. of Transportation	FHWA grant for Disadvantaged Business Enterprise support services. Request to apply and spend.						
58	Oregon Dept. of Transportation	Planning & development projects earmarked in the federal SAFETEA-LU reauthorization bill				1,400,000		
59	Oregon Dept. of Transportation	Increased limitation for preservation projects				47,500,000		
CONSUMER AND BUSINESS SERVICES								
60	Dept. of Consumer and Business Services	Report on workers' compensation premium assessments						
61	Dept. of Consumer and Business Services	Report on organizational changes relating to Manufactured Housing Dealers and Dealerships per budget note in SB 5534						
62	Clinical Social Workers Board	Increase expenditure limitation and position authority	0	0	11,214	0	1/.50	
ADMINISTRATION								
63	Liquor Control Commission	Increased expenditure limitation for agents' compensation and bank card fees due to increase in liquor sales				1,650,000		
64	Liquor Control Commission	Funding to purchase new warehouse building				8,186,900		

65	Liquor Control Commission	Progress report on agents' compensation study						
66	Liquor Control Commission	Report on usage of liquor revenue apportionments by local governments						
67	Dept. of Administrative Services	Increase Capital Construction expenditure limitation for Justice Bldg renovation, Phase III	0	0	2,600,000	0	0.00	
68	Dept. of Administrative Services	Establish Capital Construction expenditure limitation to renovate the Eugene State Office Bldg	0	0	4,100,000	0	0.00	
69	Dept. of Administrative Services	Increase expenditure limitation to continue Measure 37 operations	155,675	0	0	0	0.00	
70	Dept. of Administrative Services	Report on status of Computing and Networking Infrastructure Consolidation (CNIC) project per HB 5166	0	0	0	0	0.00	
71	Dept. of Administrative Services	Report on compensation plan changes per ORS 291.731	0	0	0	0	0.00	
72	Dept. of Revenue	Report on revenue collection related to 73rd Leg. Assembly budget note	0	0	0	0	0.00	
73	Racing Commission	Increase expenditure limitation and position authority	0	0	78,907	0	2.00	
	TOTALS		109,006,411	0	137,390,287	134,192,003	2.00	

** From Emergency Fund special purpose appropriation or reservation.

State Emergency Board

**November 30 - December 1, 2006
State Capitol**

**Summary Statement of the Financial Position of the State Emergency Fund
as of December 1, 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 December 1, 2006*

2005-07 BIENNIUM
Excludes reservation cancellations

<u>I. GENERAL PURPOSE EMERGENCY FUND</u>	
2005 Legislative Appropriation	\$30,000,000
Active Reservations	0
Allocations to Date	<u>(25,050,582)</u>
Unreserved and Unallocated Balance	<u><u>\$4,949,418</u></u>
<u>II. STATE EMPLOYEE COMPENSATION CHANGES</u>	
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>
<u>III. HOME CARE WORKER COLLECTIVE BARGAINING CHANGES</u>	
2005 Legislative Appropriation	\$10,000,000
Allocations to Date	<u>0</u>
Unallocated Balance	<u><u>\$10,000,000</u></u>
<u>IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES</u>	
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>\$103,822,063</u></u>

Please see following pages for categorical detail.

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of December 1, 2006*

2005-07 BIENNIUM
Excludes reservation cancellations

	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)
Allocated September 22, 2006		3,009,549
3 Department of Agriculture & Economic and Community Development Department		
From June 23, 2006 Emergency Board Meeting - #64		
- Response to coastal salmon fishing disaster		(500,000)
Allocated September 22, 2006		500,000
Total Reservations		0
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)

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of December 1, 2006*

2005-07 BIENNIUM
Excludes reservation cancellations

	DETAIL	TOTALS
<u>I. GENERAL PURPOSE EMERGENCY FUND CONT'D</u>		
<u>September 22, 2006</u>		
Public Defense Services Commission		
#3 - Public Defense Services Commission	(3,926,500)	
Department of Education		
#5 - Early Intervention services and early childhood special education programs	(3,009,549)	
Department of Justice		
# 19 - Legal costs related to the Defense of Criminal Convictions program	(994,819)	
# 20 - Legal costs in protecting the state's interest in Master Settlement Agreement payments	(827,405)	
Economic and Community Development		
#37 - Direct cash assistance payments to fisheries affected by the closure of most commercial salmon fisheries	(500,000)	
Department of Agriculture		
#38 - Agricultural Development - research on growing canola and other oilseed crops	(235,000)	
	(9,493,273)	
<i>Total General Purpose Emergency Fund Allocations to Date</i>		(25,050,582)
<i>Unreserved and Unallocated General Purpose Emergency Fund Balance</i>		<u>\$4,949,418</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)
<i>Unallocated State Employee Compensation Changes Balance</i>		<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
<i>Unallocated Home Care Worker Collective Bargaining Changes</i>		<u>\$10,000,000</u>
<u>IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES</u>		
<u>A. 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)	
<u>B. 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)	
<u>C. 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)	
<u>D. 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 -		

STATE OF OREGON
STATE EMERGENCY FUND SUMMARY
as of December 1, 2006*

2005-07 BIENNIUM
Excludes reservation cancellations

<u>IV. SPECIAL PURPOSE APPROPRIATIONS FOR SPECIFIED AGENCIES CONT'D</u>	<u>DETAIL</u>	<u>TOTALS</u>
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 Disappropriation - April 2006 Special Session (Chapter 5, Sec 4, SB 5644)	(1,089,707)	
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)	
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		<u>\$86,126,533</u>
Total Unreserved and Unallocated Balance		<u>\$103,822,063</u>

2005-07 FULL-TIME EQUIVALENT (FTE) AUTHORITY LIMIT TRACKING
EMERGENCY BOARD AND DEPARTMENT OF ADMINISTRATIVE SERVICES ACTIONS
 December 01, 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	4 15	447 04	
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	65 06	5 78	9,132 35	
Office of Private Health Partnerships	51 50		5 30	56 80	
Long Term Care Ombudsman	8 00		0 16	8 16	
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	(3 16)	1,211 15	
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	(18 83)	4,549 54	
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		(9 81)	1,058 66	
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
 December 01, 2006

PROGRAM AREA/AGENCY	LEGISLATIVELY ADOPTED FTE	EMERGENCY BOARD	BUDGET EXECUTION ACTIONS	TOTAL FTE	EXEMPT FTE
Labor & Industries, Bureau of	108 00	0 38	(0 88)	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	11 75	(10 42)	19 85	
Tax Service Examiners, Board of	4 00		0 00	4 00	
ADMINISTRATION					
Administrative Services, Department of	892 74	2 79	6 73	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 75)	998 16	
Secretary of State	198 08	4 38	(1 96)	200 50	198 08
Treasurer of State	74 60		(0 50)	74 10	74 60
	0 00				
LEGISLATIVE BRANCH					
	0 00				
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 27
Legislative Fiscal Officer	6 00		0 00	6 00	18 75
Legislative Revenue Officer	18 75		0 00	18 75	6 00
	0 00				
JUDICIAL BRANCH					
	0 00				
Judicial Department	1,851 25	5 01	8 13	1,864 39	1,851 25
Judicial Fitness Commission	0 50		0 00	0 50	0 50
Public Defense Services Commission	55 45		(0 40)	55 05	55 45
TOTALS	47,130.31	163.78	(34.68)	47,259.41	6,074.38
Total Subject to Limitation				<u>41,185.03</u>	
Authorized FTE (3,631.440 X 1.5%)				54,471 60	
< Less Current FTE >				<u>(41,185.03)</u>	
Difference Between Statutory Limit and Current FTE Count:				13,286 57	

1
Legislative Fiscal Office
Analyst: Range

Request: Transfer balances of special purpose appropriations to the Emergency Board totaling \$12,127,188 to the general purpose appropriation to the Emergency Board.

Recommendation: The Legislative Fiscal Office is not under executive budgetary control.

Discussion: The agency is requesting the transfer of remaining special purpose appropriations balances to the Emergency Board for general purpose appropriations. These appropriations state that if any of the moneys remaining in these special purpose appropriations are not allocated by the Emergency Board prior to December 1, 2006, the moneys remaining on that date become available for any purpose for which the Emergency Board lawfully may allocate funds. As of the December 1, 2006 meeting of the State Emergency Board, \$12,127,188 of expired special purpose appropriations will be available for transfer to the Emergency Boards general purpose appropriation. The \$12,127,188 figure may change depending on actions taken by the Emergency Board during the December 1, 2006 meeting. If the request is granted the final 2005-07 Emergency Board meeting in December 2006 will have an available balance of \$17,076,606.

Legal Reference: The following chapters of Oregon Laws 2005 will be affected: Chapter 794, Section 3(1), for the Home Care Workers collective bargaining changes; Chapter 794, Section 2(1), for the State Employee compensation changes; Chapter 713, Section 7(1), for the Department of Human Services, Child Welfare staffing; and Chapter 794, Section 1, for the Emergency Board general purpose appropriation.

Secretary of State
Analyst: Upadhyay/Booher

Request: Allocate \$635,000 from the special appropriation made to the Emergency Board and allocate \$602,000 from the State Emergency Fund to pay costs of the General Election Voters' Pamphlet.

Recommendation: Approve the request as modified. Allocate \$635,206 from the special appropriation made to the Emergency Board and allocate \$601,794 from the State Emergency Fund.

Discussion: The 2005-07 budget adopted for Secretary of State did not include funding for the 2006 primary and general election voters' pamphlet.

The 2005 Legislature appropriated \$1,000,000 General Fund to cover costs of the General Election Voters' Pamphlet, with direction for the Secretary of State to return to a future meeting of the Emergency Board when actual production, printing, and mailing cost were known. At their June 2006 meeting, the Emergency Board appropriated \$364,794 General Fund for costs of the primary election voters' pamphlet.

The Secretary of State is requesting the remaining \$635,206 from the special purpose appropriation and \$601,794 from the State Emergency Fund to fully pay the estimated costs of the \$1,237,000 Voters' Pamphlets for the General Election. Final costs for the General Election Voters' Pamphlet will be available in time for the November 2006 meeting of the Emergency Board.

Legal Reference: Allocation of \$635,206 from the special purpose appropriation made to the Emergency Board by chapter 724, section 4(1), Oregon Laws 2005, to supplement the appropriation made by chapter 724, section 1(2), Oregon Laws 2005, for the Secretary of State, for the production and distribution of voters' pamphlets for the 2006 primary and general elections for the 2005-07 biennium. Allocation of \$601,794 from the State Emergency Fund to supplement the appropriation made by chapter 724, section 1(2), Oregon Laws 2005, for the Secretary of State, for the production and distribution of voters' pamphlets for the 2006 primary and general elections for the 2005-07 biennium.

3
Secretary of State
Analyst: Upadhyay/Kleiner

Request: Allocate \$1,112,020 from the State Emergency Fund to accommodate the significant revision to the State's campaign finance laws and the major changes to the new campaign finance reporting system due to the recent passage of Measure 47.

Recommendation: Approve the request with the following modification: Allocate \$100,000 from the State Emergency Fund.

Discussion: The Secretary of State requests \$1,112,020 General Fund in order to fund the costs associated with the passage of Measure 47. In addition to the changes in the campaign finance structure for the state, lawsuits against the state are expected as a result of the measure. The Secretary will be responsible for the costs associated with defending the state in such lawsuits. The recommended \$100,000 General Fund will enable the agency to pay for any initial legal costs. The agency is expected to return to the 2007 Legislature Assembly for additional resources once it has experience with actual costs to implement this change.

Legal Reference: Allocation of \$1,112,020 from the State Emergency Fund to supplement the appropriation made by chapter 724, section 1 (2), Oregon Laws 2005, for the Secretary of State, Elections Division for the 2005-07 biennium.

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

Request: Accept a placeholder report on the Prevailing Wage Rate (PWR) coverage of public-private projects.

Discussion: Several relevant PWR discussions concerning construction wages on public-private projects have occurred since the Bureau reported at the September meeting of the Emergency Board on the status of the PWR. Based on the work by the Portland Development Commission (PDC), a recommendation on the PWR may be formed for the 2007 Legislative Session. Three public work sessions concerning the possible future adoption of a PDC policy regarding the application of prevailing wage rates on public-private projects undertaken by the PDC have occurred. A fourth work session to discuss the role of the state apprenticeship programs in relation to PWR will occur during the first week of December. Final action and decisions regarding prevailing wage rates will occur at the Commission's December 13 meeting. This report will update the Emergency Board on the progress of these PWR discussions.

Oregon Judicial Department
Analyst: Freels/Kleiner

Request: Allocate \$1,657,462 from the State Emergency Fund to sustain the Oregon Judicial Department's budget to cover costs incurred by the department in response to the increased Oregon Judicial Department (OJD) Mandated Payments account during the 2005-07 biennium.

Recommendation: OJD is not under executive budgetary control.

Discussion: OJD requests an allocation from the State Emergency Fund in order to sustain department operations within the interpreter services portion of the Mandated Payments budget. Without the appropriation of these funds, the department will no longer be able to adequately fund interpreter services. Both an increased usage of and demand for interpreter services, coupled with the fact that the Mandated Payments budget has been under funded since 2002, have led to this request for \$1,657,462 General Fund.

The department forecasted expenditures based on growth trends over the last two biennia. Actual costs to date, plus projected expenditures for the remaining months of the biennium will exceed the existing appropriation for mandated payments by \$1,657,462 shortfall. Without the appropriation of General Fund, the cases involving non-English speakers would stall after April 2007, when the Mandated Payments Account would be depleted.

Reductions to the Mandated Payments Budget

The mandated payment budget includes interpreter services and jury costs. The total budget in this area has been reduced sharply in the last three biennia. It totaled \$15.9 million in 2001-03. It was reduced during the special session of 2002 and again in 2003-05 due to the revenue crisis facing the General Fund in those years. For 2005-07, the department has a budget of \$12.5 million for these programs. OJD spent \$3.5 million for interpreter services in 2001-03 (\$4.2 million was allocated), \$4.7 million in 2003-05 (\$4.1 million was allocated, with the shortfall covered through juror and operations funds), and 6.3 million is projected for 2005-07 (\$4.5 million was allocated).

OJD has taken measures to maintain and reduce all excess costs within the Mandated Payment Program budget. Efforts include the implementation of a one-trial, one-day model whenever possible, using the DAS Print Plant for juror summons notifications to save on postage and handling costs, using regional schedulers to more efficiently schedule both staff and freelance interpreters, and expanding video conferencing systems for sign language interpreter use to remote regions.

In an effort to minimize the request for additional General Fund, a portion of the amount needed to fund the interpreter budget shortfall has been funded by savings in the trial and grand juror portion of the budget.

Increases in Demand/Usage of Interpreter Services

The eligibility criteria to determine if an interpreter is needed have not changed. Instead, the increase in expenditures is due to higher demand for interpretation services. This is linked to a large population needing interpretation and the increased use of certified interpreters instead of those without certification, such as family members and friends. This is critical to ensure that interpretation is accurate and easy to understand.

Expenditures for interpretation services are averaging 25 percent higher than last biennium. Non-Spanish expenditures this biennium are averaging 47 percent higher than last biennium, while Spanish expenditures are averaging 34 percent higher than last biennium.

Legal Reference: Allocation of \$1,657,462 from the State Emergency Fund to supplement the appropriation made by chapter 604, Section 1(2), Oregon Laws 2005, for the Oregon Judicial Department for the 2005-07 biennium.

6
Oregon Judicial Department
Analyst: Freels

Request: Increase Other Funds expenditure limitation by \$1,112,043 to provide security for the Supreme Court, Court of Appeals, Oregon Tax Court and the Office of the State Court Administrator as well as security training to court employees.

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

Discussion: The 2005 Legislative Assembly passed House Bill 2792 that established the State Court Facilities Security Account within the Oregon Judicial Department. Resource from the account will be used to update security in the Supreme Court, Court of Appeals, Oregon Tax Court and the Office of the State Court Administrator, as well as to train court employees and plan for emergency preparedness and business continuity. Revenue to the account is from increased circuit, municipal, and justice court assessments. The account has collected \$903,326 through September 2006 and is expected to collect about \$2.0 million by biennium end. The Department was directed in the budget report for HB 2792 to conduct a security audit, needs assessment plan, and a statewide training plan. Those plans are in development. The Department has initiated an immediate security improvement plan at the Supreme Court building based on recommendations from a security assessment conducted by the Oregon State Police using a portion of the \$139,671 Other Funds expenditure limitation approved by the Legislative Assembly. It is returning to the Emergency Board for increased expenditure limitation to continue work on security planning and implementation, including:

- Perform the statewide court security assessments, provide training program for court security officers and court personnel and address the business continuity planning for state courts
- Pilot full-service strategic implementation and training plans for security, emergency preparedness, and business continuity plans in three Oregon circuit court facilities
- Continue the secured facility enhancement program for the Supreme Court, Court of Appeals, Oregon Tax Court, and the Office of the State Court Administrator.

Details of the request are itemized below.

State Court Facilities Security Account	2005-07
Project Revenue	\$1,981,949
Expenditures through October 2006	\$113,375
Planned expenditures	\$1,138,339
2005-07 total expenditures	\$1,251,714
HB 2792 expenditure limitation	-\$139,671
Request	\$1,112,043

The Chief Justice's recommended budget will include a plan to expend the 2007-09 resources in the State Court Facilities Security Account.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 604, Section 2, Oregon Laws 2005, for the Judicial Department, by \$1,112,043 for the 2005-07 biennium.

Withdrawn by Agency

8
Public Defense Services Commission
Analyst: Kleiner

Request: Allocate \$3,926,500 from the State Emergency Fund in order to meet constitutionally and statutorily mandated caseloads through the end of the biennium and accept a report issued by the Legislative Fiscal Office regarding state funding for the costs of public defense services.

Recommendation: The Commission is not under executive budgetary control.

Discussion: The allocation for public defense contract services during the 2005-07 biennium was based on a projected non-capital trial-level caseload of 353,404 cases. Although the caseload figures have not changed, appellate and capitol case expenses will exceed the original budget allocation of \$166,543,539. This excess is due to carryover capital cases and appellate caseload increases. The Commission has reported to the Legislative Fiscal Office regarding the increasing gap between expenditures and the 2005-07 budget allocation. The Legislative Fiscal Office issued a report on state funding of trial court representation for eligible persons including cost-per-case comparisons.

Legal Reference: Allocation of \$3,926,500 from the State Emergency Fund to supplement the appropriation made by chapter 794, Section 1, Oregon Laws 2005, for the Public Defense Services Commission for the 2005-07 biennium.

Commission on Judicial Fitness and Disability
Analyst: Kleiner

Request: Allocate \$75,000 from the State Emergency Fund to supplement the Commission's 2005-2007 budget to cover costs incurred by excessive prosecution expenses.

Recommendation: The Commission is not under executive budgetary control.

Discussion: Three cases carried over into the 2005-07 biennium. One case was resolved at a cost of approximately \$14,000 for all expenses during this biennium. These expenses along with those associated with the other two cases were paid through the budget allocation. However, one of the prosecutions initiated in 2005 resulted in a pending decision by the Oregon Supreme Court. Attorney fees and other costs, including expenses for court reporters, through October 2006 total approximately \$45,000. Control over the number of complaints received and whether a complaint warrants a formal investigation, is not possible. The two pending matters could be resolved without further expense to the agency, but this is not definite. The Commission has done everything possible to keep hearing costs down, taking all possible cost-cutting measures, such as paring down trial lengths and reducing travel expenses. For these reasons the commission is requesting \$75,000 from the State Emergency Board.

Legal Reference: Allocation of \$75,000 from the State Emergency Fund to supplement the appropriation made by chapter 641, Section 1, Oregon Laws 2005, for the Commission on Judicial Fitness and Disability for the 2005-07 biennium.

10
Department of Higher Education
Analyst: McGee

Request: Change the designation of an Other Funds Capital Construction expenditure limitation and increase the amount of the limitation by \$9 million for redevelopment of the Portland Center for Advanced Technology (PCAT) building.

Recommendation: Approve the request as modified; establish an Other Funds (Article XI-F (1) bonds) Capital Construction expenditure limitation, transfer \$42 million from an existing Other Funds (Article XI-F (1) bonds) Capital Construction expenditure limitation to the newly established expenditure limitation, and establish a \$9 million Other Funds (Other Revenues) Capital Construction expenditure limitation.

Discussion: The Department of Higher Education is requesting \$51 million in Capital Construction expenditure authority for redevelopment of the Portland Center for Advanced Technology (PCAT) building by Portland State University (PSU). The PCAT building occupies the block between Montgomery Street, Sixth Avenue, Harrison Street, and Fifth Avenue. PCAT consists of a ground floor and a basement, which is mostly an underground parking lot. The building has 70,100 square feet with a large open space in the middle. It was constructed in 1962 for Blue Cross of Oregon and belonged to the City of Portland before it was purchased by Portland State University in 1983.

The building is located just south of the Urban Center Plaza, the gateway to the campus from the east. It is also adjacent to existing bus and streetcar stops and a planned extension of the MAX light rail system. TriMet, the regional transportation authority, is completing design work to extend the line that begins in Clackamas County to the Jackson/College block, between Fifth and Sixth Avenues. Some advance utility work is underway and construction is expected to be completed in September 2009. PSU is requesting expenditure authority at this time rather than waiting for the 2007 legislative session to coordinate construction with TriMet. Redeveloping PCAT after the light rail construction would significantly increase costs and lengthen the amount of time that local businesses and other residents would be inconvenienced.

PSU is proposing to redevelop PCAT in two phases. The first, currently being presented to the Emergency Board, will fund construction of a five story structure with one below-ground level at a cost of \$51 million. It will be entirely funded by Article XI-F (1) bonds and other revenues. The second phase, which the Department has included in its 2007-09 agency request budget, would add an additional two floors and be funded with Article XI-G bonds and donations. The project is bifurcated in this manner because only the Legislature has the authority to establish the statutory provisions necessary to allow the issuance of Article XI-G bonds with donated funds serving as the constitutionally required match.

The first four floors of the new building and the below-ground level will contain a new student recreation center, with about 122,000 square feet, and retail space. With a new facility, the university will be able to move recreation activities from the Peter Stott Center, which is aging and too small to serve the current number of students. The fifth floor of the new facility will

have general purpose classrooms and office and meeting space for the Board of Higher Education and the Chancellor's Office.

The second phase, if approved by the Governor and the Legislature, would add an additional two floors of classrooms, laboratories, and faculty offices for either the School of Social Work or the School of Business. The cost of the second phase would be \$30 million, bringing the total project cost to \$81 million.

The largest source of funds for the first phase of the project will be \$35 million obtained from the sale of Article XI-F (1) bonds. Debt service on these bonds will be repaid with student building fees. Students voted to approve a \$56 fee increase in 2004. The university will begin collecting the fee when construction is complete in 2009.

An additional \$7 million in Article XI-F (1) bonds will be repaid with revenues received from retail and parking operations in the new facility. The Chancellor's Office will provide \$6 million, half as a short term loan. The loan will be repaid in two years with gifts or campus resources. An additional \$2 million will come from funds provided by the City of Portland. The remaining \$1 million is expected to be available from energy tax credits, proceeds from a legal settlement, or other university funds.

Completion of this project will open other opportunities for the university, which will also require legislative approval. After the recreation program is relocated, the university plans to renovate the gymnasium in the Peter Stott Center for use by intercollegiate athletics. An \$8.5 million Article XI-F (1) bonds project is included in the Department's 2007-09 agency request budget for this purpose. Completion of the light rail construction will allow redevelopment of the Jackson/College block. The university is in discussions with TriMet about purchase of properties on the block it does not already own. The university would use the property for student housing and other purposes. PSU has not yet estimated the purchase or redevelopment cost for this property.

The Department of Administrative Services recommends approval of the request with the understanding that consideration of phase two will be deferred pending development of the Governor's recommended budget and the legislatively approved budget. The university is aware of the uncertainty regarding phase two funding and has agreed that phase one will proceed in a way that ensures construction of a completely finished building regardless of whether phase two is funded.

Legal Reference: Establishment of an expenditure limitation of \$42,000,000 for the Department of Higher Education as the maximum limit for the payment of expenses from sale of Article XI-F (1) bonds received for the biennium beginning July 1, 2005, for Capital Construction for phase one of the Portland Center for Advanced Technology (PCAT) building redevelopment project at Portland State University.

Transfer of \$42,000,000 from an Other Funds (Article XI-F (1) bonds) Capital Construction expenditure limitation established by chapter 787, section 2(4)(d), Oregon Laws, 2005, for the biennium beginning July 1, 2005, for the Student Recreation/Fitness Center and Housing project at Portland State University to the newly created Article XI-F (1) bonds Capital Construction expenditure limitation established for phase one of the Portland Center for Advanced Technology (PCAT) building redevelopment project at Portland State University.

Establishment of an expenditure limitation of \$9,000,000 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 phase one of the Portland Center for Advanced Technology (PCAT) building redevelopment project.

11
Department of Higher Education
Analyst: McGee

Request: Increase an Other Funds (Other Revenues) Capital Construction expenditure limitation by \$25,000,000 for improvements to Hayward Field at the University of Oregon.

Recommendation: Approve the request.

Discussion: The Department of Higher Education is requesting a \$25,000,000 increase in a \$7,390,000 Other Funds (Other Revenues) Capital Construction expenditure limitation established by the Emergency Board in June 2006 for improvements to Hayward Field at the University of Oregon. The 2008 U.S. Olympic Team Trials in track and field events are scheduled to be held in Eugene between June 27 and July 6, 2008. Subsequent to the June meeting of the Emergency Board, the 2010 National Collegiate Athletics Association Outdoor Track and Field Championships have also been scheduled at Hayward Field.

To date, the university has raised approximately \$3 million of the original \$7.4 million. The university reports that donor response to the project has been positive, causing the university to believe it can raise the additional \$25 million.

The university has not yet determined on what the additional funds would be spent. Possibilities include a higher quality video board, at a cost of \$6 million rather than the original estimate of \$1 million. A second video board, also costing \$6 million, could be added. An additional \$1 million of infield improvements is possible. Replacing the track surface rather than only resurfacing it could add \$2.4 million to the project. Construction of a new practice track could cost \$6 million. Cosmetic enhancements (such as fencing, concessions upgrades, signage, painting, lighting, roof repairs, restroom enhancements, hard surface improvements) and environmental enhancements (to reduce the affect of wind and rain on the facility) could add an additional \$4.1 million. There have also been preliminary discussions about building a new indoor facility near Hayward Field.

Timing for the additional work is unclear. The university's athletics director has indicated that improvements to Hayward Field that would occur after the 2008 Olympic trials would be delayed until after funds have been raised to construct a new basketball arena.

Legal Reference: Increase the Other Funds (Other Revenues) Capital Construction expenditure limitation established by the Emergency Board in June 2006, for the Department of Higher Education by \$25,000,000, for the 2005-07 biennium for the University of Oregon Hayward Field improvement project.

12
Department of Higher Education
Analyst: McGee

Request: Establish an Other Funds (Other Revenues) Capital Construction expenditure limitation of \$5,700,000 for purchase by the University of Oregon of the Romania car lot properties in Eugene from the University of Oregon Foundation.

Recommendation: Approve the request.

Discussion: The Department of Higher Education is requesting a \$5.7 million Other Funds capital construction expenditure limitation to allow the University of Oregon to purchase three properties owned by a University of Oregon Foundation limited liability corporation, Oregon Future Expansion (OFE). The Foundation, through OFE, purchased the properties in 2005 with the intent of reselling them to the university when funds were available. If the university does not complete the purchase by December 31, 2006, OFE will need to seek extended financing to pay its costs for the original purchase, which would increase the price the university would ultimately pay in a resale. OFE is also required to pay property taxes of about \$60,000 per year which would no longer be due if the university were the owner.

The properties, collectively referred to as the Romania car lot, are located at 2020 Franklin Boulevard, 1425 Walnut Street, and the corner of 15th Street and Orchard Street in Eugene. They are south of Franklin Boulevard, one block to the east of campus. This area is designated for expansion in the university's long-term development plan. The Walnut Station area is also under review by the Eugene planning department for future development with retail, housing, and other business uses. The university currently leases the two existing buildings for use as office space and storage by Facilities Services. The university has indicated that it has not yet identified how it will use the property in the future, although renovation or new construction would be expected.

The purchase price is \$5.3 million, plus closing and environmental cleanup costs not to exceed \$0.4 million. The price is equal to OFE's outstanding debt, plus its transactions costs in purchasing and reselling the properties. A 2005 appraisal estimated fair market value at \$5.725 million. The properties are valued at \$5.4 million for tax purposes.

Environmental assessments indicate the need to remove non-friable asbestos, three underground oil tanks, and contamination near the former location of hydraulic lifts operated by the car dealer. Estimated remediation costs are \$211,000 to \$350,000.

The funds to pay for this purchase come from the sale of the Westmorland housing complex. The university sold the complex in August 2006 for \$18.5 million. Proceeds are to be used for the following expenses:

- Purchase of the Romania property: \$5.7 million. Lease payments of \$0.4 million per year will be redirected to student housing needs.
- Mitigation of impacts on the Westmorland sale on residents: \$0.5 million. The university is subsidizing rents for up to two years for tenants who remain in the complex, making cash

payments to defray moving costs for those who leave after October 2005, waiving fees for early lease termination, and reducing child care fees for current customers who choose to use other university providers.

- Retirement of some residence hall debt service obligations: approximately \$10.2 million. Annual debt service reductions of about \$1 million will be redirected towards residence hall costs.
- Acquisition of property from the Oregon Department of Transportation (ODOT): approximately \$2.1 million will be directed to pay part of the purchase price for property next to the Romania property that the university plans to purchase. The total purchase price for the ODOT property is estimated to be in the \$4 million range but the price has not yet been settled. The Department has not indicated when the Legislature will be asked to approve that ODOT property purchase.

Legal Reference: Establishment of an expenditure limitation of \$5,700,000 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 purchase of property located at 2020 Franklin Blvd., 1425 Walnut St., and the corner of 15th Street and Orchard Street in Eugene by the University of Oregon.

13
Department of Higher Education
Analyst: McGee

Report: Report on Programmatic Fee Remissions.

Recommendation: Acknowledge receipt of the report.

Discussion: The Department of Higher Education is reporting on its utilization of programmatic fee remissions, as directed by a Budget Note to House Bill 5153 (2005):

The Department of Higher Education shall direct additional fee remission authority available from the ending of the 8% fee remission cap into fee remission programs that are need-based. The Department shall report to the Joint Legislative Audit Committee and Emergency Board, prior to November 2006, on the impacts of expanding programmatic fee remissions beyond the limit of 8% of gross tuition revenues that had been in effect during the 2003-05 biennium. This report shall include information on fee remission program awards for the 2005-06 and 2006-07 academic years, and shall include information on funding of need-based and merit-based fee remission programs, and on the impact of expanding fee remission programs on the enrollment of lower-income resident students.

Programmatic fee remissions are tuition and fee discounts awarded by universities to individual students, primarily undergraduates, to meet specific enrollment management goals. These goals include access to post-secondary education by underrepresented groups, diversity in student populations, and recruitment and retention of students with strong academic records, specific program interests, and particular skills. Programmatic fee remissions are differentiated from graduate fee remissions that are granted as compensation for teaching and research assistance.

The 2003 Legislature established a cap for programmatic fee remissions of eight percent of total tuition and fee revenues. In response to agency concerns that the cap was creating difficulties for its enrollment management needs, the 2005 Legislature removed the cap and directed the Department to report on the impact of its removal.

The report's key findings include:

- Total programmatic fee remission awards increased from \$55.5 million in the 2001-03 biennium to \$61.6 million in 2003-05 and are expected to grow to \$67.7 million in 2005-07.
- Despite the growth in total awards, remissions are not expected to exceed the Budget Note threshold of eight percent of tuition and fee revenues in the 2005-07 biennium. Current projections indicate that remissions will constitute only 7.6 percent of revenues in the current biennium.
- As a percent of revenues, programmatic fee remissions are decreasing for the third biennium in a row, from 8.8 percent in 2001-03 to 7.8 percent in 2003-05 to 7.6 percent in 2005-07.

- The percent of programmatic fee remissions awarded on the basis of need is expected to be unchanged between 2003-05 and 2005-07, at 69.6 percent. The growth in need-based fee remission is slower than the growth in total fee remissions (6.6 percent compared with 9.9 percent) and the number of students receiving need-based awards has fallen from 22,412 to 21,094.
- The average need based award increased by \$205 between 2003-05 and 2005-07. Average merit-based awards fell by \$9.
- Comparative data indicate that the Oregon universities have a low rate of programmatic fee remissions. Average remissions in 2002-03 at eight public universities in western states were 17.3 percent of tuition revenues. A national study of private universities from 2005-06 shows an average rate of 38.6 percent.

During the 2003-05 biennium, the percent of revenues dedicated to fee remissions declined as a result of the legislative cap. The Department indicates that the failure of the percent to increase in the 2005-07 biennium is largely the result of when the decision was made to eliminate the cap. At the time that decision became final, campuses were making fee remission decisions for the 2005-06 academic year and were under the assumption that the cap would continue to be in effect. As a result, only 2006-07 decisions were made entirely independent of the eight percent restriction. During that year, five of the seven institutions exceeded the 8 percent level, ranging from 8.5 percent to 10.7 percent. Since two of the larger universities remained significantly under the cap, at 5.1 percent and 6.9 percent, total system-wide remissions in 2006-07 are still expected to decline, to 7.6 percent.

14
Department of Higher Education
Department of Community Colleges and Workforce Development
Analyst: McGee/Booher

Report: Implementation of Senate Bill 342 (2005) directives regarding student transition among educational sectors.

Recommendation: Acknowledge receipt of the report.

Discussion: The passage of Senate Bill 342 (SB 342) required the post secondary education sectors to cooperate on operating a statewide articulation and transfer system. It also articulated specific tasks to be pursued (tasks a through g below) and it required annual reporting to the joint boards of education and a progress report prior to January 2007 to this Emergency Board.

- (a) Revise the Associate of Arts Oregon Transfer Degree (AA/OT) offered by community colleges;

A planned process has been outlined which was begun in spring of 2006 with implementation scheduled for fall 2008. Currently, the Joint Boards Articulation Commission (JBAC) is holding campus conversations at all community college and Oregon University System (OUS) campuses to review the intent of the AA/OT degree, to determine how it is currently used, and to solicit faculty recommendations for change.

- (b) Develop specific degree pathways as deemed appropriate by state institutions of higher education and community colleges;

A planned process has been outlined which was begun in fall of 2005 with ongoing implementation scheduled for December 2006 and beyond. A statewide career pathways steering committee has been actively engaged in identifying career pathways in high-need areas such as Teacher preparation, engineering and healthcare. Progress has been made to establish statewide collaborations to remove roadblocks and increase the quality of student's career preparation. The current stage is to conduct a Stakeholder review of these in preparation of the finalized legislative report for December 2006.

- (c) Develop an outcome-based framework for articulation and transfer that is derived from a common understanding of the criteria for general education curricula;

A planned process has been outlined which was begun in fall of 2005 with implementation scheduled for fall 2008. Faculty representatives from community colleges and OUS institutions have drafted statements of outcomes desirable for students in each General Education area and to delineate general criteria for courses in those areas. The current stage is to obtain comments and suggestions from all faculty for revisions to the draft of general education outcomes and criteria.

- (d) Develop a seamless transfer of credits for all level 100 and 200 general education courses;

The Oregon Transfer Model (OTM) has been implemented statewide and is available at all 24 public colleges and universities with courses that count toward the OTM posted on all institution's websites and in the 2007-08 academic catalogs.

- (e) Implement a statewide course applicability system that permits students and advisers to query and view online credit transfer options and conduct online degree auditing;

The Chancellor's Office made an initial investment in early 2006 to set up the ATLAS system infrastructure and get priority degrees programmed. ATLAS will connect all OUS institutions and community colleges, allowing an online comparison between a student's completed or planned coursework and any degree program offered by a linked school. The current stage is to submit a legislative policy option package that supports continued development of ATLAS at all OUS institutions to be fully implemented in fall 2007. Community Colleges will join ATLAS as additional funds become available.

- (f) Develop uniform standards for awarding college credit for advanced placement test scores;

Consensus on the relationship between Advanced Placement (AP) exam scores and credit awarded at all community colleges and OUS institutions has been reached for all 33 AP exams. Statewide alignment is complete with campuses approving the standard AP credit awards. Implementation of the new scores will take place statewide beginning in fall 2007.

- (g) Expand early college programs for 11th and 12th graders who earn college credit and intend to pursue a certificate or associate or baccalaureate degree.

Administrative rules for implementation of newly created early college programs in all Oregon school districts have been created and implementation is underway. The Oregon Department of Education, Community Colleges and OUS have worked together to ensure systems are in place to accept, enroll and provide services to students in high schools.

15
Oregon Department of Education
Analyst: Range/Carbone

Request: Allocate \$646,039 from the special purpose appropriation made to the Emergency Board for local option equalization grants.

Recommendation: Approve the request.

Discussion: The Local Option Equalization Account was established to provide grants to eligible school districts levying a local option property tax. Local option districts with assessed value per student of less than the 75th percentile are eligible for local option equalization grants. The grant is equal to the number of students multiplied by the local option tax rate, multiplied by the difference between the target value per student and the district assessed value per student. If voters approve a local option tax during a biennium, the eligible district does not receive a grant payment until the subsequent biennium.

The Oregon Department of Education (ODE) is requesting \$646,039 from the Special Purpose Appropriation for local option equalization grants. The 2005 Legislative Assembly appropriated \$400,000 General Fund to the Department for these grants but also established an \$800,000 Special Purpose Appropriation in the Emergency Fund pending additional information from ODE on qualifying school districts. In June 2006, ODE requested and the Emergency Board approved allocation of \$153,961 from the special purpose appropriation to provide matching grants to local school districts for the 2005-06 school year. The agency speculates that due to property value increases and classroom growth they will need the full balance, \$646,039.

Legal Reference: Allocation of \$646,039 from the special purpose appropriation made to the Emergency Board by Chapter 794, Section 32(1), Oregon laws 2005, to supplement the appropriation made by Chapter 794, Section 31, Oregon laws 2005, for the Oregon Department of Education, Local Option Equalization Grants.

Oregon Department of Education
Analyst: Range/Carbone

Request: Increase Federal Fund expenditure limitation by \$449,837 for the Youth Corrections Education Program/ Juvenile Corrections Education Program (YCEP/JCEP).

Recommendation: Approve the request.

Discussion: The Oregon Department of Education (ODE) is requesting an increase of \$449,837 Federal Fund expenditure limitation for unexpected federal revenues. The programs Federal Fund revenues include Title I, Part D and Title II funds.

Title I, Part D funding was split among three programs one of which was managed by ODE and the Department of Corrections (DOC). The DOC has indicated they no longer have a need for this funding. The estimated \$419,837 additional funding going to DOC will now be given to the ODE programs. These funds are to meet the educational needs of neglected, delinquent, and at-risk children and youth, and assist in the transition of these students from correctional facilities to locally operated programs.

Funding has become available through Title II and is expected to be approximately \$30,000. These funds are made available to improve the quality of teachers and principals including recruitment, professional development, and retention.

Legal Reference: Increase the Federal Fund expenditure limitation established by Chapter 789, Section 4(3), Oregon Laws 2005, for the Department of Education for the Youth Corrections Education program, by \$449,837 for the 2005-07 biennium.

Oregon Department of Education
Analyst: Range/Carbone

Request: Retroactive authorization to apply for and accept a grant of \$4.5 million for a Personnel Development Grant from the U.S. Department of Education (USDOE) and increase Federal Fund expenditure limitation by \$657,905.

Recommendation: Approve the request.

Discussion: The Oregon Department of Education (ODE) is seeking retroactive authorization to apply for and accept the \$4.5 million, five year, Personnel Development Grant. In September 2006, ODE requested that the Emergency Board retroactively approve submission of ODE's July grant application. The Emergency Board deferred the request and instructed ODE to return in November, at which time the agency would be able to request any additional limitation needed to spend the grant funds should its application be approved by the USDOE. In October, ODE was notified that the application was approved. The agency expects to receive \$657,905 in grant funding for 2005-07. The grant will not add agency staff and requires no state matching funds.

The grant will 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.

Legal Reference: Increase the Federal fund expenditure limitation established by Chapter 789, section 4(1), Oregon Laws 2005, for the Oregon Department of Education by \$657,905 for the 2005-07 biennium.

18
Oregon Department of Education
Analyst: Range/Carbone

Request: Increase Federal Fund expenditure limitation by \$1,060,204 for the Enhanced Assessment Grant received from the U.S. Department of Education (USDOE).

Recommendation: Approve the request.

Discussion: The Oregon Department of Education is requesting expenditure limitation of \$1,060,204 Federal Fund for the Enhanced Assessment Grant awarded to the agency October 15, 2006. The agency received approval to apply for the grant at the June 2006 meeting of the Emergency Board. The Enhanced Assessment Grant has no state matching fund requirements.

This grant will help Oregon meet and exceed the requirements of the No Child Left Behind Act of 2001 by expanding the range of knowledge that is assessed on Oregon's students with the most severe cognitive disabilities. Additionally, funding will help development of systematic processes for assessments, training, and administration of assessments for students with special needs. This work will be completed through the use of contracts, inter-governmental agreements, existing permanent staff, and temporary employees, as needed.

Legal Reference: Increase the Federal Fund expenditure limitation established by Chapter 789, Section 4(1), Oregon Laws 2005, for the Oregon Department of Education, by \$1,060,204 for the 2005-07 biennium.

19
Teachers Standards & Practices Commission
Analyst: Range

Request: Increase Other Funds expenditure limitation by \$120,000 to cover unbudgeted costs.

Recommendation: Approve the request.

Discussion: The agency has incurred several costs not anticipated in the budget. The agency has worked with the Attorney General to reduce the costs. The major unexpected costs include the following: increased Attorney General costs related to workload, increased travel costs related to investigator travel and commissioners traveling longer distances to meetings, increased Web security costs, and the agency's share of Young costs. The agency is able to absorb some of these costs through management actions but will still fall short by the \$120,000 requested.

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 429, Section 1, Oregon laws 2005, for the Teacher Standards and Practices Commission, by \$120,000 for the 2005-07 biennium

Oregon Student Assistance Commission**Analyst: McGee/Booher**

Request: Increase Other Funds expenditure limitation by \$166,300 for expenditure of available grants in the 2006-07 school year.

Recommendation: Approve the request.

Discussion: The Oregon Student Assistance Commission (OSAC) is requesting an increase in Other Funds expenditure limitation of \$166,300 in order to utilize the following grants that are intended to help support underserved students.

Three grants are available to increase outreach to Central Oregon high schools. These include the Ford Family Foundation Grant in an amount of \$35,000; the Oregon Community Foundation Grant in the amount of \$29,000 and The Gear Up Program Grant in the amount of \$6,000 for a total of \$70,000 toward this effort.

The commission is requesting expenditure limitation to expend the first year of a three-year grant to conduct statewide financial aid outreach from The Lumina Foundation in the amount of \$71,300.

The commission is requesting expenditure limitation to expend \$25,000 in Education Credit Management Foundation Grant Funds in order to establish a statewide Oregon College Access Network. This network will avoid duplication and thereby expanding impact of outreach efforts.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 790, section 2, Oregon Laws 2005, for the Oregon Student Assistance Commission, by \$166,300, for the 2005-07 biennium.

21
Department of Human Services
Analyst: Moore/Booher

Report: Report on Department of Human Services (DHS) Staffing Study.

Recommendation: Acknowledge receipt of the report.

Discussion: DHS was directed by a Budget Note in House Bill 5030 (2003) to conduct a staffing study to review staffing standards in programs and administrative support units in the agency. During the 2005 Legislative Session, DHS presented initial findings and recommendations from Phase I of the study to the House Special Committee on Budget. The House Subcommittee directed the DHS to provide an update on the status of the Phase I implementation updates and the second phase of the study when it comes to the Emergency Board to rebalance its budget.

The Staffing Study includes three phases, with each phase addressing different program areas for DHS. It is important to note that positions within DHS are not all-exclusive to a single program area so any determination of excess capacity in terms of FTE may be premature.

The first major focus area of these reports is staffing standards and structural change. Public Knowledge LLC, the consultant under contract to deliver the phase reports and the accompanying research and analysis has proposed a change from using a caseload standard to using a workload standard for staffing; it has included analysis useful for assisting DHS in this transition and included specific recommendations.

The second major focus area is process improvement recommendations. These recommendations are categorized into the length of term needed for implementation.

DHS addressed the January 2006 Emergency Board and gave the first of its reports on the Staffing Study and they were directed to report back at this time.

The Department reports the following accomplishments in the implementation of Phase I (Update):

Phase I covered the following program areas:

- Children, Adults & Family Services and Senior & People with Disabilities - Eligibility for Food Stamps and Medicaid
- Senior & People with Disabilities - Adult Protective Services

Focus Area – Staffing Standards

- Children, Adults & Families - The Staffing Study showed a needed realignment between eligibility position types resulting in a Salary Range level reduction in 160 positions and a net reduction of 35 total positions. The division completed the realignment/reduction in January 2006.

- Senior & People with Disabilities - The Staffing Study showed a needed eligibility position/FTE reduction of 218 total positions. The division completed the realignment/reduction in January 2006.
- Senior & People with Disabilities – For Adult Protective Services the Staffing Study proved the case for a needed change from using caseload standard to using a workload standard for staffing. The division has administered a survey and is in the process of analyzing baseline data to develop workload standards. The analysis of the baseline data are scheduled for completion in December 2006.

Focus Area – Process Improvements

I. Short-Term Efficiencies

- a) Synchronize Recertification Periods for Food Stamps & Medicaid - Children, Adults & Families Division made the following changes in July 2006. Increased joint application mailing, reduced the length of reapplication forms, Family Services manual references have been updated for this recommended process improvement practice, and this practice has been included into training classes for both food stamp and medical trainings.

OUTCOME: Recertification synchronization saves 10 minutes time for eligibility workers, 3,163 more cases have been synchronized which equates to a cost avoidance of \$130,130 (TF) and \$65,065 (GF).

- b) Streamlining the OFSET process - Children, Adults & Families Division made the following changes in September and October 2005. A policy transmittal was sent to all offices, OFSET contracts have more clearly defined responsibilities, the Food Stamp Basics class now includes discussion of the restructured OFSET program and process, a Netlink training on OFSET is now offered quarterly, an OFSET Skills Challenge was sent to all offices in May 2006.

OUTCOME: Eligibility workers time to complete an assessment and plan are reduced from 27 to 10 minutes, which equates to a cost avoidance of \$576,583 (TF) and \$288,292 (GF).

II. Intermediate-Term Investments

- a) Evaluate Electronic Data Management System (EDMS) – DHS is implementing an enhanced electronic data management system with the MMIS Replacement Project. Phase one will begin in October 2006 with OHP Central and Phase 2 date is pending. A workgroup has been formed and is addressing the business case plan with a scheduled completion date for the plan in May 2007.
- b) Evaluate Eligibility Systems Integration Options - Children, Adults & Families Division has visited three states to view systems and they are now developing their business case plan with the assistance of a dedicated technology specialist hired in June of 2006. A Policy Option Package will be submitted with the 2007-09 Budget DHS.

III. Long-term Transformation

- a) Develop an automated APS Specialist System – An internet-based Facility Investigation Report has been implemented.
- b) Develop a long-range APS Human Resources Plan – APS Administrative rules were revised in 2005 to more clearly state expectations and desired outcomes. Training is now being delivered on a regular basis. A new state classification has been established for APS workers and minimum qualifications increased including demonstration of work-related competences.
- c) Develop an automated APS Tracking System – APS has submitted a systems change request for ORACCESS. A workgroup has recommended an IS project to enhance and modify the APS Module. While DHS has projected an estimated cost and timeline, the project is not currently funded.

The Department reports the following accomplishments in the implementation of Phase II (Update):

Phase II covered the following program areas: Case Management in Long-Term Care (LTCM) and Temporary Assistance to Needy Families (TANF), Counseling in Vocational Rehabilitation, and Employment Related Day Care.

The consultant, Public Knowledge LLC, has completed a Phase 2 Final Report submitted to DHS dated November, 2006. This report and its included recommendations on staffing standards and process improvements will form the basis of the departments' efforts to make effective changes.

Focus Area – Staffing Standards

Public Knowledge, LLC has proposed a change from using a caseload standard to using a workload standard for staffing; they have included analysis useful for assisting DHS in this transition and included specific recommendations.

Focus Area – Process Improvements

I. Short-Term Efficiencies –

General

- a) Organize and coordinate distribution of policy changes to field offices.

Anticipated Outcome: Centralized receipting, interpreting, and redistributing policy changes will achieve efficiencies.

- b) Reduce the Time Required to Complete Criminal Background Checks.

Anticipated Outcome: Reducing the time will allow placement in less expensive yet appropriate alternatives of care.

LTCM – Long Term Case Management

- a) Make more extensive use of paraprofessionals so case managers target their time to value-added activities.

Anticipated Outcome: Realignment of duties to paraprofessionals will not reduce FTE but will achieve cost efficiencies by paying a lesser cost for some services.

II. Intermediate-Term Investments

General

- a) Improve Information Technology systems that support case management functions.

EDRC

- a) Make more effective use of call centers to manage ERDC cases

III. Long-term Transformation

General

- a) Create Incentives aimed at reducing long term care program costs.

EDRC

- b) Consolidate Oregon's Child Care Subsidy Programs

DHS will analyze and prioritize the Public Knowledge recommendations. An employee will be assigned to lead each of the process improvements. The lead will be responsible for identifying timelines, establishing a baseline, testing or piloting the recommended process improvement, and measuring the results. If the process improvement is successful an implementation plan will be developed and monitored.

The Department reports the following next steps for Phase III:

The Steering committee will meet to discuss and develop a Phase III Project Plan.

Department of Human Services
Analyst: Range/Moore

Request: Report on Children's Mental Health System Change Initiative.

Recommendation: Acknowledge receipt of the report.

Discussion: The Oregon Department of Human Services (DHS) was directed by a Budget Note within House Bill 5023, to report to the Emergency Board in June 2006 regarding the Children's Mental Health System Change Initiative. The goal of the Children's System Change Initiative (CSCI) is to create an integrated and comprehensive delivery system for children's mental health services in Oregon. Prior to October 2005, funding for these services was fragmented and uncoordinated. Regional Mental Health Organizations (MHO) administered acute care and outpatient services, while residential and day treatment services were on separate direct fee-for-service contracts with the state. This led to inefficient and uncoordinated care and left caseworkers and parents to navigate a complex array of separated services.

At the June 2006 meeting, DHS was directed to return to the Emergency Board in November 2006, with a full report on the evaluation of CSCI conducted by Portland State University Regional Research Institute. The evaluation and report by Portland State University includes many changes the agency has made to improve the coordination of care in the children's mental health system, challenges the agency is currently facing and recommendations for further improvement including the following:

At the conclusion of the first year's implementation of the CSCI, there is evidence of:

- Considerable system-wide infrastructure development;
- A philosophical shift in the culture of service delivery toward a more family-focused, strengths-based and coordinated system; and
- Enhanced service capacity including a network of care coordinators.

In addition, the foundation has been laid for:

- Quality assurance and contract monitoring;
- Development of culturally competent services;
- Full family participation and family-driven services; and
- Development of a workforce to support the system change.

System challenges include:

- Providing vertical and horizontal communication within and across systems;
- Differences in geography and population density influence the availability of services;
- The stigma of mental illness is a barrier to accessing mental health services for people from diverse cultures;
- Respondents expressed considerable concern about financing services for children who are not eligible for Medicaid.

Recommendations focus on:

- Increasing vertical and horizontal communication within and across systems;
- Development of creative approaches to enhancing care coordination and providing the expanded service array in all areas of the state; and
- Efforts to improve coordination and collaboration among state level partners and ensuring the involvement of all community partners, especially physical health, developmental disabilities and addiction services.

Recommendations related to resources and financing include:

- Continued efforts toward integrating funding across service systems;
- Increased funding for training and technical assistance; and
- Increasing resources allocated to supporting meaningful family and youth involvement.

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. DHS presented an update in September and the Emergency Board requested DHS include an update regarding the investigation at the November/December meeting.

Staffing

DHS has hired the four Addictions and Mental Health Division (AMH), formerly Oregon Mental Health and Addiction Services, staff and 25 (up from 22 in September) 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 two psychiatrist positions. Non-competitive pay and poor working conditions are still the major barriers for these positions.

DHS has also signed a contract with Oregon Health and Science University (OHSU) for the services of a chief psychiatrist and up to six 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 299 community placements in 2005-07, including the 71 placements approved at the January 2006 Emergency Board meeting. Of these, 151 are Psychiatric Security Review Board related and 148 are for civil commitments. The table that follows sets out a detailed comparison of the budgeted beds to the number DHS is currently working on having in place by the end of the biennium. At the September Emergency Board meeting, DHS reported that they had encountered barriers beyond their control that prevented several planned facilities from moving forward. Since that time several other opportunities have arisen that, if all come to fruition, would allow DHS to significantly increase the number of placements created this biennium from the number presented in September.

Total Budgeted for 05-07		PSRB Budgeted for 05-07		Civil Budgeted for 05-07	
	Beds		Beds		Beds
Leg Adopted	228	Leg Adopted	128	Leg Adopted	100
Jan'06 E-Board	71	Jan'06 E-Board	23	Jan'06 E-Board	48
Total Beds	299	Total PSRB	151	TOTAL CIVIL	148
TOTAL OPEN	128	PSRB OPEN	71	Civil OPEN	57
Contracted with provide	46	Contracted with provide	20	Contracted with provide	26
Being negotiated with named provider	79	Being negotiated with named provider	47	Being negotiated with named provider	32
Initial Discussions Begun	50	Initial Discussions Begun	30	Initial Discussions Begun	20
Total	303	Total PSRB	168	Total Civil	135

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 1.37 by December 31, 2006.” As of November 1, 2006 the ratio was 1.24:1, down from the July 31, 2006 ratio of 1.25:1, and up from 1.09:1 at the time the lawsuit was filed.

At this point, the biggest factor in what staff to patient ratio DHS ends up with at the end of the biennium is driven by the number of community placements than can occur. It is encouraging that progress is being made and that DHS has made headway in identifying and eliminating the barriers to community placements. DHS lists several ongoing projects that target these improvements in the OSH Siting letter also on the November Emergency Board agenda. While DHS must create a budget based on a specific timeline for creating these placements, DHS is not in control of all the factors that determine when and where these placements can occur. Therefore, while in a best case scenario DHS is able to finalize 303 new beds in 2005-07 as indicated above, the timing of when these beds are occupied (for many not until the 2007-09 biennium) will still not allow the staff to patient ratio goal to be met. But again, progress is being made.

OSH-Portland 6th Floor

The conversion of the 6th floor of the OSH-Portland facility remains on schedule for occupancy by mid-April 2007. The projected timeline to move all patients from the 41 buildings is:

- January 2007 - January 2007: Complete movement of another 30 patients from OSH to residential vacancies created by opening 30 intensive forensic case management placements in the community.
- Mid-April 2007: Move 24 forensic patients from Building 41 to OSH-Salem following the opening of the 24-bed unit in Portland and the transfer of 24 civilly committed patients from Salem to Portland.
- June 2007: Complete discharge of all remaining patients in Building 41 to residential facilities currently under development.

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 (CRIPA). DHS has retained Jeffrey Geller, MD and, Kris McLoughlin, DNP, to provide expert testimony and consultation regarding the CRIPA investigation. In addition DHS has hired Joseph Bloom MD, retired Dean of Medicine at OSU and nationally prominent forensic psychiatrist to advise AMH on Forensic Mental Health system issues in the state hospital and the community system and to assist with physician recruitment. Dr. Geller and Dr. McLoughlin conducted a review of OSH from September 25 through September 29, 2006 and will assist DHS in preparing for the investigation, and be present for the U.S. DOJ visit November 13-17. They will also review OSH policies and practices and provide technical and clinical assistance to support OSH responses to the CRIPA review.

24
Department of Human Services
Analyst: Range/Moore

Request: Report on Community-based Delivery of Services Partners for Children and Families by the Department of Human Services.

Recommendation: Acknowledge receipt of the report.

Discussion: The 2005 Legislative Assembly, in a Budget Note, directed the Oregon Department of Human Services (DHS) and the Commission on Children and Families (CCF) to review and make recommendations for increased community-based delivery of services, and to provide a report on these recommendations to the State Emergency Board no later than July 2006. DHS and CCF reported to the July 2006 State Emergency Board and were asked to return to the November 2006 meeting of the State Emergency Board to report on the recommendations from initiatives in the July report. DHS and CCF have provided recommendations and a brief review of several initiatives for service delivery of the program areas outlined in the Budget Note including the following.

Identify youth who are likely to “age-out” of the foster care system without family connections and provide them with such a connection:

- DHS and CCF have requested letters from communities wanting to participate in pilot projects. Thirteen counties have responded identifying eleven pilot sites.

Implement system reform that results in an increase in the community-based delivery of children’s mental health services:

- There has been considerable system-wide infrastructure development including Mental Health Organizations having community care coordination committees and using a child and family team structure to develop and implement individualized plans.

Implement and evaluate prevention demonstration projects to build a knowledge base for successful implementation of integrated substance abuse prevention services throughout the state:

- Various screening and evaluation has been completed to identify and monitor potentially at-risk individuals.

Develop capacity and services for at-risk runaway, throwaway and homeless youth:

- Workgroups were formed to identify the role to the lead agency, develop guidelines for comprehensive plans, and identify barriers, costs and benefits.

26
Department of Human Services
Analyst: Johnson/Moore

Request: The Department of Human Services (DHS) requests approval of a 2005-07 biennial financial rebalance plan which proposes adjustments in appropriations and expenditure limitations and position authority including:

- Allocate \$73,429,053 from the special purpose appropriation made to the Emergency Board for caseload, cost-per-case and program needs.
- Reduce Other Funds expenditure limitation by \$9,593,598.
- Reduce Other Limited Funds expenditure limitation by \$15,500,000 (relating to Tobacco Settlement Revenue).
- Increase Federal Funds expenditure limitation by \$115,704,626 for caseload, cost per case and program needs.
- Reduce Federal Non-Limited Funds expenditure limitation by \$27,536,678.
- Establish 79 permanent positions (16.75 net full-time equivalent) for program needs.

Recommendation: Approve the rebalance plan with the following modifications:

- Allocate \$73,429,053 from the special purpose appropriation made to the Emergency Board for caseload, cost-per-case and program needs.
- Increase Federal Funds expenditure limitation by \$115,704,626 for caseload, cost per case and program needs.
- Establish 79 permanent positions (16.75 net full-time equivalent) for program needs.
- Budget and Management will unschedule Other Funds expenditure limitation of \$25,093,598.

Discussion: This is the third plan submitted by DHS to rebalance financial resources for the 2005-07 biennium. This plan includes revised estimates of expected caseloads, cost-per-case, and non-General Fund revenues and sets out the department's request for \$73,429,053 of the \$83.3 million set aside in a Special Purpose Appropriation (SPA) at the April 2006 Special Session.

The rebalance plan also requests that the \$9,870,947 remaining in the SPA be left there in the event of uncertainties, such as: unknown costs related to requirements of the Deficit Reduction Act, unforeseen caseload, or other cost increases that result in future financial need necessitating use of all or a portion of those funds. Should that need not occur, those funds could be utilized to

decrease the department's working capital requirements. At some point during the biennium, DHS will need to secure a short-term treasury loan in order to cover end of biennium cash flow needs. The loan will require some level of interest payments that will be an additional General Fund request for DHS at a later date. Appropriation of the remaining SPA dollars would lessen the amount of the loan needed and reduce the amount of interest charged to DHS. Budget and Management Division, DAS agrees that the unused portion of the SPA should remain unspent and available until the April 2007 DHS rebalance plan is submitted.

Details of the financial Rebalance Plan by division is as follows:

Children, Adults and Families (CAF)

General Fund Issues: CAF has no Special Purpose Appropriation related issues and all issues are new to the November 2006 Rebalance. CAF has a net reduced General Fund need of \$5,005,112 as explained in more detail below.

The Rebalance plan requests \$381,929 General Fund due to the Rosales v. Thompson, 9th Circuit Court decision. This decision results in the disallowing of Title IV-E eligibility for an estimated 641 children. General Fund is required to replace lost Federal Funds for an estimated 226 non-relative foster parents that will continue to receive foster care payments. An additional 202 relative foster parents are not expected to receive any type of payment.

There is an estimated net decreased need of \$3,117,432 General Fund due to changes in cost per case and caseload changes based on the Fall 2006 Forecast. The following table sets out the details of each programs increase or decrease that leads to the net savings.

Substitute Care Caseload and CPC Change Impacts - post April Session	GF
SW Res Treatment: Special Contracts	\$ (971,449)
SW Res Treatment: Target Children	(571,365)
Regular Foster Care	(543,574)
Family Group Homes	(124,180)
Family Shelter	(95,809)
Subsidized Guardianship	(67,375)
Independent Living Subsidy	(23,335)
Native Am Relative FC	53,010
Special Rates Foster Care	113,469
Other Medical	262,764
Admin Staffing Reductions	(597,164)
Adoption Assistance	(552,424)
TOTAL	\$ (3,117,432)

There is also an estimated net decreased need of \$3,024,000 General Fund as the result of one-time position vacancy savings of \$14 million total funds. Seven million of this savings will be used to cover most of an anticipated \$13 million deficit in Services and Supplies (S&S). The remaining \$6 million deficit in S&S will be covered through planned reductions in administrative expenditures. The net General Fund portion of the one-time savings is the net amount listed above.

Non-General Fund and Other Issues: Based on the Fall 2006 Forecast, there are savings of \$8,210,963 Federal Funds anticipated in the Self Sufficiency program area including the Refugee program. The table below sets out the individual program increases and decreases.

		Cases	CPC	Expenditures
TANF BASIC	Leg Approved	17,284	\$ 394.71	\$ 163,731,774
	Fall 2006 Forecast	17,296	\$ 388.31	\$ 161,189,415
	Difference	12	\$ (6.40)	\$ (2,542,359)
TANF UN	Leg Approved	1,048	\$ 481.91	\$ 12,120,984
	Fall 2006 Forecast	979	\$ 483.62	\$ 11,356,712
	Difference	-69	\$ 1.71	\$ (764,272)
ERDC	Leg Approved	9,597	\$ 382.75	\$ 88,158,042
	Fall 2006 Forecast	9,473	\$ 378.85	\$ 86,135,911
	Difference	-124	\$ (3.90)	\$ (2,022,131)
TA-DVS	Leg Approved	601	\$ 628.65	\$ 9,067,604
	Fall 2006 Forecast	540	\$ 635.24	\$ 8,236,214
	Difference	-61	\$ 6.59	\$ (831,390)

In addition, the Food Stamps Employment and Training Program expenditures are projected to be \$6,334 per month lower than previous estimates, leading to a reduced need of \$152,000 Federal Funds.

As part of the follow up to the DHS Operations Review, over the past, a significant review of DHS expenditures and revenue has taken place. Through these reviews, and aided by greatly improved revenue tracking documents, DHS has made great headway in identifying areas where one time or non-existent revenue has inadvertently been anticipated in the budget. As a result, a reduction of \$1,236,928 Other Funds and \$2,176,870 Federal Funds is being made to the CAF budget to further align the department's limitation to better match anticipated revenues.

The total reduction of \$5,759,503 General Fund need is partially offset by a net \$754,391 General Fund shift through a technical adjustment that moves about \$1.1 million from DMAP to CAF to be used by CAF to develop alternative placements and community supports for children in foster care. In total, the department's technical adjustments add to a net \$0 impact for the agency.

Health Services

The total General Fund request for Health Services is \$70,404,622. Overall, this request is about \$0.7 million less than the \$71,273,579 set aside for Health Services caseload issues addressed by the April 2006 Special Session when the \$88.3 million Special Purpose Appropriation was created.

Division of Medical Assistance Programs (DMAP) -- The DMAP total need is \$67,296,223 General Fund as explained in detail below.

Special Purpose Appropriation Issues: General Fund need for DMAP caseload issues identified at the April 2006 Special Session are \$57,521,519, down from \$65,663,828 set aside in the SPA.

A General Fund dollar comparison of the April 2006 Session issues is in the table below.

SPA Issues from April Session	----- GENERAL FUND IMPACTS -----		
	Nov 06 Rebalance	April Special Appropriation	Change to Apr SPA
DMAP:			
April 06 SPA Issues:			
Caseloads / CPC	\$ 55,437,652	\$ 63,429,331	\$ (7,991,679)
CAWEM	\$ 4,312,490	\$ 5,076,059	\$ (763,569)
BCCP	\$ 2,767,060	\$ 1,507,620	\$ 1,259,440
CPC - Managed Care vs FF	\$ 4,066,286	\$ 3,342,753	\$ 723,533
MMA Clawback Savings	\$ (6,557,692)	\$ (4,714,805)	\$ (1,842,887)
Drug Rebate Increase	\$ (2,504,277)	\$ (2,504,277)	\$ -
CHIP Savings	\$ -	\$ (472,853)	\$ 472,853
Subtotal - SPA Items	\$ 57,521,519	\$ 65,663,828	\$ (8,142,309)

SPA – Caseload issues: The Fall 2006 Forecast is the major driver of the reduced caseload need. The Fall 2006 Forecast estimates a total overall increased caseload of 21,925 above those projected in the Spring 2005 Forecast used for the 2005-07 LAB. The following table sets out a comparison of the Spring 2005 and Fall 2006 caseload forecasts

2005 -07 Biennium Comparison:	Spring 2005 to Fall 2006		
Medical Assistance Programs	Spring 05 Forecast	Fall 06 Forecast 2005-07	%Diff Spring 05 to Fall 06 2005-07
Biennial Averages by Forecast	2005-07	07	2005-07
OHP Plus			
TANF-Related Medical	N/A	95,114	
TANF-Extended	N/A	39,595	
TANF Medical - Subtotal	129,208	134,709	4.3%
Poverty Level Medical - Women	9,185	10,305	12.2%
Poverty Level Medical - Children	79,402	82,430	3.8%
Aid to the Blind & Disabled	58,639	61,817	5.4%
Old Age Assistance	31,574	30,217	-4.3%
Foster/Substitute Care	16,390	18,050	10.1%
Children's Health Insurance Program	21,702	32,287	48.8%
OHP Plus subtotal	346,100	369,815	6.9%
Other Medical Assistance Programs			
Citizen-Alien Waived Emergency Medical	21,962	18,532	-15.6%
Qualified Medicare Beneficiary	9,835	11,377	15.7%
Breast & Cervical Cancer program	219	317	44.7%
Other Subtotal	32,016	30,226	-5.6%
TOTAL	378,116	400,041	5.8%

As in the Fall 2005 and Spring 2006 Forecasts, the Fall 2006 Forecast projects the major caseload increases in four areas; TANF, Aid to the Blind and Disabled (ABAD), State Children's Health Insurance Program (SCHIP) and Poverty Level Medical Children (PLMC).

The TANF caseload estimate has three major risks. First, while not a direct correlation, changes in economic conditions including job growth and availability of health insurance to lower wage workers, create a high level of risk due to the sensitivity of these groups to the economic environment. Second, planned implementation of programmatic changes due to TANF reauthorization rule changes will have an unknown impact on the overall TANF, and most likely other CAF caseloads. Third, departmental changes to eligibility and review policy within TANF should have a direct and depressing affect on this group. Some of these policy changes have been incorporated into the current forecasts model, but ultimately only time will truly determine the overall impacts.

New Issues for November Rebalance: There are several new DMAP items for the November Rebalance that net to an additional need of \$9,774,704 General Fund.

Three significant new General Fund problems for DMAP since the April 2006 Special Session include: a \$15.5 million reduction in anticipated Tobacco Master Settlement revenue, \$10,466,112 million Other Funds from the 2003-05 biennium, and \$4.8 million of unrealized savings from OHP actions that could not be implemented until CMS approval was received.

The Tobacco Master Settlement shortfall is due to less revenue received than expected. There is currently ongoing litigation regarding the shortfall.

As part of the follow up to the DHS Operations Review, over the past, a significant review of DHS expenditures and revenue has taken place. During this review, it was determined that prior to the 2003-05 reversion, certain dedicated Other Fund revenues were inadvertently included in the agencies bottom line, and so a higher amount was reverted than should have been. The department has since implemented several procedures and tracking methods to prevent this from occurring in the future, including improved revenue tracking documents. This issue was further complicated by the significant work-around and revenue accrual/cash flow issues that have been discussed at several recent Emergency Board and Committee meetings. The department has made great progress in identifying and resolving these issues and has a variety of ongoing projects for continued improvements.

The unrealized savings relate to four changes to OHP directed by HB 3108 (2005). The four actions required CMS approval and included: 1) elimination of vision for adults, 2) reduction in dental services, 3) limitations to over the counter drugs covered, and 4) limit the number of hospital days for which the state is responsible to 18 days per year. The savings from these actions were calculated based on a July 1, 2006, implementation date. CMS approved these changes on September 12, 2006, and therefore implementation of these actions will not go into effect until February 1, 2007. If these changes are not implemented in the 2005-07 biennium, there will be a further General Fund need.

There are also four new major areas of savings that offset the problems above. First, in addition to the estimated increase of \$2.5 million in drug rebates included in the SPA issues section above, another \$7.2 million of addition drug rebate revenue is anticipated, part of which will be used to offset \$2.7 million of miscellaneous other funds shortfall identified through the

Operations Review process mentioned above. Second, there were 17 “clawback” payments anticipate in 2005-07. Due to an anticipated late billing in June, 2006 for the 17th payment, only 16 payments are expected in 2005-07. In addition, a clawback billing error correction lead to a net \$5.7 million of savings. Third, \$1.8 million of savings are anticipated due to streamlining of the Family Planning match rate reconciliation process. Fourth, an additional \$11.3 million in tobacco tax revenue is expected based on the September 2006 forecast.

Addictions and Mental Health Division (AMHD): AMHD has no Special Purpose Appropriation issues and all issues are new to the November 2006 Rebalance. AMHD has a net increased need of \$3,696,861 General Fund as explained in more detail below.

AMHD has an additional need of \$7.3 million due to increases in S&S expenditures and unrealized overtime savings. The S&S problem is being attributed to higher than anticipated drug and fuel costs and a greater need for professional nursing services. The unrealized overtime savings results from added staff not leading to an anticipated reduced need for overtime. AMHD also has an additional need of \$0.8 million for anticipated costs related to a recent law suit and the ongoing Federal Civil Right of Institutional Persons Act investigation.

AMHD will realize an estimated \$4.2 million in savings due to unplanned delays in opening community mental health settings. While AMHD budgets for the opening of these settings based on a set timeline, the reality is that often these timelines cannot be met due to a variety of factors beyond the control of the agency.

Public Health Division (PHD): PHD had one issue relating to the SPA. At the April 2006 Session, the CARE Assist/AIDS Drug Assistance Program estimated a General Fund need of \$5.6 million. The estimated need is now \$0.9 million. However, through a technical adjustment, \$1.5 million is being moved to DMAP for a total General Fund reduction of \$588,482 for PHD.

The plan requests to establish 37 permanent positions (11.39 FTE). Over time, PHD has filled a myriad of positions in either a limited duration or double fill status. Most of these positions are filled with long-term employees funded by ongoing federal grants and fees. In 2005-07, there is no expenditure impact because the limitation is already anticipated in the S&S budget. PHD will move the limitation from S&S to Personal Services for a net \$0 impact this biennium.

Ongoing revenue is anticipated to fund these permanent positions in the 2007-09 biennium. In part, the request is driven by recruitment issues for technical positions that are not easy to fill if the position is limited duration. Adding these positions will increase Personal Services costs in 2007-09 and beyond. However, the revenues that support these positions are already included as S&S expenditure items. If revenue sources decline, PHD will make corresponding reductions in position levels.

Seniors and People with Disabilities (SPD)

The total General Fund request for SPD is \$2,956,144 which is about \$9 million less than the \$12,005,365 set aside for the SPD caseload issues in the Special Purpose Appropriation. Only \$566,588 of the request is for changes in caseload and cost-per-case projections, based on the Fall 2006 Caseload Forecast, the remainder is made up of new rebalance issues.

Special Purpose Appropriation Issues: A General Fund comparison to the April 2006 Special Session caseload estimates is in the table below.

SPA Issues from April Special Session	GENERAL FUND		
	Nov 06 Rebalance	April Special Appropriation	Change to April SPA
SPD:			
April 06 Special Appropriation Issues:			
DD Support Services - Staley	\$ 3,266,583	\$ -	\$ 3,266,583
DD Mndtd Caseload	\$ 1,677,169	\$ 1,677,169	\$ -
APD Mndtd Caseload - Other In-Home	\$ 1,579,199	\$ 724,717	\$ 854,482
APD Mndtd Caseload - Nursing Facilities	\$ 12,886,307	\$ 11,373,495	\$ 1,512,812
DD Mndtd Caseload - Adult Long Term Diversion	\$ 9,310,644	\$ 8,821,194	\$ 489,450
APD Mndtd Caseload - In-home	\$ (13,902,238)	\$ (2,941,508)	\$ (10,960,730)
DD Participation rate shift	\$ (3,810,859)	\$ (544,204)	\$ (3,266,655)
APD Mndtd Caseload - OSIP	\$ (3,367,980)	\$ (3,114,201)	\$ (253,779)
APD Mndtd Caseload - Comm. Facilities & PACE	\$ (7,072,237)	\$ (3,991,297)	\$ (3,080,940)
Subtotal - Special Appropriation Items	\$ 566,588	\$ 12,005,365	\$ (11,438,777)

Changes in caseload and cost-per-case projections from the 2005-07 LAB result in a \$0.6 million General Fund need for SPD. This is a substantial change from the \$12.0 million General Fund estimated in the April 2006 Special Session rebalance. Decreases in In-Home-Care Home Care Worker (HCW), Oregon Supplemental Income, Community Facilities costs, and a Developmental Disability (DD) participation rate shift were offset by increases in DD and Nursing Facilities caseloads.

Developmental Disabilities continues to experience cost-per-case growth for Kids Long-Term Diversion (LTD). A change in the methodology of calculating cost-per-case for Kids Turning 18 will increase costs rather than produce the savings identified in April 2006. These increases are offset by cost-per-case savings in Kids Turning 21 and Adult LTD. Overall impact is a \$9.3 million General Fund is requested above the 2005-07 LAB. This is up \$0.5 million from the April 2006 rebalance.

Based on the Fall 2006 Forecast, Nursing Facility caseload is up by 248 cases, which is 47 cases more than was identified in April 2006. This represents a General Fund increase of \$12.9 million above the 2005-07 LAB and \$1.5 million more than the April 2006 rebalance.

General Fund savings totaling 24.3 million are anticipated in the In-Home-Care Home Care Worker program, Oregon Supplemental Income Program (OSIP), Adult Foster Care and Assisted Living Facilities (Community Facilities), and the Program for All-inclusive Care for the Elderly (PACE) due to decreased caseloads and lower costs-per-case. These savings are \$14.3 million more than projected in April 2006.

New Rebalance Issues: SPD non-caseload issues result in a \$2.4 million General Fund need. An audit finding by the Office of Inspector General of disallowed federal expenditures and the HCW contract settlement costs are offset by General Fund savings due to 2003-05 closeout adjustments, Other Fund revenue surpluses, federal reimbursement for the MMA program, vacancy savings, and technical adjustments.

Non-caseload Rebalance Issues	General Fund
SPD:	
Federal Disallowance	\$ 1,342,565
Home Care Worker Contract Settlement	\$ 8,183,653
2003-05 Closeout Adjustments	\$ (3,738,163)
Other Fund Surpluses	\$ (258,754)
MMA Federal Reimbursement	\$ (1,000,000)
Vacancy Savings	\$ (1,996,989)
Technical Adjustments	\$ (142,756)
Subtotal - New Rebalance Items	\$ 2,389,556

It should be noted that the agency is not requesting the \$10 million General Fund Special Purpose Appropriation set aside for HCW contract settlement. Instead, the \$8.2 million for training, wage increase, additional benefits, mileage reimbursement, and liability contingency fund costs are being covered by savings generated within the current HCW program.

Administrative Services Division (ASD)

ASD has no Special Purpose Appropriation related issues. The Rebalance plan requests \$5.1 million General Fund for these issues in ASD. The first issue is the anticipated settlement payments of \$1.7 million General Fund (\$4.2 million Total Funds) for the Young lawsuit. This represents payments for the entire agency.

The second issue is related to personal services costs and results in a \$2.7 million General Fund need. The division is projecting to finish the biennium over budget due to greater than anticipated costs associated with unfunded double filled positions, overtime pay, temporary staffing costs and flex benefits. These costs are a legacy of the department reorganization and are normally offset with savings in vacancy and S&S. Greater personal services and S&S costs related to the State Data Center have eliminated any savings in the ASD budget so the department is proposing to use vacancy savings in the SPD and CAF divisions to cover this shortfall on a one-time basis. The department will conduct a comprehensive analysis of its current staffing structures during the 2007-09 biennium and therefore, is not requesting any positions or FTE.

The last issue is a technical adjustment of \$0.7 million General Fund to fund several special systems projects for the department and facility changes for CAF. This adjustment is offset by technical adjustments in the other divisions and the result is no additional General Fund need department-wide.

November 2006 Rebalance Issues	General Fund
ASD:	
Young Lawsuit	\$ 1,688,544
Personal Services Costs	\$ 2,687,050
Technical Adjustments	\$ 697,825
Subtotal - New Rebalance Items	\$ 5,073,419

Finally, the ASD rebalance plan includes several actions related to Other and Federal Fund changes. These actions include an increase in Federal Funds limitation, establishment of 16 permanent positions within the Office of Information Services, and the establishment of 25 Limited Duration positions associated with the Statewide Automated Child Welfare Information System (SACWIS) project.

Legal Reference:

1. Allocation of \$73,429,053 from the special purpose appropriation made to the Emergency Board by chapter 5, section 3, Oregon Laws 2006, to supplement the appropriation made by chapter 713, section 1, Oregon Laws 2005, for the 2005-07 biennium as follows:

<u>Subsection</u>	<u>Amount</u>
(1) Department-wide Support Services	\$ 3,024,451
(3) Health Services	\$ 70,404,602

2. Transfer General Fund appropriations made by chapter 713, section 1, Oregon Laws 2005, for the 2005-07 biennium as follows:

(1) Department-wide Support Services	\$ +2,048,968
(2) Children, Adults and Families	\$ -5,005,112
(4) Seniors and People with Disabilities	\$ +2,956,144

3. Increase or decrease the Other Funds expenditure limitations established by chapter 713, section 2, Oregon Laws 2005, for the 2005-07 biennium as follows:

(1) Department-wide Support Services	\$ -5,129,655
(2) Children, Adults and Families	\$ -1,720,732
(3) Health Services	\$ -6,398,716
(4) Seniors and People with Disabilities	\$ +3,831,544

4. Increase or decrease the Federal Funds expenditure limitations established by chapter 713, section 4, Oregon Laws 2005, for the 2005-07 biennium as follows:

(1) Department-wide Support Services	\$+19,525,441
(2) Children, Adults and Families	\$ -19,030,528
(3) Health Services	\$+97,608,198
(4) Seniors and People with Disabilities	\$+17,601,516

Department of Human Services
Department of Administrative Services
Analyst: Moore

Request: Report on actions taken to hire staff and begin the process of planning for the design of a new state hospital including the siting process for the facility.

Discussion:

The September 2006 Emergency Board Subcommittee on Human Services directed the Oregon Department of Human Services (DHS) to return in November 2006 with a report on the transfer of \$1,014,999 Other Funds expenditure limitation from Health Services to Capital Construction, and establishment of three permanent positions (0.95 FTE); and, for the Department of Administrative Services (DAS), an increase in Other Funds expenditure limitation by \$146,673 and establishment of two permanent positions (0.67 FTE) for state hospital planning and design. Below is a discussion of the requested report.

Facility Siting

One of the first steps to creating a new Oregon State Hospital (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.

The site solicitation process ran from September 15, 2006, to October 10, 2006. Through this process three state-owned sites and three private sites for the northern area were received for review. For the southern area, eight private sites, one city site and two state sites were received for review. DAS will use the pass/fail criteria set by the committee to create a list of qualified sites for additional evaluation. A request for proposal (RFP) was released by DAS October 16, 2006, to solicit consultants to assist with the in-depth review and due diligence related to site selection. The anticipated date for completion of the full site review process, including mandatory, technical and program categories will be no later than February 15, 2007. Upon completion of this process a list of qualified sites will be provided to Governor who will review the list with the Legislative leadership prior to final selection by February 28, 2006.

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

Staffing update for DAS and DHS

DAS has hired the Principal Executive Manager E and Procurement and Contract Specialist 3 positions and both will start in November 2006.

DHS has hired the Fiscal Analyst 3 who started in October 2006. The two other positions are in the recruitment phase and are expected to be filed in December 2006.

Other Preparations for a New State Hospital System

Among other issues, the OSH Framework Master Plan Phase II report mentions nursing and other professional staffing shortages, and the creation of an adequate number of community placements, as two significant challenges for the new state hospital system. DHS is already beginning to lay the foundation to ensure these issues do not hinder the success of the new system as follows:

- DHS has signed a contract with OHSU to increase both the short-term and long-term medical/psychiatric staff by adding a chief psychiatrist position, up to 6 staff psychiatrists, and a research assistant. DHS also recently announced the hiring of Dr. Joseph Bloom, a former dean of the medical school, to shore up medical recruitment and forensic staff supervision.
- Two planning efforts to assure adequate residential and psychiatric capacity in Central and Eastern Oregon are well underway with final recommendations due by February 2007 or sooner.
- Psychiatric nursing resources are receiving special attention through the recently established Psychiatric Nursing Workforce Development Team initiated by Addictions and Mental Health Division that will make recommendations in early 2007 for both short-term recruitment and retention efforts as well as the longer term nursing workforce needed to staff the new state hospital and community facilities.
- Addictions and Mental Health Division's workforce development project (which began 3 years ago) continues to develop action steps needed to prepare both the quantity and quality of all behavioral health staff needs into the next 3-10 years. These efforts include working with community colleges, undergraduate and graduate programs that are preparing workers for the Oregon mental health and addiction system. Recruitment of members of minority groups and persons in recovery will be part of this initiative so that Oregon can be assured of a culturally diverse and competent workforce.
- AMH is employing the technical assistance of the Department's Administrative Services director to further refine and improve the process used to develop community projects. These tasks must be made as efficient as possible to assure maximum efficiency and effectiveness in developing the recommended "front end" and extended care services required by the OSH Master Plan Phase II report.
- AMH will also follow a recommendation made by the DHS Local Government Advisory Committee in November 2006 to request the involvement of all County Boards of Commissioners to work with their community stakeholders to encourage the development of community programs and facilities. This will add considerable support at the local level to working with the state's efforts to transform Oregon's entire mental health system.

A Long Term Plan for Deferred Maintenance and Upkeep of the New Facilities

Currently, DAS owned buildings are some of the only facilities that have a distinct plan in place to ensure maintenance costs are funded. DAS accomplishes this through a statutory "Capital Projects Fund" which basically works like this: A depreciation component of rent charged to other agencies is transferred into Capital Projects Fund; from which Capital Improvements and small to medium Capital Construction Projects are funded. As projects are capitalized upon completion, cost recovery is added to Uniform Rent cost based on the depreciation schedule that

approximates useful life. So when a component or building approaches end of useful life cash is available in the Capital Projects Fund has accumulated nearly enough to replace it.

In almost all other cases, large capital improvements for component replacement, such as roof replacements, are generally funded through budget requests at the time the replacement is needed. Depending on the financial situation of the state, these projects are either approved, or put on hold until the next budget cycle. In the case of the current OSH, this has meant major necessary renovations being put off biennium after biennium, until the buildings have deteriorated to the current state with extensive deferred maintenance.

An important consideration as the new facilities are being planned should be a long-term strategy to ensure maintenance and other capital improvements are adequately funded. Over the next year, options both statutory and otherwise, should be reviewed and considered as part of the OSH Facility replacement master plan. If funding is authorized, statutory authority already exists in ORS 276.285 that would allow a dedicated account for this purpose.

276.285(2) Any state agency that owns and operates real property or facilities is authorized to establish a separate dedicated account in the State Treasury for the purpose of paying the expenses of constructing, operating, maintaining, repairing, replacing, equipping, improving, acquiring and disposing of such real property and facilities. All moneys in an account established pursuant to this subsection are appropriated continuously to the agency for the purposes described in this subsection. All interest earned on moneys in the account shall be retained in and credited to the account.

(3) Any state agency that owns or operates real property or facilities may establish a rental program for the purpose of recovering and paying for the costs, including debt service, of constructing, operating, maintaining, repairing, replacing, equipping, improving and disposing of real property and facilities consistent with the statutory authority of the state agency. All revenues from such rental programs shall be deposited in the account established pursuant to subsection (2) of this section.

Attachment

ADDITIONAL 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 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 percent 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.”

Overview of Construction Project Planning Assumptions

The DAS - 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.

Next Steps: In addition to the siting process, both DHS and DAS have many tasks to accomplish in order to ramp up the OSH project and preparing information for the 2007 Legislative Session. Over the next several months some of the major tasks include:

- Plan and set up the long-term project management infrastructure, including an interagency agreement between DHS and DAS. The hiring of infrastructure staff has begun as set out below and an interagency agreement for 2005-07 is in place;
- 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.

28
Department of Human Services
Analyst: Johnson

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

Recommendation: Acknowledge receipt of the report.

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. Since the last report, DHS has submitted a reimbursement request for administrative services provided as a result of the MMA implementation to the federal Centers for Medicare and Medicaid Services (CMS) for approximately \$1 million. The CMS contractor has approved the department's methodology and the funds are expected to be received in early 2007.

The department reports that they have begun preparations for the open enrollment activities and the plan changes that will go into effect in January of next year. Given that the department submitted their report prior to the beginning of the open enrollment period, they will have updated information to share with the committee at the table. The department estimates that approximately 9,500 clients who currently pay no premiums will have to begin paying premiums in 2007 unless they change plans. Additionally, over 5,500 clients will be assigned to new plans by CMS because their current plans do not meet certain criteria. Overall, the department estimates that at least 33 percent of the dual eligible clients will need assistance in selecting a new plan.

Finally, DHS reports that the workload associated with this program has not turned out to be of short-term duration as had been anticipated. Instead, the department now believes this workload will be ongoing. A private contractor is currently analyzing the ongoing workload impact on both the central office and the field offices and the department will report on these findings when they become available.

Department of Human Services
Analyst: Johnson/Booher

Report: Report on Department of Human Services (DHS) Financial Operations.

Recommendation: Acknowledge receipt of the report.

Discussion: The Department was directed in a Budget Note for Senate Bill 5644 to report at each meeting of the Emergency Board on progress in meeting the DHS Finance Management Plan recommendations and timelines. This is the last progress report for the biennium.

The financial management plan proposed financial operations improvement, caseload forecasting improvements, and cash flow management improvements. This report updates the Emergency Board on the department's progress in each area.

Financial Operation Improvements

- Deputy Director for Finance position was created and filled
- Departments' financial functions have been reorganized and now report to the Deputy Director for Finance
- Financial controls have been implemented
- Controller position has been established and recruitment is underway
- Financial staff position descriptions and performance appraisals are current
- Financial staff code of conduct training has been completed
- Budget to Actual reports have been developed for each division and are now in use
- The Working Capital Committee has prepared its recommendations.

Caseload Forecasting Improvements

Previously reported improvements continue to result in forecasted caseloads which are substantial better than the past.

Working Capital Committee recommendations

The following are the short-term recommendations to resolve DHS cash flow problems:

- Completed the 382 process and the deposit reconciliation lag processes have been eliminated which reduces lag in suspense accounts

- Eliminate the \$78 Million in negative cash flow by changing revenue accrual processes. This will require either a one-time General Fund increase or an expenditure reduction.
- Eliminate “Workarounds” DHS has traditionally employed. This could require authority in addition to the \$78 million.
- When DHS has budget authority and technical capacity begin accruing expenditures on “Date of Service”. Build balances in other fund accounts. Both of these practices are more in compliance with statewide budget and accounting practices.
- Look for any cost reductions in rebalance to provide authority to resolve cash flow issues.
- Resolve remaining cash flow issues with a loan.

In the current biennium, a treasury loan may be the most viable solution. While it does come with costs, Budget and Management recommends that DHS and the Working Capital Committee should at least consider whether a loan, and its inherent costs, should be incorporated into the next rebalance.

30
Department of State Police
Analyst: Gilbert

Request: 1) Allocate \$598,610 General Fund from the State Emergency Fund and increase Other Funds expenditure limitation by \$1,663,996 for reimbursement of costs for local fire departments, 2) increase Other Funds expenditure limitation by \$9,012,000 for 9-1-1 program special payments to local governments and for expenditure of grant funds for Oregon Wireless Interoperability Network (OWIN) systems design, cost estimate, and business case development, 3) transfer of appropriation made to Forensic services and state medical examiner and of appropriation made to Administrative services and information management to Patrol, criminal investigation, and gaming enforcement for the purpose of rebalancing resources within the department, and 4) report on the number of vacant and filled positions.

Recommendation: The Department of Administrative Services (DAS) will make a recommendation at the Emergency Board meeting on November 30, 2006 for all items except the following, which is recommended: Increase Other Funds expenditure limitation by \$1,257,659 for Oregon Emergency Management for Oregon Wireless Interoperability Network.

Discussion:

1) Local fire costs. The department seeks funding for three conflagration-enacted mobilizations. The funding is to reimburse local agencies that provided fire fighting services for threatened structures. The Federal Emergency Management Agency provides 75 percent of the funding with the state providing the other 25 percent. In the past the state match has been supplied from the General Fund. The fires, dates, and estimated costs are:

Fire	Location	Date	Total Cost	FEMA Share 75%	State Share 25%
Deer Creek	Cave Junction	August 2005	\$ 441,650	\$ 331,238	\$ 110,413
McLean Creek	Halfway	July 2006	712,951	534,713	178,238
Black Crater	Sisters	July 2006	1,108,004	831,003	277,001
Revised Total			\$ 2,262,605	\$ 1,696,954	\$ 565,651

The department request for General Fund was overstated and the FEMA portion understated. The amounts in the display are corrected. The July 2006 amounts are estimates; they are expected to be final by the time the Emergency Board meets on November 30, 2006. DAS will make a recommendation at that time. DAS is exploring the use of Fire Insurance Premium Tax revenue instead of General Fund. ORS 731.820 states “Gross premium tax on fire insurance premiums. (1)(a) For the purpose of maintaining the office of State Fire Marshal and paying the expenses incident thereto, every insurer transacting insurance covering the peril of fire shall pay a tax to the Director of the Department of Consumer and Business Services ...”

- 2) 9-1-1 and OWIN. The department has identified additional 9-1-1 revenues, probably unexpended carryover from the previous biennium. They seek increased expenditure limitation to send the funds to the counties. Additional information on the source of the funding is needed to ensure a sound DAS recommendation. DAS will recommend an action on these funds at the November 30 meeting of the Emergency Board.

Oregon Emergency Management has been seeking and has been granted funding from Homeland Security grant funds to support ongoing Oregon Wireless Interoperability Network design and planning work. To use the increased funding, OEM requires an increase in expenditure limitation of \$1,257,659 Other Funds, which is recommended.

- 3) Rebalance. In general, the department rebalances its appropriations once each biennium, in response to changing conditions not anticipated in the Legislatively Adopted Budget. The department has been reporting its financial status at each meeting of the Emergency Board during the 2005-07 interim. In that reporting, risks to budget adequacy have been noted. Specifically, the department has discussed the unanticipated obligation associated with April 2006 settlement of the *Young v. State of Oregon* case, requiring overtime compensation, and the rising cost of fuel for its fleet. At this time the actual costs associated with these risks are sufficiently well known to drive a need to reduce two General Fund appropriations where savings have been achieved in order to fund shortfalls in Patrol. The proposed estimated rebalance is shown in the following display.

Estimated budget changes		General Fund
Young v State of Oregon	\$	1,180,091
Fuel cost shortfall		1,539,621
Patrol total	\$	2,719,712
Savings		
Administrative Services	\$	(1,405,694)
Forensic Services		(1,314,018)
Total	\$	-

An additional risk, not addressed in this request, is the potential loss of federal transportation funds, MCSAP, that support 15 patrol officers. The funding is under continuing resolution until November 17, 2006. Its fate for the next federal fiscal year is uncertain. If it is not renewed, the potential liability to the department is about \$1.1 million. Until the fate of that funding is known, the department will consider delaying its next recruit school.

The numbers in the display are estimates that the department expects to have tightened down by the date of the Emergency Board meeting. The Department of Administrative Services will make a recommendation at that time.

- 4) Position report. The vacancy rate in trooper positions is under two percent of the total authorized trooper positions as of late October 2006. Vacancies in Sergeant and above are down slightly from September. Sergeants alone have moved from 11 to 8 net vacant positions. There is no change in Fish and Wildlife vacancies, a total of four.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 718, section 2(5), Oregon Laws 2005, for the Department of State Police, Office of Emergency Management, State Fire Marshal and criminal justice services, by \$1,257,659 for the 2005-07 biennium.

31
Department of Justice
Analyst: Freels

Request: Allocate \$359,292 from the State Emergency Fund for litigation costs to protect Oregon's interest in the Tobacco Master Settlement Agreement (MSA) payments.

Recommendation: Do not approve request.

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 a cut in payment if it can demonstrate statutes were in place that require non-participating manufacturers to set aside a similar payment, and the State diligently enforced those statutes.

States that have diligently enforced the non-participating manufacturers' statute ("NPM law") are excluded from the reduced payment. However, states that have not diligently enforced the state's NPM law must share in the total reduction on a pro rata bases – 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 continues to work 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 eight 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 20 of the 21 other states in which the issue of arbitration has recently been decided. The question now is one of process; will the arbitrations be conducted state by state or be combined in a single national forum. Added to the mix, the states have also begun discussing potential

settlement with the manufacturers. So, until there is more certainty, the department cannot accurately predict the future costs of this litigation.

The Emergency Board received a report on progress and cost of the MSA litigation at the April, June and September 2006 meetings. It allocated \$827,405 General Fund to the Department for costs through August 2006 at its September meeting. The Department is now requesting \$359,292 from the State Emergency Fund for actual expenditures through November 3, 2006.

The Budget and Management Division does not recommend the \$359,292 General Fund request because of constraints in the Emergency Fund. This recommendation is with the understanding that the Department will continue to pay these costs with legal fund ending balance. The 2007 legislature will then appropriate sufficient General Fund to first, reimburse actual costs paid by the legal fund and second, fund MSA litigation cost projected for the remainder of the 2005-07 biennium.

Oregon Military Department
Analyst: Upadhyay/Kleiner

Request: Increase Other Funds expenditure limitation by \$454,724 to cover costs incurred by the Oregon Military Department in response to Governor Kulongoski's declaration of a state of emergency and mobilization of the Oregon Army National Guard aviation crews for forest fires during the fire seasons of 2005 and 2006.

Recommendation: Approve the request.

Discussion: The agency requests increased expenditure limitation for reimbursements it has received from the Department of Forestry (ODF) and the State Fire Marshal's office. ODF paid \$36,452 to the Department for the 2005 fires and paid \$399,246 for the 2006 fires. The State Fire Marshal's office will be reimbursing \$11,915 for the Black Crater fire (2006) and \$7,111 for a 2005 invoice.

The Oregon Army National Guard responded to the fire seasons of 2005 and 2006 on state active duty to assist ODF in the fire fights, utilizing helicopters, flight crews and support packages. A total of 473 soldiers responded to the fires, logging approximately 452 hours and dropping nearly three million gallons of water.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 673 section 2 (3), Oregon Laws 2005, for the Oregon Military Department, Community Support program, by \$454,724 for the 2005-07 biennium.

34
Employment Department
Analyst: McGee

Report: Implementation of the federal Eco-Healthy Child Care grant.

Recommendation: Acknowledge receipt of the report.

Discussion: The Employment Department is reporting on how a \$94,000 Eco-Healthy Child Care grant received from the U.S. Environmental Protection Agency will be implemented. The department received permission to apply for the grant from the Emergency Board at its June 2006 meeting. At that time, the agency was requested to return to the Emergency Board if the grant was awarded, regardless of whether additional Federal Funds expenditure limitation was needed. Concern was expressed about the Employment Department's lack of expertise regarding pesticides and toxins and, therefore, whether it has ability to ensure that the contracted grant manager, the Oregon Environmental Council (OEC), provides accurate and unbiased information. The Department was directed to report on "how the funding will be used by the Oregon Environmental Council, including any positions that will be established and what information is anticipated to be provided to the public regarding the establishment of toxin-free child care environments."

The department's report includes the following information:

- The Employment Department will not establish any positions; OEC will employ a coordinator to manage program activities.
- OEC will certify child care providers who meet at least 20 of 25 items on a best-practices list. Criteria include use of biodegradable and least toxic cleaning, art, and other products and avoidance of products containing lead and mercury.
- In 2005, 70 child care providers serving over 1,500 children throughout Oregon were certified. OEC hopes to certify over 300 facilities in the next several years, including providers who primarily serve Spanish-speaking households.
- Other activities include working with businesses to promote discounts on environmentally-friendly products, promoting the program through media and other communications channels, and encouraging parents to use certified providers.
- OEC will evaluate the effectiveness of the program and share its findings throughout the region and the nation.
- Quarterly reports will be provided to the Employment Department.

Oregon Housing and Community Services
Analyst: Troseth/Booher

Request: Increase Federal Funds expenditure limitation by \$10,500,000 for increased availability and need for federal funds from four federal grant programs that the department regularly administrators. Low Income Energy Assistance Program (LIEAP), the Community Development Block Grant (CDBG), the Continuum of Care (C of C) Grant, and the HOME Programs.

Recommendation: Approve the Request.

Discussion: The Oregon Housing and Community Services (OHCS) is requesting to increase Federal Funds expenditure limitation by \$10,500,000 for increased availability and need for federal funds from four federal grant programs that the department regularly administrators.

Low Income Energy Assistance Program (LIEAP) is a non entitlement program designed to help low income households with heating costs. Eligible households include any whose income is at or below 60 percent of Oregon's median income. Due to higher than projected energy costs the agency projects an increased expenditure need for \$2,300,000 Federal Funds.

The Community Development Block Grant (CDBG) is federally funded through the Department of Housing and Urban Development. These funds are used in part for funding Regional Housing Centers which provide either direct assistance to citizens within the defined region such as homebuyer counseling, down payment assistance, rehabilitation assistance, weatherization assistance, credit counseling services, or they may provide linkages with other housing providers in other housing services. Also funded with these federal grant funds is the Housing Rehabilitation Program to develop a means for low-income homeowners to reside in decent, safe and sanitary housing. When the budget was developed, the programs were relatively new. Since that time, the programs have grown and the payments have increased each fiscal year. The agencies projection was based on the beginning program years and the current experience necessitates an increase which equates to \$2,500,000 Federal Funds.

The Continuum of Care (C of C) Grant is federally funded by the US Department of Housing and Urban Development. This program brings together OHCS, Community Action Directors of Oregon, county mental health agencies, and homeless housing and service providers from around the state to develop projects that begin to address the gaps identified in our continuum of care systems in 26 rural counties in the state. When the 2005-07 expenditure budget was developed, 15 grants were in place. Since that time, the number of grants has grown to 24 and payments have increased each fiscal year. Revised expenditure projections have exceeded projections necessitating an increase of \$1,500,000 Federal Funds.

HOME Programs is federally funded by the US Department of Housing and Urban Development. Two programs utilizing this federal funding are the Home Investments Partnerships Program which provides for the development of affordable housing for low-and very-low-income households in non entitlement areas of rural Oregon and the HOME Tennant

Based Assistance (TBA) Program which provides for rental assistance. The Home Partnerships Program has experienced increased demand for the acquisition, new construction, and rehabilitation of rental housing. Similarly, the number of households receiving rental assistance this biennium has increased significantly. Revised expenditure projections have exceeded budgeted projections necessitating an increase of \$4,200,000 Federal Funds.

The revised projections for the above federal programs result in this request for a Federal Fund expenditure limitation increase of \$10,500,000 for the 2005-07 biennium.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 598, section 4, Oregon Laws 2005, for the Oregon Housing and Community Services, by \$10,500,000 for the 2005-07 biennium.

Oregon Parks and Recreation Department
Analyst: Pearson/Booher

Request: Retroactive authorization to apply for one grant totaling \$450,000, from the National Oceanic and Atmospheric Administration (NOAA) for Coastal and Estuarine Land Conservation Program (CELCP).

Recommendation: Approve the request.

Discussion: The CELCP provides funding (50 percent match required) for the public purchase and management of land for conservation purposes. Oregon Parks and Recreation Department (OPRD) has been working with the Mid Coast Land Conservancy on a project to acquire 319 acres along Beaver Creek in Lincoln County. The subject property is upstream from Ona Beach State Park, a popular beach access and kayaking destination. This particular acquisition also achieves the further purpose of protecting the Beaver Creek watershed; being a part of an ongoing effort to preserve and interpret freshwater and saltwater wetlands; addresses recreation needs and capacity issues within a heavily used section of the Oregon Coast and, furthermore is consistent with the Oregon Parks and Recreation Commission's Investment Strategy and Acquisition Plan.

The agency is requesting retroactive authorization to apply for the grant. The application was required to be submitted by October 26, 2006. OPRD Submitted a 10 day letter on October 17, 2006. If the agency is awarded the grant the agency will need limitation in the 2007-09 biennium.

40
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 the Request.

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 qualified to apply for the grant while the Nature Conservancy does not qualify. So, 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 to increase 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 since 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 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 was unsuccessful, the Nature Conservancy would also look for other public funds, such as Oregon Watershed Enhancement Board capital grants or Landowner Incentive Funds.

This item was originally requested at the September 2006 meeting of the Emergency Board but was deferred pending official notification of the grant award from the federal government.

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.

41
Department of State Lands
Analyst: Pearson

Request: Increase Federal Funds expenditure limitation by \$107,000 for expenditure of two grants at the South Slough National Estuarine Research Reserve (SSNERR) and to establish one new limited duration part-time Natural Resource Specialist 2 position (0.21 full-time equivalent) to work on one of the grants.

Recommendation: Approve the request.

Discussion: This request would add \$32,000 Federal Funds expenditure limitation for Olympia oyster grant and \$75,000 Federal Funds expenditure limitation for constructing satellite towers to bring wireless network capacity to the SSNERR. The request also would establish a limited duration part-time Natural Resource Specialist 2 position (0.21 FTE) for the Olympia oyster grant. The oyster grant is to reintroduce Olympia Oysters to the SSNERR estuary, where they are native. The reserve is a 4,770 acre natural area. It was the first one established in the United States and is one of 26 designated sites today. The SSNERR is on the southern Oregon coast near Charleston. It functions as a research, education and stewardship facility.

Assuming expenditure patterns don't vary, it appears the SSNERR could be on track to use all of its existing Federal Funds operations expenditure limitation by the end of the 2005-07 biennium.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 776, section 3(2), Oregon Laws 2005, for the Department of State Lands, South Slough National Estuarine Research Reserve, by \$107,000 for the 2005-07 biennium.

Department of Agriculture
Analyst: Range/ Upadhyay

Request: Increase Federal Funds expenditure limitation by \$713,431 for the Natural Resources Program Unit, Plant Health section.

Recommendation: Approve the Request.

Discussion: The agency is requesting an increase to Federal Funds expenditure limitation for current and anticipated federal fund awards in excess of the 2005-07 legislatively approved limitation. The total amount of the request is \$713,431 primarily for projected expenditures related to detection and testing of Sudden Oak Death and Potato Cyst Nematode. These federal funds provide essential services to keep markets open to Oregon agricultural products.

The Plant Health section provides official field inspections and laboratory testing for Oregon's seed and nursery industries. This testing is required for shipment of many plant and nursery products. The section's pathologists also provide many commodity groups and trade negotiation officials with official statements to facilitate the opening of new markets for Oregon's agricultural commodities.

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 \$713,431 for the 2005-07 biennium.

45
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.

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 appeared before the Emergency Board at its September 2006 meeting, to obtain approval to accept the pending federal grant. At that time, the federal grant had not been formally issued. The Department was directed to come back to the Emergency Board's November 2006 meeting for consideration. Since then, the Department has been notified that the federal funds have been formally approved for this project.

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.

Department of Forestry
Analyst: Upadhyay/Booher

Request: Allocate \$1,543,212 from the special purpose appropriation made to the Emergency Board to cover the cost of the 2006 fire season air tanker and severity program and to provide a portion of the 50 percent of the cost of purchasing catastrophic fire insurance for the 2007 fire season. Allocate \$323,080 from the State Emergency Fund for the purpose of funding the remaining portion of the 50 percent of the cost of purchasing catastrophic fire insurance for the 2007 fire season. Report on the 2006 fire season and the use of severity resources.

Recommendation: Approve the request.

Discussion: The 73rd Legislative Assembly established a special purpose appropriation in the amount of \$3,562,000 General Fund for the Department of Forestry to pay for emergency fire suppression activities and catastrophic fire insurance premiums. The agency is requesting allocation of \$1,543,212, the remainder of this special purpose appropriation. This includes \$1,220,979 to pay for 2006 air tanker/ severity costs and the remaining \$322,233 to pay toward 50 percent of the cost of purchasing catastrophic fire insurance (\$645,313) for the 2006 fire season.

2006 Air Tanker/ Severity Costs: According to the agency, the 2006 air tanker and severity costs totaled \$2,428,285.

<u>Initial Attack Retardant Resources</u>	<u>Dates</u>	<u>Cost</u>
• Two DC-7 air tankers (Redmond and Medford)	7/1 to 9/18	\$1,347,656
• Alaska PC-7 lead plane	7/19 to 9/18	\$ 47,773
• Administration		\$ 70,374
Total		\$1,465,803
<u>Severity Resources</u>		
• Short-term helicopter contracts in Roseburg, Medford, Klamath Falls, John Day, La Grande, Molalla and Forest Grove	Certain time periods between 7/22 and 9/15	\$728,279
• Move up of engine strike teams in Klamath Falls, John Day and La Grande	Certain time periods between 7/22 and 9/11	\$188,495
• Miscellaneous overhead in Central Oregon, Northeast, and South Cascade		\$ 45,708
Total		\$962,482
Grand Total		\$2,428,285

To pay for these costs, the agency will use \$250,000 in federal funds and the unspent \$446,497 of the Federal Emergency Management Agency (FEMA) reimbursement funds received for the 2005 fire season and \$510,809 in cost collection proceeds from the Sulphur Creek Fire of 2003. The agency is, therefore, requesting \$1,220,979 from the special purpose appropriation to pay for the remaining balance.

2007 Catastrophic Insurance Premium Cost: The 2007 catastrophic insurance premium cost is anticipated to be \$1,290,626. Fifty percent of the cost of the premium is the responsibility of the Oregon Forestland Production Fund (OFPF) and the remaining 50 percent is usually paid with General Fund. The agency is, therefore, requesting \$322,233 from the special purpose appropriation, which represents the remaining allocation, and is further requesting \$323,080 General Purpose Emergency Funds.

<u>Revenues</u>	
• Special Purpose Appropriation for 2006 severity needs	\$1,220,979
• FEMA reimbursement from the 2005 season	\$446,497
• Federal Funds	\$250,000
• 2003 Sulphur Creek Fire cost collection proceeds	<u>\$510,809</u>
	\$2,428,285
• Special Purpose Appropriation remaining balance for a portion of the 2007 catastrophic insurance premium due from ODF	\$322,233
• The remaining 2007 catastrophic insurance premium due from ODF (REQUEST GENERAL PURPOSE EMERGENCY FUNDS)	<u>\$323,080</u>
	\$3,073,598
Total Revenues	
<u>Expenditures</u>	
• 2006 initial attack and severity costs – state cost (the total cost is anticipated to be \$ 2,428,285)	\$2,428,285
• 2007 catastrophic insurance premium – 50 percent (remaining 50 percent of the cost will be paid with OFPF)	<u>\$ 645,313</u>
	\$3,073,598
Total Expenditures	

Legal Reference: Allocation of \$1,543,212 from the special purpose appropriation made to the Emergency Board by chapter 791, section 5(1), Oregon Laws 2005, to supplement the appropriation made by chapter 791, section 1(2), Oregon Laws 2005, for the Department of Forestry, Protection from Fire program for the 2005-07 biennium. Allocation from the State Emergency Fund for the Department of Forestry, emergency fire suppression activities and catastrophic fire insurance premiums for the 2005-07 biennium.

Department of Forestry
Analyst: Upadhyay/Booher

Request: Allocate \$621,000 from the State Emergency Fund to cover the cost of the employee compensation plan package approved by the Legislature in 2005.

Recommendation: Approve the request, as modified: Allocate \$621,000 from the special purpose appropriation set aside for state employee compensation changes.

Discussion: The Emergency Board, at its June 2006 meeting, approved the Department of Administrative Services' request to fund state employee compensation and benefit adjustments for the 2005-07 biennium.

Because there was a special purpose appropriation for the Department of Forestry's Fire Protection Program, the Emergency Board reduced the agency's share of the allocation until fire costs for the 2006 fire season were reported and instructed the agency to consider the compensation needs along with the fire costs when requesting the remaining funds in the special purpose appropriation. In a separate request, the agency is requesting release of the remaining funds in the special purpose appropriation for extraordinary fire suppression and insurance premium expenses. Together these costs exceed the amounts remaining in the special purpose appropriation. The agency is, therefore, requesting an allocation of \$621,000 from the general purpose Emergency Fund to pay costs associated with the employee compensation plan for the Protection from Fire Program.

Legal Reference: Allocation of \$621,000 from the special purpose appropriation made to the Emergency Board by Chapter 791, Section 2 (1), Oregon Laws 2005, to supplement the appropriation made by chapter 791, section 1(2), Oregon Laws 2005, for the Department of Forestry, Protection from Fire Program for the 2005-07 biennium.

Oregon Department of Forestry
Department of Administrative Services
Department of Justice
Analyst: Upadhyay/Kleiner

Request: Allocate \$10,000,000 from the State Emergency Fund to satisfy the judgment issued by the Tillamook County Circuit Court, requiring the State to transfer \$10,000,000 from the General Fund to the Forestry Department Account.

Recommendation: Approve the request.

Discussion: Fifteen Oregon counties filed a lawsuit challenging the 2003 legislation that directed the transfer of \$10,000,000 from the Forestry Department Account to the General Fund. The counties cited an alleged statutory contract violation and the court ruled the funds be returned to the Forestry Department Account.

The State sought to appeal that judgment. Because of a defect in the Notice of Appeal, however, the appeal was dismissed by the Court of Appeals. The Supreme Court denied the State's petition for review.

The State also sought relief from judgment in the circuit court, arguing that all necessary parties were not properly joined. That motion was denied by the trial court, and an appeal on the ruling is pending. If the State wins that appeal, the case would be remanded to the circuit court. That court would then grant the plaintiffs leave to join all necessary parties. Once all necessary parties were joined, the court could again enter judgment, and the State would have another opportunity to appeal the circuit court ruling on the merits. If the State prevailed on that appeal, thereby confirming that the challenged transfer to the General Fund was lawful, the statute would remain in force and the money could be restored to the General Fund as required by Oregon Laws 2003, chapter 734, section 4(5).

The pending appeal, however, does not stay the circuit court judgment, which presently is effective. The judgment must be satisfied.

Legal Reference: None affected.

Oregon Department of Fish and Wildlife
Analyst: Pearson/Booher

Request: Increase Federal Funds expenditure limitation by \$3,900,000 for the Oregon Department of Fish and Wildlife to serve as a pass through agency for Bonneville Power Administration mitigation funds.

Recommendation: Approve the Request.

Discussion: The Oregon Department of Fish and Wildlife is requesting to serve as a pass through agency for Bonneville Power Administration mitigation funds. The mitigation funds will be used by the Oregon Department of Fish and Wildlife to secure the purchase of a conservation easement from Junior Lee and Patricia Noble on approximately 199 acres in Benton County. There is broad regional and local support for protecting this important property. The easement will be held by Greenbelt Land Trust and Bonneville Power Administration will have third party rights of enforcement.

The Lone Star Ranch has been described as “one of the best examples of native oak savanna and prairie habitat remaining in the southern part of the Willamette Valley.” This conservation easement would serve as an example of how to successfully merge a working landscape with habitat and protection on private lands. The management plan for the conservation easement will detail how a small scale livestock ranching operation and a habitat restoration can coexist. The conservation easement will also allow the property owners to stay in their home on their land despite being elderly and in declining health and plan for the eventual passing of the land to their children. The Noble family is willing to continue to work with the Greenbelt Land Trust, the state, and others to improve the upland prairie and oak savanna habitats to benefit the over 137 wildlife species using their land.

Legal Reference: Increase the Federal Funds expenditure limitation established by chapter 717, section 4(2)(b), Oregon Laws 2005, for the Oregon Department of Fish and Wildlife, Wildlife Habitat by \$3,900,000 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone/Booher

Request: Increase Other Funds expenditure limitation by \$1,400,000 for the Transportation Program Development (TPD) planning functions on earmarked projects in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) for the 2005-07 biennium.

Recommendation: Approve the request.

Discussion: On August 10, 2005, the SAFETEA-LU was signed into federal law. This act reauthorizes federal surface transportation programs through the end of FY2009. The bill contained specific earmarked projects which were not included in the 2005-07 Oregon Department of Transportation (ODOT) budget for TPD. This request is to include the Other Funds expenditure limitation for planning and development associated with those earmarked projects.

ODOT is requesting an increase in Other Funds expenditure limitation by \$1,400,000 for planning and development of projects earmarked in the SAFETEA-LU federal reauthorization bill.

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 721 Section 2(13), Oregon Laws 2005, for the Oregon Department of Transportation, Transportation Program Development by \$1,400,000 for the 2005-07 biennium.

Oregon Department of Transportation
Analyst: Carbone/Booher

Request: Increase Other Funds expenditure limitation by \$47,500,000 for the Preservation Program.

Recommendation: Approve the request.

Discussion: The Oregon Department of Transportation (ODOT) has reviewed project construction schedules and determined that it will need to increase Other Funds expenditure limitation by \$47.5 million in the current biennium in order to meet projected expenditures. The limitation increase is for the Preservation Program which is responsible for the rehabilitation of existing road surfaces. The rate of completion on the preservation projects originally in the Statewide Transportation Improvement Program (STIP) has far exceeded expectations allowing for the addition of five preservation projects (below) which have been added into the STIP in the 2005-07 biennium.

- US 20: Lebanon East City Limits—Liberty Road
- OR 221: Dayton—Salem
- US 26: Warm Springs River—Warm Springs Grade
- US 20: OR 126-Santiam Junction and OR 126: US 20—Lane County Line
- OR 38: Scottsburg to Scotts Creek Resurfacing

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 721 Section 2(3), Oregon Laws 2005, for the Oregon Department of Transportation, Preservation Program by \$47,500,000 for the 2005-07 biennium.

Oregon Liquor Control Commission
Analyst: Upadhyay/Kleiner

Request: Increase Other Funds expenditure limitation by \$1,650,000 for agents' compensation and bank card fees due to unanticipated increase in liquor sales.

Recommendation: Approve the request.

Discussion: The Oregon Liquor Control Commission's 2005-07 Legislatively Adopted Budget (LAB) forecasted gross liquor sales of \$645.1 million for the biennium. In April 2006, based on recent actual sales, the agency revised its forecast to \$722 million, and appeared before the Emergency Board to receive additional expenditure limitation. The agency now projects that liquor sales could reach \$738 million by the end of the biennium. As a result, the agency is requesting an increase in its Other Funds expenditure limitation by \$1,650,000 to pay for the following increased costs:

- \$1,420,000 Other Funds expenditure limitation to continue to compensate the contracted liquor agents, who operate the liquor stores, at the legislatively approved rate of 8.88 percent of gross liquor sales
- \$230,000 Other Funds expenditure limitation for credit card fees.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 596, section 1(1), Oregon Laws 2005, for the Oregon Liquor Control Commission, Administrative Expenses, by \$230,000 for the 2005-07 biennium. Increase the Other Funds expenditure limitation established by chapter 596, section 1(2), Oregon Laws 2005, for the Oregon Liquor Control Commission, Agents' Compensation, by \$1,420,000 for the 2005-07 biennium.

Oregon Liquor Control Commission
Analyst: Upadhyay/Kleiner

Request: Establish Capital Construction Other Funds expenditure limitation of \$6,600,000 for purchase of a warehouse facility. Increase Other Funds expenditure limitation by \$1,586,900 for closing costs, Capital Outlay expenditures, and operational costs related to the purchase of the warehouse facility.

Recommendation: Approve the request with the understanding that the Department of Administrative Services (DAS) will unschedule the funds until the purchase deal is finalized.

Discussion: Expected liquor sales growth has increased to a level which has led the agency to require additional, or different warehousing facilities. The Oregon Liquor Control Commission's (OLCC) facility in Milwaukie and a nearby off-site leased-product storage space do not provide a sufficient amount of warehouse space to meet the accelerated product demand. The OLCC is requesting expenditure limitation in order to purchase an additional warehouse facility to replace the off-site leased-product storage space; avoid the costs of short-term space; and support fifteen years of sales growth. The OLCC requests the expenditure limitation to fund additional space this biennium in order to take advantage of potential storage space that has become available in near proximity to the OLCC's Milwaukie warehouse. The additional warehouse space is integral in keeping the product moving to customers.

Distilled spirits in Oregon are ordered from all over the nation, shipped to the OLCC's warehouse in Milwaukie, where the products are stored and staff fills weekly orders from 244 liquor stores throughout Oregon. The number of cases the distribution center in Milwaukie has shipped has risen by 42 percent since 1996. The number of products in Oregon has risen by 30 percent since 1996. The warehouse/distribution center in Milwaukie is currently filled to capacity. Off-site storage of distilled spirits is inefficient given the fact that many items need to be available for picking up and shipping to stores.

The OLCC has worked with the DAS Facilities Division in order to identify two potential industrial zoned, storage warehouse facilities, both between 100,000 to 130,000 square feet that can also accommodate freight trucks and trailers. Expanding the existing warehouse/distribution center in Milwaukie is not an efficient solution due to the fact that OLCC's processing, filing, and shipping operations can be expanded, as a short term solution, only by construction of mezzanine storage structures.

The expected increase in 2005-07 liquor sales will nearly offset the cost of the additional warehouse. The difference between October 2006 sales increase over April 2006 estimates, minus the cost of goods, store operating expenses and bank card expenses, and all costs associated with the additional facility is \$1,848,050. The agency is prepared to make reductions in the agency's budget by eliminating the feasibility study request, mezzanine structures, off-site leasing space, and the increase in maintenance and utilities costs for a total of \$2,171,000. These funds will entirely cover the \$1,848,050 needed to fund all costs associated with the additional facility.

Of the requested amount, \$6,600,000 Other Funds is the projected purchase price of the warehouse facility, \$270,000 Other Funds is to pay for closing costs, project management fees, realty costs, property tax and utilities, and \$1,316,900 Other Funds is for Capital Outlay items for the new facility and expansion of the existing conveyer system for filing order.

Legal Reference: Establishment of Capital Construction expenditure limitation of \$6,600,000 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 Oregon Liquor Control Commission.

Increase the Other Funds expenditure limitation established by chapter 596, section 1(1), Oregon Laws 2005, for the Oregon Liquor Control Commission, Administrative Expenses, by \$270,000 for the 2005-07 biennium.

Increase the Other Funds expenditure limitation established by chapter 596, section 1(3), Oregon Laws 2005, for the Oregon Liquor Control Commission, Administrative Expenses, by \$1,316,900 for the 2005-07 biennium.

66
Oregon Liquor Control Commission
Analyst: Upadhyay/Booher

Report: Report on local governments' use of liquor revenue apportionments.

Recommendation: Acknowledge receipt of the report.

Discussion: The Oregon Liquor Control Commission (OLCC) was directed by budget note in its 2005-07 Legislatively Adopted budget to report the results of a review on how local governments use liquor revenue apportionments, the degree of correlation to the intended purpose and whether or not an increase in state apportionment of the revenue is warranted. This report is in fulfillment of that budget note.

The OLCC distributes net proceeds after the costs of operations to the state General Fund, cities, counties, and city revenue sharing. The amounts distributed are based on the per capita share as determined by the State Board of Education. ORS 471.810 does not contain provisions as to the intended purpose for the use of these funds.

The OLCC convened a workgroup comprised of local government representatives which assisted in addressing the question of how local governments use liquor revenue apportionments. The workgroup found that in most circumstances local government budget their liquor sales revenues within the General Fund, as one of a number of sources of revenue used to support local government operations. The report from the workgroup also contains various local government efforts to quantify the impact from alcohol use in terms of direct and indirect costs.

The workgroup report does not substantiate an increase in the state apportionment of revenue.

Department of Administrative Services
Analyst: Erickson/Kleiner/Booher

Request: Increase Capital Construction Other Funds expenditure limitation by \$2,600,000 for the Justice Building Renovation Phase III.

Recommendation: Approve the Request.

Discussion: The Legislative Assembly approved the first two phases of the Justice Building Renovation totaled at \$14,450,000 Capital Construction Other Funds. DAS is now requesting Capital Construction Other Funds expenditure limitation in order to start phase three of the renovation.

DAS had originally intended to make phase three part of its 2007-09 budget request. However, a breakdown of certain components (building chiller) which were planned for replacement in phase three of this project have necessitated the expedited request for phase three. The chiller provides chilled water to air condition both the Supreme Court and Justice Building. It is estimated that by proceeding with phase three immediately the department will avoid at least \$379,000 in additional costs. The chiller replacement must move forward immediately in order to insure that it will be in working order by the next summer season.

Legal Reference: Increase the Capital Construction Other Fund expenditure limitation established by chapter 767, section 1, subsection 3(i), Oregon Laws 2005 for the Department of Administrative Services, Facilities Division, Justice Building Renovation, by \$2,600,000 for the 2005-07 biennium.

68
Department of Administrative Services
Analyst: Erickson

Request: Establish a Capital Construction Other Funds expenditure limitation of \$4,100,000 for renovation of the Eugene State Office Building (ESOB).

Recommendation: Approve the request.

Discussion: During the 2003 Legislative Session, \$100,000 Other Funds expenditure limitation was authorized to conduct a study regarding the future of the Eugene State Office Building (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.”

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.

DAS is requesting establishment of a Capital Construction Other Funds expenditure limitation of \$4,100,000 for renovation of the Eugene Office Building. DAS reports that deteriorating conditions may require closing the building if action is not taken soon.

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 percent 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. After demolition the design will be completed and bids will be received for construction. 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. The Department of Environmental Quality (DEQ) is committed to move into the ESOB when it is renovated and will occupy two thirds of the building. DAS will work with other agencies to find the right combination to fill the building when it is renovated.

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.

Department of Administrative Services
Analyst: Erickson/Booher

Request: Allocate \$155,675 from the State Emergency Fund for costs related to Ballot Measure 37 workload.

Recommendation: Approve the request.

Discussion: The Department of Administrative Services (DAS) is requesting \$155,675 General Fund from the State Emergency Fund to continue BM 37 workload.

Oregon voters passed Ballot Measure 37 in November 2004 which became effective on December 2, 2004. The measure provides that if an owner of private real property proves that land use regulation (with certain exceptions) restricts the use of the owner's property and reduces the fair market value of such property, then the governmental entity responsible for the regulation must either compensate the owner in an amount equal to the reduction in value; or modify, change, or not apply the regulation. The measure requires that compensation is due if the regulation in question remains in force 180 days after an owner makes a written demand for compensation. After that time, the owner may file a claim for compensation in the circuit court of the county wherein the property is located.

In order to start implementation of Ballot Measure 37, the 2005 Legislature allocated \$595,313 General Fund and established four limited duration full-time positions (4.00 full-time equivalent) in DAS, the designated lead agency to initially receive all claims filed against state government. While approving these additional resources, the Legislature acknowledged that the agency may need to appear before the Emergency Board in the interim for supplemental funding based on the volume of claims.

DAS established a Measure 37 Claims Unit within the Risk Management section of the State Services Division at the beginning of the 2005-07 biennium. The DAS Measure 37 Claims Unit provides administrative support for multiple agencies involved with the processing of property claims.

In its report to the October 2005 meeting of the Emergency Board, DAS stated that the agency was receiving 130 claims a month, almost double the 67 claims per month projected at the time of the 2005-07 budget hearings. By October 2005, the Measure 37 Claims Unit had added nine temporary staff to assist with backlog. This temporary staffing level was necessary to meet the 180-day claim resolution deadline required by the measure in order to avoid claimant action against the government for damages, attorney fees and costs.

In June 2006, DAS made another Emergency Board request which resulted in an additional General Fund allocation of \$283,430. Of that request, \$127,090 was due to the then monthly claim submissions of approximately 150 claims per month. It was also noted at that time that agencies may have to return again to the State Emergency Board for additional General Fund allocation if the claim volume increased above current estimates.

DAS is now requesting \$155,675 from the State Emergency Fund. This request is necessitated based on current claim volume; October reached over 300 claims received, and resulted in an increase to 53 claims per week (moving average). Also, there is an increase in the research complexity on 15 percent of the filed claims. It is important to note that this complexity does not represent a transfer in workload between agencies but instead is in recognition of the complexity in researching titles, verification of chain of custody, and ownership chronology and the determination that the most efficient means of handling the complexity is through the contracting of employees with this specialized knowledge.

Legal Reference: Allocation of \$155,675 from the State Emergency Fund to supplement the appropriation made by chapter 601, section 1(1), Oregon Laws 2005, for the Department of Administrative Services for Ballot Measure 37 expenses for the 2005-07 biennium.

Oregon Racing Commission
Analyst: Range

Request: Increase Other Funds expenditure limitation by \$78,907 to fund 1.00 full-time equivalent (FTE) veterinarian position and 1.00 FTE veterinarian assistant, increased from 0.26 FTE, through June 30, 2007 to support agency workload.

Recommendation: Approve the request as modified. Increase Other Funds expenditure limitation by \$78,907, establish one limited duration full-time veterinarian position (0.25 FTE), and extend one permanent part-time veterinarian assistant position to full-time (0.19 FTE), to support the workload demands of the agency.

Discussion: During the 2005 Legislative process when greyhound racing was lost there was a great amount of uncertainty about the future of the agency. To address concerns about the agency's survival after the loss of greyhound racing, 20 percent of their funding, including 4.52 FTE was cut from the program. The agency has now shown over the last 18 months that it can survive without greyhound racing and has a continued need for a full-time veterinarian position that was cut from the program.

The agency is an industry leader in legislation and regulation related to horse racing. Recent rule changes adopted by the commission related to the use of medication on the race animals will increase the need for a veterinarian assistant position from part-time to full-time. The Board has sufficient ending balance to cover the cost of these two positions.

Legal Reference: Increase the Other Funds expenditure limitation established by Chapter 555, section 1, Oregon Laws 2005, for the Oregon Racing Commission, operating expenses, by \$78,907 for the 2005-07 biennium.