

Oregon Legislative Emergency Board Minutes

May 26, 2010

Members Present

Representative Hunt, Presiding Chair

Senators Bates, Courtney, Bates, Girod, Johnson, Monroe, Nelson, Shields, Verger, Whitsett, Winters
Representatives Berger, Buckley, Edwards, Jenson, Komp, Kotek, Nathanson, G. Smith

Member Excused

Representative Garrard

Pursuant to the provisions of ORS 291.328, and acting under the authority of ORS 291.326(1)(a), (b), (c), and (d); ORS 291.371; ORS 291.375; and ORS 276.390, we hereby certify that the Emergency Board, meeting on May 26, 2010, took the following actions:

The meeting was called to order by Representative Hunt at 8:05 a.m. in Hearing Room F of the State Capitol in Salem, Oregon.

Federal Grants

Representative Kotek moved that the Emergency Board approve, en bloc, the following requests for approval to apply for federal grants: Item 17, Department of Human Services – to the U.S. Department of Agriculture in the amount of up to \$600,000 over three years to improve Supplemental Nutrition Assistance Program application and eligibility determination processing; Item 19, Department of Human Services – retroactively to the U.S. Department of Health and Human Services in the amount of \$800,000 for two years for Refugee School Impact Services; Item 21, Oregon Health Authority – retroactively to the American Recovery and Reinvestment Act, Communities Putting Prevention to Work program in the amount of up to \$850,000 over two years to augment program support and community mentoring efforts already underway to increase nutrition and physical activity, as well as decrease tobacco use and exposure to tobacco smoke in Multnomah County; Item 22, Oregon Health Authority – retroactively to the U.S. Department of Health and Human Services in the amount of \$50,000 for one year to provide partial support for the September 2010 University of Oregon and Oregon Health Authority Prevention Conference; Item 23, Oregon Health Authority – retroactively to the U.S. Department of Health and Human Services in the amount of up to \$750,000 over three years to support research that will advance the understanding of public health consequences of climate change, build the state’s capacity to identify populations and communities at risk, and increase the state’s preparedness in mitigating and responding to climate related public health events; Item 24, Oregon Health Authority – retroactively to the U.S. Department of Health and Human Services in the amount of up to \$750,000 over five years to improve the food service inspection functions carried out by local health departments; and Item 26, Oregon Health Authority – to the U.S. Department of Health and Human Services in the amount of up to \$750,000 over three years to build and enhance the infrastructure and capacity of the state to plan, implement, and evaluate population-based oral disease prevention and promotion programs, prioritizing populations based on oral disease

burden; with the understanding that any agency receiving a grant award will return to the Emergency Board or Legislative Assembly for any necessary additional expenditure limitation and position authority.

The following is a summary of the request and Subcommittee (Human Services) action:

The Subcommittee recommended approval of all the requests, with the understanding that, if the funds are awarded, the agency will return to the Emergency Board or Legislative Assembly for approval of any necessary additional expenditure limitation and position authority.

The motion carried with no objection voiced. Representative Garrard and Senators Bates, Courtney, Nelson and Shields excused.

Federal Grants

Representative Komp moved that the Emergency Board approve, en bloc, the following requests for approval to apply for federal grants: Item 11, Department of Community Colleges and Workforce Development – to the U.S. Department of Interior Bureau of Land Management in the amount of \$50,000 for youth employment programs; Item 12, Department of Education – to the U.S. Department of Agriculture in the amount of \$500,000 for a Child and Adult Care Food Program Child Care Wellness Grant; Item 13, Department of Education – to the U.S. Department of Education in the amount of \$125,000 for Building State Capacity for Preventing Youth Substance Use and Violence grant; Item 28, Department of State Police – retroactively to the U.S. Department of Justice in the amount of \$600,000 for the Forensic Science Training Development and Delivery Program; Item 36, Housing and Community Services Department – retroactively to NeighborWorks America for scanner equipment; Item 37, Department of Energy – to the U.S. Department of Energy in the amount of \$5,000,000 for the purpose of funding energy efficient retrofitting of private and public commercial buildings; Item 41, Parks and Recreation Department – retroactively to the National Park Service’s Save America’s Treasures Grant Program in the amount of \$175,000 for preservation of historic structures and archaeological sites at Fort Yamhill State Heritage Area; Item 46, Oregon Watershed Enhancement Board – to Bonneville Power Administration for \$10 million over five years to fund restoration actions in the federal Willamette River Basin Project; Item 47, Department of Transportation – retroactively to the U.S. Department of Justice for up to \$100,000 for a National Motor Vehicle Title Information System grant; Item 48, Department of Transportation – retroactively to the Federal Highway Administration for up to \$5 million for a National Scenic Byway Discretionary grant; Item 53, Department of Transportation – retroactively to the Federal Railroad Administration for up to \$31 million for a High-Speed Intercity Passenger Rail Program grant; and Item 66, Department of State Police – retroactively to the U.S. Department of Justice in the amount of \$170,000 for upgrading the Report Management System for electronic records management; with understanding that, if the funds are awarded, the agency shall return to the Emergency Board or the Legislative Assembly for approval of any necessary Federal Funds or Federal as Other Funds expenditure limitation and position authority.

The following is a summary of the request and Subcommittee (Education) action:

The Subcommittee recommended approval of all the requests, with the understanding that, if the funds are awarded, the agency will return to the Emergency Board or Legislative Assembly for approval of any necessary additional expenditure limitation and position authority.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney, Nelson and Shields excused.

Agency Reports

Representative Smith moved that the Emergency Board acknowledge receipt, en bloc, of the following reports: Item 33, Department of Public Safety Standards and Training – funding shift; and Item 49, Department of Transportation – Innovative Partnership Program.

The following is a summary of the request and Subcommittee (General Government) action:

The Subcommittee recommended acknowledging receipt of all the reports.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

1. Secretary of State

Representative Jenson moved that the Emergency Board allocate \$2,000,000 from the special purpose appropriation made to the Emergency Board by section 16(1), chapter 714, Oregon Laws 2009, to supplement the appropriation made to the Secretary of State by section 1(2), chapter 656, Oregon Laws 2009, Elections Division, establish a reservation of \$398,000 in the Emergency Fund for the Secretary of State for costs associated with the January 26, 2010 special election, and direct the Secretary of State to provide additional information on funds that may be available for special election costs if requesting the reserved funds.

The following is a summary of the request and the Subcommittee (Human Services) action:

In the 2009 session, the Legislature established a January 2010 special election date in the event that either of two bills relating to taxation was referred to the people. Petitions were subsequently filed and a special election was held, in which voters approved Measure 66 and Measure 67. The budget included a \$2 million special purpose appropriation to the Emergency Board for the Secretary of State to finance costs associated with the special election.

Now that the election is complete, the agency reports that election costs actually totaled \$2,597,049. The agency initially requested reimbursement for \$2,482,958 of these costs, but after additional review, it reported that \$2,397,811 of the costs qualify for reimbursement and are not eligible to be paid with Federal Funds received under the Help America Vote Act. The new reimbursement total includes \$409,984 in Elections Division costs associated with preparing and distributing the special election Voters' Pamphlet, and \$1,987,827 of county election office expenses.

The county election expense request included incremental costs for personnel, materials, and services relating to conducting the special election, and ongoing costs for operating election equipment that were not specifically incurred because of the special election but that could be apportioned to it (including amortization expenses and lease and maintenance costs). At the request of the Legislative Fiscal Office, most costs that were not specifically incurred as a result of the special election were taken out of the reimbursement request. Some lease and maintenance costs do remain in the request, however, that were not incurred strictly as a result of the election. The Legislative Fiscal Office modified its recommendation to the Subcommittee based on the revised cost numbers.

The Subcommittee recommended that the Emergency Board allocate the \$2 million special purpose appropriation for election costs, and establish a reservation in the Emergency Fund for the additional \$398,000 of remaining costs, with the understanding that the Secretary of State will use essentially all of the allocated funds to reimburse county election offices.

The Secretary of State may return to the Emergency Board in the future to request all or a portion of the reserved funds. The Subcommittee would expect, however, the Secretary of State to provide additional information on other funds that may be available to cover the special election costs, if such a request is made. The agency may realize cost savings for other election costs or in other activities that reduce the reimbursement need, and the Emergency Board would have the authority to transfer General Fund appropriations within the agency budget if such options exist to help address the special election costs.

The Subcommittee recommended approval of the modified Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

Representative Kotek declared a potential conflict of interest.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

2. Secretary of State

Representative Buckley moved that the Emergency Board approve the submission of a federal grant application by the Secretary of State to the National Historic Publications and Records Commission in the amount of \$75,000 to incorporate electronic records of the Governor's Office into the Electronic Records Management System.

The following is a summary of the request and the Subcommittee (Human Services) action:

The Federal government is offering grants through the National Historic Publications and Records Commission to improve the archiving of electronic records. The Secretary of State's Archives Division is requesting permission to apply for a \$75,000 grant under this program. The grant application is due by June 3rd. The funds would be used to add the electronic records of the Kitzhaber and Kulongoski administrations into the existing Electronic Records Management System (ERMS).

Depending on their content, electronic records are either maintained permanently or are disposed of according to approved retention schedules. The ERMS facilitates this process by supporting the categorization of the records into their appropriate retention schedules (or as permanent archival records), and assists in locating and providing records that have been requested by another party. Currently, only the electronic records of the Secretary of State are maintained in this system.

The Governors' electronic records include items of significant historic interest, and are some of the most requested electronic records in state government. The grant would allow the Archives Division to categorize the electronic records into appropriate retention schedules, and improve its ability to retrieve requested items. Otherwise, the Archives will need to retain all of the electronic records to assure that none are improperly destroyed.

The grant will allow the Archives Division to better respond to electronic records requests, and will not impose any financial obligations on the state, either currently or in the future. Although it would cost an estimated \$45,000 per biennium to add the next Governor's electronic records into this system, the Legislature is not obligated to do so. The system would remain fully functional with the prior administrations' electronic records, even if the Legislature declined additional funding.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

3. Office of the Governor

Senator Winters moved that the Emergency Board increase the Other Funds expenditure limitation established for the Office of the Governor by section 4, chapter 731, Oregon Laws 2009, by \$595,000, and authorized the continuation of 8 positions (4.00 FTE) to fund the activities of the Economic Recovery Executive Team for the remainder of the biennium.

The following is a summary of the request and Subcommittee (Human Services) action:

The American Recovery and Reinvestment Act (ARRA) was a \$787 billion national economic stimulus and recovery initiative that was enacted in February 2009. States were required to adhere to specific requirements for the oversight and reporting of funds that were distributed as part of the Act. The 2009 Legislature created the Economic Recovery Executive Team (ERET) in the Office of the Governor to fulfill those duties for Oregon.

Given the relative quick timeframes to get ERET up and functional and a number of unknown requirements regarding reporting and the number of awards that Oregon would receive, the Legislature funded ERET for one year of the 2009-11 biennium, with the understanding that the Team would return and request the second year funding when there was a better idea of the resources needed for the rest of the biennium. The agencies that receive ARRA funds are charged for the support of ERET with a cost allocation model that was conditionally approved by the U.S. Department of Health and Human Services, Division of Cost Allocation.

The staffing needs of ERET have evolved as the federal requirements for ARRA have become clearer and the number of awards better known. The current request accounts for projected savings of about \$380,000 from the first year funding. The request decreases the number of positions from ten to eight, while keeping the remaining positions at the same level or reclassified downward. It also reflects more of a focus on the federal reporting requirements.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

Senator Whitsett clarified that the source of the Other Funds revenue came from a portion of the ARRA funds that were awarded to other state agencies.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

4. Judicial Department

Representative Edwards moved that the Emergency Board deny the Judicial Department's request to approve the establishment of three limited duration positions (1.22 FTE) and to increase the Other Funds expenditure limitation by \$241,482 in the Trial Court Operations Program for Ballot Measure 57 Intensive Drug Court Grants.

The following is a summary of the request and Subcommittee (General Government) action:

The Ballot Measure 57 Intensive Drug Court Grant Program is administered by the Criminal Justice Commission, which has subsequently awarded grants to Adult Community Correction Agencies in the following ten counties: Umatilla, Jackson, Douglas, Benton, Union, Josephine, Yamhill, Malheur, Linn, and Multnomah. The Judicial Department is a sub-recipient of these grants in four County Circuit Courts: Jackson, Douglas, Josephine, and Multnomah. The Department requested the establishment of three limited duration positions (1.22 FTE) and an increase in Other Funds expenditure limitation of \$241,482 for grant activities.

The Subcommittee recommended that the Department use existing position and full-time equivalent authority from vacant positions to self-finance its request as well as absorb the nominal amount of Services and Supplies expenditures associated with the grant. The Subcommittee's recommendation does not preclude the four county circuit courts from receiving Ballot Measure 57 Intensive Drug Court grant funds.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

The Committee discussed the large number of vacant positions in the Department's budget and their relationship to the legislative and administrative plans to address a projected HB 2287 temporary court fee revenue shortfall.

The Committee was appreciative of the Department bringing forward its request to inform the Emergency Board of its activities related to Ballot Measure 57 Intensive Drug Court Grants.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

5. Judicial Department

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on the Oregon eCourt Program.

The following is a summary of the request and Subcommittee (General Government) action:

The Department reported on its Oregon eCourt Program as directed by budget note.

The Oregon eCourt Program is a reengineering and modernization of business practices and information technology across trial courts, the Court of Appeals, the Supreme Court, and the Office of the State Court Administrator. The Program is scheduled to take approximately five biennia to complete (2007-09 to 2015-17) with a development cost that could exceed \$400 million.

The Department has announced a major shift in its Oregon eCourt Program implementation strategy. Until February 2010, the Department's implementation strategy had been to build major components of the Program itself using a series of vendors to customize commercial off-the-shelf software products. The new implementation strategy is to purchase a "single source integrated vendor solution," otherwise known as a procurement approach.

In light of the new implementation strategy, the Department will need to update the Program's schedule, budget, and other planning documents, including a business case for the new strategy.

A number of OJD budget practices related to the Oregon eCourt Program continue to be of concern, but improvements to the transparency of the Program's revenues and expenditures are being made by the Department.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

6. Judicial Department

Senator Verger moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on specialty courts.

The following is a summary of the request and Subcommittee (General Government) action:

The Department reported on specialty court activity as directed by budget note.

The Department's report provided information on the number, types, and cost of the 53 individual specialty courts operating in Oregon based on a survey of circuit courts.

The Subcommittee discussed the potential need for greater statutory definition for specialty courts and that the cost of these courts may need to be separately identified in the budget.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

7. Judicial Department

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on HB 2287 revenues.

The following is a summary of the request and Subcommittee (General Government) action:

The Department reported on HB 2287 revenues, expenditures, and caseload as directed by budget note.

During the 2009 session, the Legislature passed HB 2287 as a temporary source of revenue to backfill specific General Fund reductions in the Judicial Branch.

The Department has stated that projected HB 2287 revenue is not materializing as anticipated and may fall \$13.8 million, or 35%, below the original \$39.6 million target and produce only \$25.8 million of revenue.

During the 2010 special session, the Legislature took actions to address the potential for a HB 2287 revenue shortfall and worked with the Department to identify \$6.3 million in General Fund savings. In addition to these savings, the Department has undertaken administrative actions to reduce HB 2287 expenditures by \$3.8 million.

In total, the Department has a combined contingency of \$10.1 million that could be used to cover as much as a 40% decline in HB 2287 revenues budgeted for the Department.

The combination of legislative and Judicial Department actions significantly lessens the uncertainty around HB 2287 revenue receipts and its implications to the Judicial Department operating budget.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

8. Public Defense Services Commission

Senator Verger moved that the Emergency Board acknowledge receipt of a report from the Public Defense Services Commission on HB 2287 revenues.

The following is a summary of the request and Subcommittee (General Government) action:

The Commission has reported on HB 2287 revenues, expenditures, and caseload as directed by budget note.

During the 2009 session, the Legislature passed HB 2287 as a temporary source of revenue to backfill specific General Fund reductions in the Judicial Branch.

The Judicial Department has stated that projected HB 2287 revenue is not materializing as anticipated and may fall \$13.8 million, or 35%, below the original \$39.6 million target and produce only \$25.8 million of revenue.

At this relatively early juncture in the biennium, uncertainty exists around revenue receipts and caseload changes. The likelihood that the Commission will need to request some or all of its \$3.5 million special purpose appropriation appears more certain given the latest HB 2287 revenue projection and its limited ability to manage its caseloads.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

10. Oregon Student Assistance Commission

Senator Monroe moved that the Emergency Board defer action on the request by the Oregon Student Assistance Commission for allocation of \$5 million from a special purpose appropriation at least until its September 2010 meeting.

The following is a summary of the request and Subcommittee (Education) action:

Prior to the convening of the February 2010 special session, Oregon Student Assistance Commission (OSAC) identified an over-commitment of funds for the 2009-10 academic year in the Oregon Opportunity Grant program (OOG). OSAC and the Shared Responsibility Steering Committee considered options for reducing awards to address the over-commitment, including reductions of \$400 and \$200 for full-time and part-time students that could have been announced prior to the final semester/term. However, the Commission and Steering Committee voted to support reductions of awards for the Spring quarter and second semester in the amount of \$120 and \$60 for full-time and part-time students, respectively. These reductions, if implemented, were estimated to save \$5.1 million or just over one-half of the \$9.7 million original estimate of over-commitments.

The Governor's Office and OSAC submitted a request during the February 2010 special session for additional funding in the amount of \$19.7 million to cover the anticipated 2009-10 expenditures and to increase available funds for the 2010-11 academic year. The Legislature authorized an increase of \$4.7 million General Fund, a \$5 million special purpose appropriation to the Emergency Board, and a \$5 million Emergency Fund reservation for the OOG. The special purpose appropriation was to cover the remaining over-commitment of funds for the 2009-10 academic year. The reservation was established to potentially address student awards for the 2010-11 academic year, but was contingent upon the severity of costs for the 2010 fire season and other unanticipated state budget needs.

OSAC was expected to restore the announced Spring quarter and second semester award reductions and report back to the Emergency Board when the final grant expenditures for the 2009-10 academic year were known. It should be noted that the award reductions (\$120/full-time and \$60/part-time) were developed to address the estimated \$9.7 million over-commitment. Therefore, an allocation of an additional \$9.7 million was expected to cover the commitments already made by OSAC and thus avoid retroactive reductions to student awards. The Legislature also concurred with OSAC's proposal to allocate grants for the 2010-11 academic year proportionally by education sector (48% community colleges, 41% Oregon university system, and 11% independent colleges) and to commit funds on a first-come, first-serve basis in order to avoid future over-commitment of funds.

Soon after the close of the special session, and following the announced restoration of Spring quarter and second semester awards, OSAC notified legislative leadership that total expenditures for the 2009-10 academic year may be even higher than originally anticipated with an estimated shortfall of \$17.7 million to \$18.9 million rather than \$9.7 million. OSAC requested early reporting from the universities and colleges in order to determine the actual level of 2009-10 disbursements. As of April 28, 2010, and subject to final year-end reconciliation, disbursements for the academic year are estimated to be \$76.8 million for the 2009-10 academic year. This is \$19.7 million, or 34%, higher than included in the legislatively adopted budget.

With FAFSA filings increasing by more than 50% over the last three years, demand for the OOG is not in question, but far out paces the available statewide resources. OSAC has already announced awards for Fall 2010 and is not planning to make second round awards until late Fall. Based on the experience of the 2009-10 academic year, an additional 15% of students could "pick-up"

their awards and OSAC would still be within its remaining funds for the full biennium. However, there is no mechanism within the system to determine which awards will be utilized until students actually enroll for school in the Fall.

The Subcommittee recommended deferral of the request.

The following Committee discussion occurred:

Representative Komp urged continued discussion on this subject at the June meeting of the Emergency Board as students needed to complete long-term planning.

Representative Buckley noted that a larger view of how to get through the biennium and maintain access to education is needed; discussions are on-going with the Oregon University System to ensure students can continue with their education.

Senator Monroe commented this is a volatile situation and needs to be looked at in June.

Representative Kotek asked if the agency needed direction to provide more information before June. Senator Monroe responded that the agency will not have additional information until Fall enrollment is done.

Representative Hunt asked for clarification that the agency did not plan to announce additional awards now even if funds were authorized. Staff confirmed his understanding was correct. Staff clarified that a June meeting was not currently scheduled, but the Emergency Board would not be precluded from addressing this issue if such a meeting were scheduled.

The motion carried. Representative Komp voted no. Representative Garrard and Senator Courtney excused.

14. Commission on Children and Families

Senator Winters moved that the Emergency Board acknowledge receipt of a report from the Commission on Children and Families on its system.

The following is a summary of the request and Subcommittee (Human Services) action:

The State Commission on Children and Families reported to the Joint Committee on Ways and Means in the February 2010 special session on its review of the commission system. The Committee asked the agency to come back with further information and options to focus program efforts, eliminate or transfer some responsibilities, and achieve efficiencies. The Commission reported that it engaged a “Blue Ribbon Committee” of stakeholders to do this work. The Blue Ribbon Committee report presented 10 recommendations covering basic policy and organizational issues as well as specific program and operational changes. Among the recommendations are to: continue the current state and local commission system structure; continue development of common statewide outcomes; consolidate some funding streams; focus resources for the 2011-13 biennium to “highest need” children and families; review roles and responsibilities for juvenile crime prevention to better define and eliminate overlap and duplication; shift some programs and initiatives to other agencies or community organizations; simplify the local comprehensive planning and evaluation process to reduce workload; revise existing statutes to increase flexibility and clean up unneeded language; consider

financial incentives for counties who regionalize or share services to save costs; and redirect some existing staff to resource development to leverage more non-state funding.

The Subcommittee discussed more specific details of some of the proposals, and the State Commission's plans to proceed with the recommendations. A number of the proposals would need statutory changes; others can be done through administrative or budget action. The agency's next steps are to refine its recommendations, and develop legislative concepts and budget proposals for the legislature to consider during the 2011 session.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Johnson expressed her view that the report did not adequately address concerns with how to focus the Commission's work.

Representative Kotek indicated that she found the follow-up report responsive to the questions that the Joint Committee on Ways and Means asked, although she did not agree with all the conclusions or recommendations. She said there was a need to better understand how programs and potential budget reductions affect families that are served through both the commission system and the Department of Human Services, and the challenge is in aligning the resources with the functions needed.

Senator Bates noted that while he had some concerns about the report, the testimony in Subcommittee supplemented the written report by highlighting positive collaborations brought together by local commissions.

Senator Winters expressed her support for the commission system's role to mobilize local communities and leverage resources, and noted it is difficult to validate the effectiveness of prevention.

Senator Verger stated that the system's challenge is that its effectiveness depends on the work at the local level, which can be good or bad.

Representative Smith expressed support for the recommendation to consolidate funding streams to ease the workload on local commissions.

Representative Hunt stated he was unconvinced that the state level costs are a good return on investment.

The motion carried. Senator Johnson voted no. Representative Garrard and Senator Courtney excused.

15. Department of Human Services

Senator Bates moved that the Emergency Board acknowledge receipt of a report from the Department of Human Services on the transition of the Department of Human Services, Oregon Health Authority, Office of Private Health Partnerships, Public Employees' Benefit Board, Oregon Educators Benefit Board, and Oregon Medical Insurance Pool into two agencies.

The following is a summary of the request and Subcommittee (Human Services) action:

HB 2009 (2009 session) created the new Oregon Health Authority (OHA) to improve health and health care in both the public and private sectors. As a result, most of the state's health and health care programs will be consolidated in OHA, and remaining programs in the current Department of Human Services (DHS) will be realigned. Although the end result of HB 2009 will be two separate state agencies, OHA and DHS are expected to continue to share some key administrative functions and infrastructure. The transition project will determine the organization structure of the new OHA and the new DHS, the working structure for administrative support and shared services between the two agencies, and a joint governance model.

The Subcommittee received a report on the activities and accomplishments of the efforts to date related to organizational and operational issues of the transition. The weekly project status report indicates that the project overall is on schedule and within budget. Over the next several weeks, the OHA and DHS transition work groups, the transition project's executive steering committee, the transition stakeholders group, and the OHA and DHS cabinet will discuss organizational structure recommendations. Technical teams are reviewing specific concerns such as federal compliance and legal issues, budget development for the 2011-13 biennium, financial management, payroll and personnel transitions, and information technology. All "pillar" decisions on structures are to be made by June 30, 2010. More technical operational decisions will be ongoing through June 30, 2011.

The report discussed the transition plan for budget development for the new agencies. The plan is to construct the 2011-13 current service level (CSL) budgets for the existing structures, convert these CSL budgets to the new budget structures, and then build policy option packages within the new budget structures for the agency request budget due September 1, 2010. Further structural refinement could occur during development of the Governor's budget if needed, so that the Legislature would receive the completed separate OHA and DHS budgets. It was noted that comparable historical budget information, such as 2009-11 budget estimates, could be unavailable due to the new agency structures. DHS' budget staff will be looking at this issue in the next few months.

Subcommittee members noted that the goal of HB 2009 was to improve health and health care, not build a new bureaucracy, so the new structures need to support that by working lean and effectively. There was interest in seeing the criteria being considered to determine the placement of the shared services. DHS staff will provide more information on this and more detail on structural decisions to the Emergency Board in September 2010.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senators Courtney and Nelson excused.

16. Department of Human Services

Senator Bates moved that the Emergency Board approve the submission of a federal grant application by the Department of Human Services to the U.S. Department of Health and Human Services in the amount of up to \$1 million per year for five years to fund a pregnancy prevention curriculum for middle school students.

The following is a summary of the request and Subcommittee (Human Services) action:

The Department of Human Services (DHS) requested approval to apply for a federal grant from the U.S. Department of Health and Human Services to fund My Future – My Choice, a pregnancy

prevention curriculum for sixth and seventh grade students. The program is designed to provide middle school students with tools to resist social and peer pressure to become sexually involved before they are ready. The My Future – My Choice program is an expansion of Oregon’s previous STARS program, which was funded by a federal Title V Abstinence Grant which expired June 30, 2009. The Children, Adults, and Families Division (CAF) committed \$200,000 in federal Temporary Assistance to Needy Families (TANF) funds to start the new program in 27 pilot school districts during the current school year, but without the grant, DHS would not continue to fund the program.

The \$1 million per year would allow the new curriculum to be available to all school districts in the state and provide additional resources for training and program materials. It would support three limited duration grant positions; printing, translation, and distribution of program materials; travel costs for training and technical assistance; and required contracted evaluation through Portland State University. Some funds would also be distributed to participating counties to support their responsibilities under the grant.

The grant application is due on June 8, 2010. If approved, funding would begin September 2010 and end in August 2015. No local or state matching funds are required for the grant. CAF expects that Oregon’s allocation under the new federal Personal Responsibility Education program will be available to sustain use of the curriculum after the grant expires.

The Subcommittee recommended approval of the request.

Committee members discussed that local school districts can choose whether or not to use the curriculum, and that parents can choose whether or not individual students participate in the lessons.

The motion carried. Representative Smith voted no. Representative Garrard and Senator Courtney excused.

18. Department of Human Services

Representative Kotek moved that the Emergency Board acknowledge receipt of a report from the Department of Human Services on its 2009-11 biennium financial status.

The following is a summary of the request and Subcommittee (Human Services) action:

The Legislature made adjustments to help rebalance the Department of Human Services (DHS) 2009-11 budget during the February 2010 special session as part of HB 5100. Those actions left DHS \$25.8 million General Fund short of projected expenditures. A separate \$30 million special purpose appropriation was made to the Emergency Board for the Department of Human Services, to be available for the costs of increased caseloads, cost-per-case increases, and for program needs.

DHS presented an updated financial summary for the 2009-11 biennium based on identified budget problems and savings, including the new Spring 2010 caseload forecast. Caseloads are higher than previously forecast in the Temporary Assistance to Needy Families (TANF) program and in long-term care for seniors and people with disabilities; there are lower caseloads than previously forecast in child welfare programs, secured residential mental health facilities, and in the Oregon Health Plan. DHS now estimates it will have a net \$8.7 million General Fund savings at biennium-end, after funding the \$25.8 million General Fund shortfall left after the February 2010 rebalance actions and making a one-time \$40.1 million General Fund adjustment for the federal Medicaid match rate for Oregon’s Medicare Modernization Act payment to the federal government (the “clawback”). The

Department did not request budget rebalancing actions or any allocation of the \$30 million special purpose appropriation at this time.

The Subcommittee received information on significant risks to the new estimate. The downside risks include the uncertain economy, continuing program caseload fluctuations, and lower tobacco tax and Tobacco Master Settlement Agreement revenues that are used to support the Oregon Health Plan. DHS also reported on potential federal TANF program penalties, and heard a more detailed report on the TANF program overall. The agency and the Subcommittee discussed the significant challenges facing the TANF program due to continuing caseload growth, difficult economic conditions, and reduced funding levels compared to the program that was approved by the Legislature in 2007.

On the upside, there is a possible six-month extension, through June 2011, of the federal stimulus enhanced Medicaid match rate. If Congress acts on this extension, this could offset about \$195 million General Fund that would otherwise be needed in the 2009-11 biennium, or in the 2011-13 biennium. DHS will update its financial status with information on this and other issues in September 2010.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

20. Department of Human Services

Senator Bates moved that the Emergency Board acknowledge receipt of a report from the Department of Human Services on the status of the Medicaid Management Information System (MMIS) Project, and recommend that the Department return to the September 2010 meeting of the Emergency Board to report on the project's progress and status.

The agency's May 2010 Emergency Board report on MMIS indicated that since the February 2010 special session, the agency has met multiple times with Legislative Fiscal Office (LFO) staff to review progress to date. They also reported the development of a formal system resolution plan, including specific deliverables and dates when those deliverables are due. This plan was reported to be sufficiently detailed to enable LFO staff and legislators to compare actual completion dates to the plan and thereby gauge MMIS progress. DHS reported that all major work to fully stabilize the MMIS will be completed by December 2010. The agency reported it will continue to meet regularly with LFO staff, and report back to the Emergency Board at its September meeting.

In addition to the status of the actual formal system resolution plan, the agency's May 2010 update included an overview of progress since the February 2010 special session and its plans for work related to system acceptance and certification. DHS reported that DHS and Hewlett-Packard/EDS staff had continued working on issues related to acceptance and certification, including the ability to collect reimbursement from third parties (such as insurance companies) to offset the costs of Medicaid state and Federal Funds expenditures. This is the last remaining major issue before DHS can issue a formal acceptance letter to Hewlett Packard. DHS believes this will be completed by the end of June 2010.

DHS also reported that the most significant MMIS system areas that still require attention are those related to the Oregon Health Plan (OHP) managed care organizations (MCO). Nearly 80% of OHP clients are enrolled in fully capitated health plans, one type of MCO. Even higher percentages of

clients are enrolled in dental care organizations or mental health organizations, two other types of MCO's. Work also remains to ensure that MCO's are accurately paid for their services. When the new MMIS was implemented, the system was not always appropriately assigning new clients to the right MCO and was improperly disenrolling clients. In addition, benefits that change as a result of age changes of the client were not automatically being adjusted. As a result, some MCO's were probably not paid enough and others may have been overpaid. As a temporary workaround, DHS paid some of the MCO's based upon historical data trends rather than using MMIS-generated data. The differences between historically-based payments and the payments that should have been made must be reconciled. DHS reported that it has been meeting with the MCO's to finalize a reconciliation plan to address these payment issues.

The agency reported that it had completed a test pilot on May 10th to correct eligibility data on 200 client records. That pilot was run successfully against the live system on May 16th. Once that process and data are validated, DHS reported that the corrections will be run against the remaining 170,000 client records that still have eligibility issues. That data-cleansing effort is expected to be finished in mid-June. Once that is complete, DHS reported that work can continue on fixing the remaining age-related benefit errors.

DHS also reported that the correction of eligibility data and the resulting financial reconciliation are the last major steps before the MMIS system can be certified by CMS. DHS currently plans to submit a formal letter requesting certification in July, ultimately leading to a CMS onsite certification review in November 2010, and final certification by the end of the year.

The Subcommittee recommended that the Emergency Board acknowledge receipt of the report on the status of MMIS and that DHS return to the September 2010 meeting of the Emergency Board to provide an update on the MMIS Project progress and status.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

25. Department of Human Services Oregon Health Authority

Senator Bates moved that the Emergency Board approve the submission of a federal grant application by the Department of Human Services and Oregon Health Authority to the U.S. Department of Health and Human Services in the amount of up to \$5 million over five years to reduce teen pregnancy.

The following is a summary of the request and Subcommittee (Human Services) action:

The Department of Human Services (DHS) requested approval to apply for a federal grant from the U.S. Department of Health and Human Services, Office of Public Health Science, and Office of Adolescent Health. The grant application is due on June 1, 2010. Grant funding is expected to be \$5 million over five years, beginning September 30, 2010. No state matching funds are required for the grant, nor is there any state obligation to continue funding the grant activities once the five-year grant ends.

This grant is aimed at replicating evidence-based programs that have been proven to reduce teenage pregnancy or behavioral risks underlying teenage pregnancy. Most of the grant funds would be distributed to local public health authorities to expand educational services to sexually active and

high risk teens ages 15-19, using the “Safer Sex” evidence-based program. The education consists of a short video and a one-on-one meeting with a health educator, and takes place at a clinic where the youth has come for services (often for diagnosis or treatment of a sexually transmitted disease) such as local public health primary care clinics, sexually transmitted disease clinics, or school-based clinics. There are two additional follow-up meetings between the youth and the health educator.

DHS expects to fund services in five counties based on high teen pregnancy rates, high rates of sexually transmitted infections, or populations of high-risk youth. The agency would use part of the funds at the state level to support 2.50 FTE for grant coordination and compliance, to develop state and local data collection tools, track performance, and provide training. Subcommittee members asked DHS to provide more information on the target groups for the funds.

The Subcommittee recommended approval of the request.

Committee members discussed the type of services that would be available under the grant, confirming that no grant funds would be used for abortion or abortion counseling.

The motion carried. Representative Smith voted no. Representative Garrard and Senator Courtney excused.

27. Department of State Police

Senator Johnson moved that the Emergency Board acknowledge receipt of a report from the Department of State Police on the project to replace the Computer Aided Dispatch System and the Records Management System, and request the Department of Administrative Services to reschedule \$1,707,156 Other Funds expenditure limitation for the project.

The following is a summary of the request and Subcommittee (General Government) action:

During the 2010 special session, the State Police received \$2.1 million of Other Funds expenditure authority to replace its aging Computer Aided Dispatch (CAD) system as well as its out-of-date Records Management System. Overall, the project is expected to cost \$3.9 million over two biennia. The CAD system is an automated process of gathering information from calls for service, sorting or categorizing the information, storing the information, and then assigning this information to a resource (e.g., trooper to respond). The information is generally the “who, where, why, when, and how” for each incident. The CAD and the information it contains allows dispatchers to assign and keep track of where troopers are. The Records Management System is the “system of record” for almost all of the law enforcement data captured by OSP including incident and accident reports, arrests, investigation reports, citations, and warrants contacts. It is the system that allows for storage, retrieval, archiving, viewing, and manipulating information as well as interfacing with a number of other systems including the CAD system. Another key component of this project is the implementation of a message switch which manages all communication between systems both inside and outside of the agency.

As part of its actions in February, the Joint Committee on Ways and Means approved the limitation increase for the project, but requested the Department of Administrative Services (DAS) to unreschedule all but \$389,600 until key project management products were completed. The agency submitted a number of products for review including a business case, project charter, risk management plan, communications plan, budget information, and a project schedule. Generally, the Legislative Fiscal Office staff found most of the information adequate. Key areas where the information should be

strengthened include discussion of the consequences of not replacing these systems, documenting evaluation criteria in the business case, and more clearly defining the scope of work and how to manage it in the project charter. The items that still need further work generally are required by the Enterprise Information Strategy and Policy Division of DAS. Since the project must still gain final approval from DAS, the items needing further work will be reviewed by DAS prior to the project moving forward.

The Subcommittee recommended that DAS reschedule the remaining \$1.7 million Other Funds expenditure limitation for the 2009-11 estimated project costs. The agency will need to return to the 2011 Legislature for the expenditure limitation for the 2011-13 biennium and should provide a detailed update on the project's status at that time.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

29. Department of Justice

Representative Edwards moved that the Emergency Board allocate \$410,854 from the special purpose appropriation made to the Emergency Board by section 3(1), chapter 910, Oregon Laws 2009, to supplement the appropriation made to the Department of Justice by section 1, chapter 673, Oregon Laws 2009; authorize the establishment of two limited duration positions (0.50 FTE) for the legal costs to protect the state's interest in the Master Settlement Agreement payments; and instruct the Department to report to the Emergency Board in September 2010 on the progress of the litigation and to request funds if the Department requires additional resources for this purpose during 2009-11.

The following is a summary of the request and Subcommittee (General Government) action:

In 1998, Oregon and 45 other states signed the Master Settlement Agreement (MSA) with major tobacco companies, producing an annual revenue stream for Oregon for over 30 years. Oregon is expecting to have roughly \$160 million available for 2009-11. The terms of the MSA allow for annual adjustments, one of which is related to tobacco companies that did not sign the MSA and are referred to as Non Participating Manufacturers (NPMs). This adjustment is made if the tobacco companies that signed the MSA lost market share due to the terms of the MSA, and states have not been diligent in meeting their obligations relating to NPMs. Unfortunately, the definition of "diligent" is not defined in the MSA. This adjustment may be made annually and this request addresses the adjustment related to 2003 sales. States, including Oregon, previously settled with the tobacco companies for the 1999-2002 sales years. Further adjustments have been made for the years 2004 to 2007 and are likely to continue for additional years as long as this litigation continues. At risk is the entire amount of the payment made to Oregon for each year. To date, almost \$42 million of the \$437.5 million that had originally been designated for Oregon for 2003 to 2007 has been withheld or placed in a disputed payment account. Another major company did not withhold funds except for the 2007 payments, but has made it known that it is entitled to repayment of funds depending on the outcome of the litigation. It is hoped that, when the 2003 payment legal issues are settled, the issues related to 2004 and subsequent years will be more easily addressed.

This legal issue and resulting litigation has dragged out for a number of years, but actions are taking place now that will hopefully lead to some resolution, albeit not in the near future. After an extended period, the states and tobacco companies are in the final stages of having a three member arbitration panel appointed, hopefully sometime this summer. If that is the case, it is expected that the document exchange process will take place for the remainder of the year which will result in

significant costs for the state, mostly in payments to outside counsel. The Department of Justice (DOJ) expects to present its case to the panel sometime in 2011, with all states presenting their cases by summer 2011. DOJ admits this is an aggressive schedule and a number of factors could delay this schedule even further.

Most of the spending is for expert outside counsel to assist in document preparation and review, witness preparation, and participation in the planning and presentation of this case for the arbitration panel. Other major costs include Oregon's share of the costs of the arbitration panel, Oregon's share of multi-state counsel, costs of expert witnesses, and DOJ staff costs. The actual amount required for the current biennium is unknown since there are a number of factors that will influence the costs including the schedule. If the schedule is further delayed, which is a distinct possibility, some costs will be delayed into the next biennium.

The agency's current 2009-11 budget includes \$1 million in resources for this litigation. In addition, another \$1.5 million General Fund was set aside in a special purpose appropriation to the Emergency Board. The DOJ requested allocation of the entire \$1.5 million in the special purpose appropriation and an additional \$901,189 from the general purpose Emergency Fund. DOJ also requested two limited duration part-time positions (one assistant attorney general and one paralegal) to assist in document production and research related to the documents.

The Subcommittee determined there is still great uncertainty in how much will be required for the remaining of this biennium since the litigation and planned arbitration continues to be delayed. Therefore, the Subcommittee recommended providing only \$410,854 from the special purpose appropriation, which is sufficient to cover the agency's costs through October. The Department of Justice then can report on the progress of the arbitration at the September Emergency Board meeting. At that time, DOJ should also have a better estimate of the additional resources required for the remainder of the biennium.

The following Committee discussion occurred:

Representative Berger asked whether the Department of Justice was working with other states to be more economical since the Master Settlement Agreement was a multi-state agreement. She also expressed concern about the potential for this litigation extending for a long period of time given that the current litigation only covers one year of a multiple year agreement.

Representative Edwards responded that the Department of Justice was working with other states on the litigation, but also noted that some of the legal issues were unique to each state.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

30. Department of Justice

Senator Johnson moved that the Emergency Board acknowledge receipt of a report from the Department of Justice on how it bills agencies for legal services and any proposed changes to the billing practice.

The following is a summary of the request and Subcommittee (General Government) action:

The budget report for the Department of Justice's (DOJ) 2009-11 budget bill instructed the agency to report on its billing practices and any proposed changes. The agency has been meeting with many state agencies to find out about their concerns and assess their views on DOJ's legal services. One of the issues voiced by many agencies was a desire for greater certainty in legal bills during a biennium.

DOJ is looking at two options to address this issue. First is the concept of an *agency retainer* where an agency is billed a set amount based on past usage. If the amount actually used is within 5% of the estimated amount, no adjustment is made. If the difference is greater than 5% the agency "settles up" with DOJ. The second option is a *flat fee* which is similar to how the Department of Administrative Service's Risk Management Division charges for some of its services. The current biennial assessment is based on services provided for the previous six years. DOJ is planning to "pilot" this flat fee approach with up to eight agencies during the 2011-13 biennium.

Other issues discussed by the Subcommittee included greater education for how agencies use DOJ's legal services, specifically smaller agencies. The Attorney General did comment on DOJ's practice of "stationing" senior attorneys at an agency's location, but did admit that this was directed at larger and medium sized agencies and not smaller agencies.

The following Committee discussion occurred:

Representative Kotek asked whether there had been discussion regarding how state agencies decide on how they use legal services.

Senator Johnson responded there had been discussion on that issue.

Senator Winters commented on the Department of Justice's Affirmative Action training that has been available to state agency staff.

Senator Shields asked whether there had been discussion of the Defense of Criminal Convictions program in the Subcommittee relating to billing.

Senator Johnson responded that program had not been discussed.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

31. Military Department

Senator Whitsett moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Military Department by section 3(2), chapter 734, Oregon Laws 2009, Community Support, by \$1,614,301, and request the Department of Administrative Services to unschedule \$812,459 of the General Fund appropriation established for the Military Department by section 1(3), chapter 734, Oregon Laws 2009, Community Support.

The following is a summary of the request and Subcommittee (General Government) action:

A change in federal law modified the matching fund requirement for the nation's National Guard Youth Challenge Programs by increasing the federal match rate to 75% and reducing the state

match requirement to 25% from what had been a 60%/40% split. The effective date of this change was October 1, 2009.

The Department requires \$1.6 million in additional expenditure limitation to expend the Federal Funds. The state matching funds requirement can be met with existing Other Funds revenue in the form of Average Daily Membership revenue from the Bend-LaPine School District.

The Program's General Fund budget of \$812,459, which had been needed to meet a portion of the federal match requirement, is now available for alternative use. The Subcommittee recommended to defer until the 2011 legislative session any action to expend the General Fund savings. The Subcommittee recommended that the Department of Administrative Services be directed to unschedule all of the General Fund savings.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

The Committee discussed using the General Fund savings to expand the Oregon Youth Challenge Program.

The Committee also discussed the educational requirements and outcomes of the Oregon Youth Challenge Program.

The motion carried. Senator Bates voted no. Representative Garrard and Senator Courtney excused.

32. Military Department

Senator Johnson moved that the Emergency Board establish a Federal Funds Capital Construction expenditure limitation in the amount of \$3,500,000 for the 2009-11 biennium for the design and construction of a waste water treatment plant at Camp Rilea.

The following is a summary of the request and Subcommittee (General Government) action:

The Department requested to expand and upgrade the Camp Rilea's waste water treatment system by adding four treatment lagoons and make a variety of improvements to the existing two-lagoon system. These changes will address the deficiencies in effluent treatment and discharge and provide for additional system capacity.

The Capital Construction expenditure limitation established by the Emergency Board will expire at the end of the current biennium and will not extend the normal six year timeframe for a Capital Construction project. Given the likelihood that the project will not be completed by June 30, 2011, the Department may be required to seek expenditure limitation for any remaining construction costs during the 2011 legislative session.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representative Garrard and Senator Courtney excused.

34. Department of Veterans' Affairs

Senator Nelson moved that the Emergency Board acknowledge receipt of a report from the Department of Veterans' Affairs on utilization of the educational aid program, allocate \$60,000 from the special purpose appropriation made to the Emergency Board by section 86(1), chapter 95, Oregon Laws 2010, to supplement the appropriation made to the Department of Veterans' Affairs by section 1(1), chapter 686, Oregon Laws 2009, for services provided by the Department of Veterans' Affairs, for educational aid benefits to veterans, and increase the Other Funds expenditure limitation established for the Department of Veterans' Affairs by section 85, chapter 95, Oregon Laws 2010, by \$31,641 for educational aid benefits to veterans.

The following is a summary of the request and Subcommittee (Human Services) action:

The Oregon Department of Veterans' Affairs reported on utilization of educational aid benefits and requested allocation of \$168,359 from a special purpose appropriation made to the Emergency Board for this purpose. The Department also requested an increase in Other Funds expenditure limitation of \$31,641 that was identified for the program during the 2010 legislative session, to meet projected benefit claims for the remainder of the biennium.

The Subcommittee recommended allocating \$60,000 from the special purpose appropriation and increasing Other Funds expenditure limitation in the amount requested by the Department. The Department may request the balance of the special purpose appropriation at a future meeting of the Emergency Board, where the request can be evaluated against the availability of resources and additional information regarding program enrollment and utilization.

The following Committee discussion occurred:

Representative Kotek expressed concerns regarding the Department's ability to implement all of its responsibilities appropriately, given the discontent generated by the process used by the Department to site a second Veterans' Home skilled nursing facility.

The motion carried with no objection voiced. Representative Garrard excused.

35. Housing and Community Services Department

Representative Buckley moved that the Emergency Board acknowledge receipt of a report from the Housing and Community Services Department on the progress of developing the Homeownership Stabilization Program.

The following is a summary of the request and Subcommittee (Human Services) action:

The Housing and Community Services Department received notice of eligibility for \$88 million in Troubled Asset Relief Program funds to be used for the purpose of helping residents to avoid foreclosure on their homes. A substantial majority of the funds must be used in areas with higher than average levels of unemployment. The Department presented a report describing administrative actions the agency must take to be eligible to receive the dollars, and explained where and how funds are proposed to be deployed to assist an estimated 6,230 households.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

38. Department of Forestry

Representative Komp moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Forestry by section 2(2), chapter 730, Oregon Laws 2009, Protection from fire, by \$30,000,000, for expenses incurred in the 2009 fire season, and request the Department of Administrative Services to unschedule the limitation until the Department demonstrates an actual need to expend the funds; and acknowledge receipt of reports on the 2010 Fire Severity Plan and an update on implementation of the forestry field employee classification plan.

The following is a summary of the request and Subcommittee (Education) action:

The Department of Forestry requested an increase in its Other Funds expenditure limitation for extraordinary fire projection costs. Through March 23, 2010, 60% of the fire protection operating budget has been expended leaving a balance of approximately \$18.9 million, which will result in a shortfall for the 2010 fire season. The Subcommittee's recommendation included a request to unschedule the Other Funds expenditure limitation increase since the nature of fire protection costs is unpredictable and the requested amount may not be needed.

The Department of Forestry provided a report on the 2010 Fire Season Severity Plan in advance to advise the Legislature of the strategies it will employ in utilizing resources set aside in a special purpose appropriation for this purpose. Fires on Department protected land totaled 7,033.94 acres in 2009, just over 43% of the 10-year average. The Department also reported it is continuing to monitor increased costs of implementing new classifications. Because of the seasonal nature of the fire protection program, the Department reports it is difficult to determine if the agency will need to pursue an Emergency Board request for an additional General Fund appropriation to cover the costs until after the severity of the 2010 fire season is known.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Girod expressed concern about the costs to private land owners resulting from the increased compensation due to the reclassification of field foresters.

Senator Whitsett noted that at least one of the fire organizations in Southern Oregon is not accepting the budget plan presented by the Department of Forestry in order to further discuss increased assessments.

Senator Nelson added concerns for the unknown costs of the Oregon Wireless Interoperability Network (OWIN) that will be passed along to private land owners increasing the anxiety of land owners who are already struggling to make a living.

The motion carried with no objection voiced. Representatives Buckley, Garrard, Jenson and Nathanson excused.

39. Department of Geology and Mineral Industries

Senator Girod moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Geology and Mineral Industries by section 2, chapter 669, Oregon Laws 2009, by \$67,019, and add 12 months (0.50 FTE) to an existing limited duration position providing fiscal administration for the Light Detection and Ranging (Lidar) program.

The following is a summary of the request and Subcommittee (Education) action:

The Department of Geology and Mineral Industries (DOGAMI) requested that a limited duration position originally approved only for the first half of the 2009-11 biennium be continued for the second half of the biennium. The position was established for twelve months with the understanding that if revenue projections were being met, the Department could request approval from the Emergency Board to continue the position for the second year of the biennium. The position provides fiscal management for the Department's Lidar program. The legislatively adopted 2009-11 budget for DOGAMI assumed the Department would enter into \$2.8 million in Lidar contracts. DOGAMI reported it had already entered into contracts totaling more than \$2.5 million of the \$2.8 million assumed in its 2009-11 budget and charges on these contracts are sufficient to fund the Lidar position for the remainder of the biennium.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representatives Garrard, Jenson and Nathanson excused.

40. Department of Fish and Wildlife

Senator Shields moved that the Emergency Board increase and transfer Other Funds expenditure limitation, per the attached schedule, to provide \$722,428 additional Other Funds expenditure limitation for the Access and Habitat program and shift a \$908,280 Other Funds expenditure limitation reduction related to Department of Administrative Services Fleet charges from the Administration Division to the programs where the charges are incurred.

The following is a summary of the request and Subcommittee (Education) action:

The Access and Habitat (A&H) program was begun in 1993 to make grants that provide improved hunter access to private lands and improvements to wildlife habitat. The Department of Fish and Wildlife (ODFW) proposed using \$722,428 of the program's projected \$1.8 million ending balance to fund some of the projects recommended for funding at the last A&H Board meeting and set aside \$400,000 for wildlife habitat improvement grants for the remainder of the biennium. The Department had requested \$800,000 of carry-over Other Funds expenditure limitation during consideration of its 2009-11 budget. This request was denied with the understanding that if the Department needed additional expenditure limitation it could request an increase from the Emergency Board.

ODFW also requested that a \$908,280 Other Funds expenditure limitation reduction to the Department's Administration Division related to decreases to Department of Administrative Services' fleet charges be spread to the programs where the charges occur. The net result of these transfer actions is neither a decrease nor an increase in total ODFW Other Funds expenditure limitation.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Whitsett asked if the money for Access and Habitat was coming from the program's ending balance, to which LFO staff explained that money had accrued to the ending balance because the Department's original request for carry-forward expenditure limitation was denied.

The motion carried with no objection voiced. Representatives Garrard, Jenson, Komp and Nathanson excused.

42. Parks and Recreation Department

Representative Shields moved that the Emergency Board establish an Other Funds expenditure limitation for the Parks and Recreation Department, Acquisitions Program, in the amount of \$120,000 for land acquisition; increase the Federal Funds expenditure limitation established for the Parks and Recreation Department by section 3(1), chapter 680, Oregon Laws 2009, Heritage Programs, by \$616,769; and increase the Federal Funds expenditure limitation established for the Parks and Recreation Department by section 3(5), chapter 680, Oregon Laws 2009, Facility repair and maintenance, by \$350,000.

The following is a summary of the request and Subcommittee (Education) action:

The Oregon Department of Transportation provided \$120,000 to the Parks and Recreation Department (OPRD) as part of a Washington County road project to pay for associated appraisals and secure acquisition of 2.38 acres connecting the Banks trailhead to the Banks-Vernonia Trail. Because the Acquisitions Program does not have Other Funds expenditure limitation, OPRD requested an Other Funds expenditure limitation for \$120,000 be established to account for these resources.

Also, OPRD requested an increase in Federal Funds expenditure limitation totaling \$966,769 for a carry-over of \$616,769 from the 2007-09 biennium and to capture increased distributions from the National Park Service's annual non-competitive grants program for Historic Preservation Offices and a \$350,000 grant from the National Oceanic and Atmospheric Administration for removal of Sodom Dam associated with Thompson's Mills on the lower Calapooia River.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representatives Garrard, Jenson and Kotek excused.

43. Department of Land Conservation and Development

Representative Smith moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Land Conservation and Development by section 5, chapter 68, Oregon Laws 2010, Marine Renewable Energy Resources Study Fund, by \$99,999 for a marine renewable resources study.

The following is a summary of the request and Subcommittee (Education) action:

HB 3633 (2010) directed the Department of Land Conservation and Development to conduct a study on how best to develop commercially viable marine renewable energy resources. The bill established a \$1 Other Funds expenditure limitation and a timeline for the agency to obtain contributions from public or private sources to support the study.

The agency received \$100,000 in contributions: \$50,000 from the Oregon Wave Energy Trust and \$50,000 from the Oregon Department of Fish and Wildlife's Commercial Fish Fund. The Department of Land Conservation and Development's request was for the additional Other Funds expenditure limitation needed to carry out the study.

As directed in the bill, the agency has worked with interested parties and stakeholders to set the scope and content of the study. The resulting plan is to develop an Oregon Marine Map, which will be a customized tool that can be used to compile and analyze a wide range of coastal and marine data. One of the project's two map modules will focus on data and information describing the properties, limitations, and physical needs associated with various renewable energy production technologies. The other module will develop analytical functions and guidelines that will help define the ecological, biophysical, and economic characteristics associated with various nearshore marine use siting options.

With the funding request approved and a successful contracting process, the project should be completed by December 31, 2010. This timeline supports the bill's directive to provide appropriate recommendations related to the study to the Seventy-sixth Legislative Assembly.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Verger commented there is a large amount of activity and interest around the use of ocean resources and marine reserves. She expressed concern regarding how the study may ultimately be used and about how decisions around energy projects will be made.

Representative Hunt noted that Representative Boone had engaged a wide range of participants in developing the legislation and the study.

Senator Johnson commented that, while she is not concerned about funding sources in this instance, the use of non-General Fund state resources for projects such as this one needs to be carefully looked at to ensure there are no strings attached.

Representative Berger indicated that this study and other research is what will help Oregon bring its intellectual capital for wave energy to the global marketplace. She commented that this doesn't mean Oregon has a bunch of wave energy projects off its coastline, but that the state would be seen a leader in "how to do" wave energy in an intelligent world.

Senator Nelson explained he would be a "no" vote in protest to the continued operation of the Department of Land Conservation and Development when it is an agency that he would prefer to see eliminated due to the budget situation. He noted counties could do the same job and the state would save \$20 million.

The motion carried. Senator Nelson voted no. Representative Garrard excused.

44. Department of State Lands

Representative Smith moved that the Emergency Board establish a General Fund appropriation for the Department of State Lands and allocate \$450,000 from the special purpose appropriation made to the Emergency Board by section 20(1), chapter 95, Oregon Laws 2010, to the newly established appropriation for the payment of expert witness fees related to the Portland Harbor Superfund.

The following is a summary of the request and Subcommittee (Education) action:

During the 2010 special session, the Legislature established a \$2.8 million special purpose appropriation for expert witness costs related to possible Portland Harbor Superfund litigation. The contractor will provide forensic analyses. As the owner of submerged and submersible land in the Portland Harbor Superfund site area, the Department of State Lands could be called upon to participate in allocation of the costs of cleaning up the harbor.

The Department requested an allocation of \$800,000 from the special purpose appropriation and plans to ask for the remainder in September, to pay for work to be completed under the contract between September and the end of the biennium.

Since the agency has \$1.8 million Other Funds expenditure limitation, the Subcommittee recommended that the Other Funds resources be expended before General Fund is applied to the expenses of the project. Total project expenses for Attorney General costs and expert witnesses through September 2010 are estimated to be \$2,225,431. The remaining resource requirement is \$450,000.

The Subcommittee recommended an allocation of \$450,000 from the special purpose appropriation.

The motion carried with no objection voiced. Representative Garrard and Senator Verger excused.

45. Oregon Watershed Enhancement Board

Representative Berger moved that the Emergency Board approve the submission of three federal grant applications by the Oregon Watershed Enhancement Board to the U.S. Fish and Wildlife Service totaling \$2.6 million for acquiring and restoring coastal wetlands.

The following is a summary of the request and Subcommittee (Education) action:

The Oregon Watershed Enhancement Board requested approval to apply for three federal grants from the U.S. Fish and Wildlife Service's National Coastal Wetlands Conservation Grant program. All grants from this program must be submitted by state agencies and require a minimum non-federal match of 25%.

Tillamook County Wetlands Acquisition – The first grant is for \$1 million to purchase about 300 acres of diked, former wetlands north and west of the city of Tillamook. These lands would be restored as wetlands to help address flooding impacts to Highway 101. The wetlands would also provide increased habitat for endangered fish, as well as, provide hunter and fisher access. Title for the lands would be held by the Port of Tillamook Bay.

Tillamook Bay Wetlands Acquisition – The second grant application is for \$600,000 to acquire and restore 92.3 acres at the mouth of the Miami River. The restored wetlands would provide habitat for endangered fish, specifically Chum. Title for lands would be held by The Nature Conservancy. OWEB has already approved a grant to restore the area which will be used as match for the grant.

Coquille Wetlands Acquisition – The third grant is for \$1 million to purchase and restore 1,100 acres near the city of Coquille. This project was developed by The Nature Conservancy and the Department of Fish and Wildlife and involves five different landowners. The land would be owned, restored, and managed by the Department of Fish and Wildlife.

The Subcommittee removed this request from the consent agenda at the request of Senator Girod. The Subcommittee received testimony on the three grant applications and all members expressed support for the first and third grants, while some members were concerned with The Nature Conservancy owning the land proposed for acquisition in the second grant.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Girod stated that while he supports the first and third grants he does not believe The Nature Conservancy should hold title to the restored habitat and that the Department of Fish and Wildlife would do a better job managing the property as habitat for endangered fish. He also expressed his wish to vote on each grant separately.

Representative Jenson expressed concern that a non-state agency would hold title to the acquired land in the second grant.

Senator Johnson responded that some of the objections to the second grant might be lessened knowing that the Tillamook Estuary Partnership would be involved in the project and will provide a moderating influence. She also noted that the first grant is very important to the City of Tillamook and surrounding businesses as it will mitigate nearly annual flooding in the area and Federal Emergency Management Agency's recent expansion of lands falling in the flood way for 1,500 acres to 11,000 acres. Inclusion in the flood way could curtail economic growth in the area.

Senator Johnson expressed a potential conflict of interest.

Senator Whitsett expressed his long opposition to taking land out of private hands, but stated he would make an exception this time because he believes in the merits of the first and third grants. He also expressed the desire to vote on each grant separately.

Senator Girod stated The Nature Conservancy has a terrible record of allowing hunter and fisher access on the lands it acquires and opposes giving public Lottery Funds to a private entity. He also said he thought the agreement in Subcommittee was to deal with each grant separately.

Representative Hunt asked for the other Subcommittee members' understanding of what the motion was supposed to be coming out of Subcommittee.

Senator Bates asked if the second grant were to fail would it affect the project proposed in the first grant.

LFO staff stated that the second grant as originally requested had two different areas to acquire and one was tied to the first grant flood mitigation, but that piece had been removed, therefore the second grant no longer was tied to the flood mitigation projects envisioned in the first grant.

Representative Berger stated that the idea of separating the grants was raised in the Subcommittee, but that in the end it did not get adopted and she had understood the three grants would remain together.

Senator Monroe stated that the first request was that it be taken off the consent calendar, which it was. He also said there was general support for the request, with the exception of Senator Girod's opposition to the second grant.

Representative Hunt stated the motion before the committee was for all three grants.

Representative Jenson said he only opposed the second grant, but would have to vote "no" on the motion for all three because of inclusion of The Nature Conservancy grant.

The motion carried. Representative Jenson and Senators Girod and Whitsett voted no. Representative Garrard excused.

50. Department of Transportation

Senator Monroe moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Transportation by section 2(4), chapter 739, Oregon Laws 2009, Rail, by \$21,441,991 for projects funded through the American Recovery and Reinvestment Act.

The following is a summary of the request and Subcommittee (Education) action:

Currently, train equipment used in Oregon for passenger rail service is owned by the State of Washington and Amtrak and is leased to Oregon. The State of Washington has notified the Department of Transportation (ODOT) of its intent to redirect the equipment to the expanded service in Washington. Without purchase of two train sets for service in Oregon, passenger rail would stop. The federal American Recovery and Reinvestment Act increased the options for ODOT to receive federal funding for the High Speed Rail program to improve passenger rail service. The Oregon Transportation Commission approved use of \$38.4 million in federal ARRA stimulus funding for the purchase of two train sets on July 23, 2009. ODOT has negotiated the purchase of two new passenger trains from Talgo-America.

In addition, \$8 million in federal stimulus funding was awarded to ODOT for repairs at Portland's Union Station and to conduct preliminary engineering and environmental work for two rail congestion relief projects at Portland's Willbridge Junction and North Portland Junction.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Nathanson expressed her disappointment that Oregon's passenger rail program is not positioned to receive a larger share of the federal American Recovery and Reinvestment Act comparing the amount of federal dollars the State of Washington secured due to its investments in

passenger rail services. She noted that this grant will help put Oregon in the queue for future investments.

The motion carried with no objection voiced. Representative Garrard excused.

51. Department of Transportation

Representative Berger moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Transportation by section 1(2), chapter 739, Oregon Laws 2009, Maintenance and emergency relief programs, by \$5,291,353 for expenditures to repair damage sustained during the 2006 and 2009 winter storm seasons and fire damage sustained during the 2009 fire season.

The following is a summary of the request and Subcommittee (Education) action:

The Federal Highway Administration (FHWA) Emergency Relief Program supplements state resources in cases of damage to the Federal Aid Highway System. In addition, the Federal Emergency Management Agency (FEMA) is expected to supplement state repairs for an emergency declaration for fire damage sustained during the 2009 fire season.

The legislatively adopted budget authorizes the Highway Maintenance Program to expend resources for emergency repair work to repair roadways, shoulders, ditches, etc., that are damaged by storms, flooding, or fires. The Department of Transportation (ODOT) has already expended \$5.2 million on emergency repair work.

FHWA notified ODOT in a memorandum dated March 31, 2010 that \$5 million had been appropriated for storm damage expenses for state and local roads. Reimbursement enables ODOT to maintain its regularly scheduled paving for low volume roads in the spring. ODOT requested an increase in Other Funds expenditure limitation to accept reimbursement for the reimbursable costs expended for the 2009-11 biennium. ODOT has been using Highway Trust Funds until federal Emergency Relief funds are received. Without the increase in expenditure limitation, ODOT may be required to reduce regularly scheduled maintenance projects on low volume roads currently being programmed for spring 2010.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representative Garrard and Senator Nelson excused.

52. Department of Transportation

Senator Monroe moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Transportation by section 1(1), chapter 904, Oregon Laws 2009, Co-location of State and Local Facilities, by \$5,500,000, to construct a new Region 4 Project Delivery office building, and request the Department of Administrative Services to un-schedule \$5 million of the expenditure limitation increase until final design estimates indicate actual needs for the expenditure.

The following is a summary of the request and Subcommittee (Education) action:

The 2009-11 legislatively adopted budget provided a \$1 Other Funds expenditure limitation to enable the Department of Transportation (ODOT) to request adjustments to its capital construction budget if an opportunity was presented during the biennium for sharing offices and other facilities used by the Department with the offices and other facilities used by local government.

ODOT has identified an opportunity to co-locate with the Bend Metropolitan Planning Organization (BMPO). A number of factors caused ODOT to re-evaluate the current office space arrangements including a fire damaging one of the leased office buildings which is now uninhabitable, the opportunity to co-locate with Bend MPO, efficiency savings of consolidating staff, favorable bond rates, and the prospect of creating employment in the local area for construction of the facility. A cost-benefit analysis including the recovery of initial one-time design, building fees, site preparation, systems furniture, and moving costs (estimated at \$1.3 million) indicates a positive cash flow would be achieved 18 years after the building is constructed, or in 2031. At that point, savings from not paying lease costs, lower power costs, and reduced janitorial and security services will accrue to the Highway Fund at an estimated average of approximately \$196,000 per year. After 25 years, or beginning in 2037, the debt will be fully paid adding an additional \$300,000 per year back to the Highway Fund.

Construction costs for a new building are estimated to be \$5.5 million, depending on the final design. ODOT proposes to finance the cost of construction through the sale of \$4.5 million in Highway Revenue Bonds under the Oregon Transportation Infrastructure Bond authority in ORS 367, and \$1 million from the sale of surplus property.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Girod advised he voted “no” on the Subcommittee recommendation and plans to vote “no” in the full committee. He noted that the Legislative Fiscal Office analysis indicated savings would not be achieved until 18 years after construction when it was purported to be a project designed to create savings. He commented that adding to the \$60 million expense to remodel the Transportation Headquarters Building in Salem goes against an obligation to the people in the state to put pavement and sealers on the road.

Senator Whitsett noted that an additional issue was promoting the project as a co-location opportunity for a staff of two people. He questioned the Department’s indication of a sharing opportunity and positive cash flow after four years, then finding that the partner only has two employees and it will in fact take the first 18 years before a positive cash flow. He expressed concern about this project and the cost for the building on the Capitol Mall noting that, in this environment, the Legislature is better advised to put the money on the road as Senator Girod suggested.

Senator Monroe pointed out that if the money for this project could be used for roads that it might be a good argument, but most of the money is now being spent on lease payments currently being shipped to a California company that owns the dilapidated buildings they are currently using.

The motion carried. Senators Girod and Whitsett voted no. Representative Garrard excused.

54. Department of Transportation

Representative Berger moved that the Emergency Board acknowledge receipt of a report from the Department of Transportation on implementation of highway construction projects identified in ORS chapter 885, section 64 (2009) of the Jobs and Transportation Act as required by a budget note.

The following is a summary of the request and Subcommittee (Education) action:

HB 2001, also known as the Oregon Jobs and Transportation Act, requires the Department of Transportation (ODOT) to report to the interim legislative transportation committees, and a budget note directed the Department to report to the interim Joint Committee on Ways and Means. Current project information is now available on ODOT's website. The report describes, by region, the projects; cost estimates; plan to fund the total project; and projected completion dates, if known. The agency reported one project is complete and that engineering design work has begun or will start soon for projects in the report that can be completed within the resources provided by the Act and by federal earmarks or other sources. Environmental Impact Statement processes for several larger projects are continuing.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representative Garrard excused.

55. Department of Aviation

Representative Berger moved that the Emergency Board acknowledge receipt of a report from the Department of Aviation on its financial position and on a recent Department management review, and urge serious consideration by the Executive Branch of a resolution, including a long-range sustainability plan for consideration by the 2011 Legislative Assembly, to implement the Department of Administrative Services Management Review recommendation to realign the Department of Aviation with the Department of Transportation, and determine what other remedial actions may be required; approve the submission of a federal grant application by the Department of Aviation to the Federal Aviation Administration in the amount of \$350,000 for a Systems Planning grant; increase the 2007 Capital Construction Other Funds expenditure limitation established for the Department of Aviation by section 1(10)(f), chapter 742, Oregon Laws 2007, by \$118,320, and the 2007 Capital Construction Federal Funds expenditure limitation established for the Department of Aviation by section 2(2)(f), chapter 742, Oregon Laws 2007, by \$711,353, for the Lebanon Runway, Runway Safety Area, Widening, MIRL and PAPI improvement project; increase the Other Funds expenditure limitation established for the Department of Aviation by section 1(5), chapter 645, Oregon Laws 2009, by \$75,472, and the Federal Funds expenditure limitation established for the Department of Aviation by section 2(2), chapter 645, Oregon Laws 2009, by \$1,397,696, for the General aviation entitlement grant program; and defer action on the request to increase expenditure limitations for the Joseph Runway Rehabilitation project until the Executive Branch provides a sustainability plan for the Department.

The following is a summary of the request and Subcommittee (Education) action:

The Oregon Department of Aviation provided a report as directed through a budget note and direction from the interim Joint Committee on Ways and Means, on the agency's financial position including updates on implementation of fee increases, estimate of revenue from the Mulino Airport, and on a management review by the Department of Administrative Services on the agency's policy and

practices relating to contracting practices; use and recording of expenditures; revenue collection; allocation of workload; and appropriate staffing levels and internal controls.

The report provides information on variety of observations and recommendations for improvements and speaks to the requirements of the budget note on the administration of Aviation. The Subcommittee noted the number of years leadership and financial issues have plagued the agency, the decline in jet fuel taxes, importance of services the agency provides, and critical need and responsibility to solve the problems. Because the Legislature allowed a one-time use of dedicated jet fuel taxes for operations, the agency is able to provide the state match from Aircraft Registration fee revenue needed for federal General Aviation Entitlement grant projects and complete the Lebanon Airport Improvements funded by Federal Aviation Administration Airport Improvement Program grants. Since the Joseph Airport Improvement is not planned to be bid for contract until 2011 when the Legislature is in session, and delaying the project would not jeopardize the federal funds, the Subcommittee recommended deferral until a sustainability plan is presented and accepted by the Legislature.

The following Committee discussion occurred:

Representative Berger summarized that the Committee would be acknowledging there have been problems within this agency, that the executive branch needs to come up with a sustainable plan per the report going forward and take a serious look at putting this agency back under the Department of Transportation (ODOT), where it used to be, but is now an independent agency. The agency will make it through this biennium with this plan; however, the Joseph Airport project is deferred until a later date when more information on the agency's ability to go forward is known.

Representative Smith asked if Joseph is being penalized by having to delay the airport improvement project because of the Department of Aviation's ineptness. Legislative Fiscal Office (LFO) staff explained that delaying the project does not jeopardize the federal funds, that the agency had not planned to bid the project until January 2011, and the project wouldn't have begun until Spring or Summer when the weather permitted it. The Legislature will be in session by that time and be able to make a decision. LFO staff further explained there have been a series of problems that have evolved over a long period of time, coupled with the fact that the jet fuel tax revenue has declined and is not likely to go back up, putting the agency in the position it is in right now.

Representative Smith added that the community in that area and the contractors in Joseph were looking forward to having an opportunity to bid on this work. Because the county has significantly high unemployment, this is an important project and was a project that was noted as one of high importance for the last six months in that community. He commented that he would not want to lose an opportunity for that community because of the Department's inability to function. He further observed that for his five terms in office this Department has been an issue and that at some point, the Legislature needs to get its arms around Aviation and figure out a new methodology for them to function.

Senator Johnson expressed her sadness over the contents of the report and needed time to digest the recommendations. She observed that it will not make a difference where the agency is as far as the revenue situation is concerned, jet fuel revenues are down world-wide. She stated that some of the inept decisions made in the past decade by past directors of the agency have cast a shadow on the important tool to Oregon's economy that the agency could be providing. Senator Johnson expressed her unease with the agency losing its independent ability to help guide policy in the state. She noted that the current manager is doing a good job under formidable circumstances and the current situation should not reflect negatively on him. She expressed a desire to revisit the restructure questions, but

noted that raising revenue is not an option for an industry that is on its knees. Senator Johnson agreed with Representative Smith that this action poses a real conundrum in trying to figure out how to position an agency that needs to be focused on our connectivity and economic development, and making all of Oregon equal in terms of access to the international transportation routes.

Representative Jenson joined Representative Smith and Senator Johnson in their concerns. He added that the Joseph Airport is very important to the northeastern community which has become a renowned arts center in the Northwest. The airport brought considerable development and money to the community and a delay in the airport improvements will have a compounding impact on Wallowa County which has a high unemployment rate and considerable level of poverty.

Senator Johnson asked to revisit the reason for deferral of the action in Joseph sharing the opinion of Representative Jenson. She noted that the airport is very important and, given the case made that the contractors are desperately looking for work, that it would seem unreasonable not to increase the expenditure limitation for Joseph at this point.

Representative Hunt asked the Legislative Fiscal Office to also respond to the question of whether the Joseph issue could be taken up by the Emergency Board in September and, if it is, would it give the Department enough time to put it out to bid and stay on schedule.

LFO staff responded that the decision to increase the expenditure limitation for the Joseph Airport improvement project is a decision of the Emergency Board that could be addressed at any meeting. It was further explained that the recommendation to delay had to do with the fact that the agency's resources are so low they are showing a negative balance. Even with the transfer of money from the pavement maintenance program, a three month ending balance will not sustain the agency into the future. To the question of whether bringing the issue back to the Emergency Board in September will allow the project to stay on track, the Legislative Fiscal Office responded that it would, or that it also would if the issue came back in December.

Representative Hunt asked LFO staff there was anything in the motion that came from the Subcommittee that would prevent the co-chairs from bringing the issue back in September. Staff affirmed that the agency can come back with an update on their financial position and, if the agency can get additional information to the Legislative Fiscal Office by September, it could be included.

Representative Hunt noted that he didn't think the Committee disagreed with the approach, but sensed a desire to do what could be done to keep the project on track.

Representative Kotek asked what was meant by a sustainability plan and whether it was about having enough money or restructuring.

Representative Berger responded that recommendations in a study by the Department of Administrative Services set forth a management path that is pretty clear that the existing funding mechanism isn't going to work. She noted that somebody needs to figure out what is going to be done with this agency going forward since clearly it can't go on the way it is. She stated what is needed is some sort of a master plan, a look at the revenue sources, and how we are going to go forward. She said we are looking to the Executive Branch to provide the plan, not the Legislative Branch.

Representative Kotek then asked if we want this plan put together in the next couple of months so we can stay on track and whether the Executive Branch was committed to doing that knowing we have a Governor who is leaving.

Senator Johnson stated that from her conversations with the Aviation Board chair that the Board has not had a chance to ponder the recommendations and that it is the Board chairs intention to convene the Board for a discussion. She declared that there may be other opportunities identified once the discussion occurs. She said it would be a courtesy on the part of this panel or the Legislature to give the Board a chance to opine to the Governor and for the Governor to direct agency staff to determine where there might be relevant places for the function of Aviation to go. Senator Johnson also stated that the Board Chair assured the work would be occurring in the near term.

Representative Edwards acknowledged the Department of Administrative Services and staff at Legislative Fiscal Office for stepping in and helping to right-size this agency.

Senator Verger declared sharing the same concerns noting that the Committee is a body handling the money and looking at the finances of the state. She conveyed what was most disturbing is the constant repetition of the problems. She asked if there is a problem with the oversight and noted that the problems will just go along for another decade if they are not properly addressed.

Senator Johnson observed from her experience in following this agency quite closely over the last decade that it has been a perfect storm. She said there has been of lack of good management, high turnover of personnel so the institutional history has been lost, and declining revenues beyond the agency's ability to control. She stated a belief that the agency has largely suffered from a lack of consistent leadership and the agency personnel has turned over 100% several times since the 1990s. Senator Johnson advised it is a small agency with financial dependence on a volatile source of revenue that has plagued it since the economy started declining in the early part of 2000.

The motion carried with no objection voiced. Representative Garrard excused.

56. Department of Consumer and Business Services

Senator Bates moved that the Emergency Board acknowledge receipt of a report from the Department of Consumer and Business Services on rulemaking activity, and on the review of health insurance premium rates, as related to HB 2009.

The following is a summary of the request and the Subcommittee (Human Services) action:

The Department of Consumer and Business Services' (DCBS) Insurance Division reviews and approves premium rates for health insurance plans sold to individuals and small group employers, and the rates for plans that provide portability coverage. Approximately 476,000 Oregon residents are covered under these types of health insurance plans.

In 2009, the Legislature passed HB 2009, which changed how DCBS processes and reviews health insurance premium rate requests. The Joint Committee on Ways and Means approved a budget note directing DCBS to report on the implementation of these changes.

The legislation expands the information that insurers must submit with their health insurance premium rate filings, and requires the Department to open a 30-day public comment period on the premium rate filings, prior to ruling on the requests. Rate request determinations must be made within ten business days after the close of the public comment period. The legislation also requires the Department to post comments relating to the rate filings on its website. Additionally, the Department has used authority established by the legislation to rule that all information that is submitted by an insurer as part of a rate filing will be made public.

The Department reported that it has adopted rules to implement the legislation, and completed the website enhancements needed to conform to the new law. It has also established the capacity for policyholders to sign up to receive automatic e-mail notifications of their insurer's rate requests, submitted documents, and related Department determinations.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

Senator Bates noted that the legislation tries to bring transparency to the health insurance premium rate setting process, but that the problem of health care cost increases remains.

Senator Shields applauded the Insurance Division Administrator for navigating the difficult issues relating to the implementation of the legislation, and the decision to open all information relating to the filing to the public. He stated that the next step is to make sure that bringing more people into the health insurance pool reduces premium rates.

The motion carried with no objection voiced. Representative Garrard and Senator Nelson excused.

57. Department of Revenue

Senator Whitsett moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Revenue by section 8, chapter 710, Oregon Laws 2009, by \$816,217 for the Tax Amnesty Fund.

The following is a summary of the request and Subcommittee (General Government) action:

SB 880 (2009) directed the Department of Revenue to develop and administer a tax amnesty program for corporate income and excise tax, personal income tax, inheritance tax, and transit district (self-employment) taxes. The program provided penalty and interest relief for those who came forward; the program ran between October 1 and November 19, 2009. The bill established a \$1 Other Funds expenditure limitation as a placeholder and provided for the Department to recover program costs up to \$1 million from the Tax Amnesty Fund.

The Department of Revenue reports that 8,350 qualified taxpayers applied for amnesty and filed about 16,500 returns. At the time of the bill's passage, the program was expected to gross \$16.7 million in 2009-11 revenues for deposit into the Tax Amnesty Fund. As of April 1, the agency had collected over twice that amount, or \$36.5 million. Another \$10.8 million is expected to come in between now and June 2011 through payment plans. The Department requested expenditure limitation to cover the following costs:

Item	Cost
Overtime	1,931
Attorney General	4,535
Printing and Postage	83,254
Advertising	720,170
Survey	6,328
Total	816,218

The Subcommittee discussed the program's administrative costs and the return on the investment. Members asked about a concern, initially voiced during the 2009 legislative session, regarding the impacts of potential penalties and interest on businesses. The Department of Revenue indicated this aspect of the program was still unknown, as post-amnesty penalties have not yet been assessed. The Subcommittee also noted it would like to see as an effective a program as this one for outstanding accounts receivable. The Department also assured the Subcommittee that the results from a survey of amnesty program participants would be widely shared and disseminated.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representative Garrard excused.

**58. Department of Revenue
Employment Department
Bureau of Labor and Industries
Department of Consumer and Business Services
Department of Justice**

Representative Nathanson moved that the Emergency Board allocate \$750,000 from the special purpose appropriation made to the Emergency Board by section 3(1), chapter 845, Oregon Laws 2009, for the Interagency Compliance Network, to supplement the appropriation made to the Department of Revenue by section 1, chapter 655, Oregon Laws 2009, for administrative expenses, and authorize the establishment of one limited duration position (0.25 FTE); increase the Other Funds expenditure limitation established for the Employment Department by section 2(1), chapter 665, Oregon Laws 2009, Operating budget, by \$33,932 for operating costs, and authorize the establishment of one limited duration position (0.50 FTE); increase the Other Funds expenditure limitation established for the Bureau of Labor and Industries by section 2, chapter 724, Oregon Laws 2009 by \$159,538 for payment of expenses, and authorize the establishment of two limited duration positions (1.00 FTE); authorize the establishment of one limited duration position (0.50 FTE) for the Department of Consumer and Business Services; and authorize the establishment of one limited duration position (0.50 FTE) for the Department of Justice.

The following is a summary of the request and Subcommittee (General Government) action:

HB 2815 (2009) removed barriers to help improve compliance with laws relating primarily to the misclassification of employees as independent contractors. The legislation formally set up an Interagency Compliance Network and identified the group's membership. These enforcement agencies are the Department of Revenue, the Department of Consumer and Business Services, the Employment Department, the Department of Justice, the Bureau of Labor and Industries, the Construction Contractors Board, and the Landscape Contractors Board.

In addition to creating a statutory framework to improve compliance, the bill also made a \$750,000 special purpose appropriation to the Emergency Board. This funding was intended to be used as one-time seed money for ramping up compliance activities. While network efforts are expected to result in additional revenues to the participating agencies and the state (which could be captured to pay for future activities), the agencies were not positioned to provide dedicated resources on the front end. The agencies were directed to develop an interagency agreement, prepare a work plan for program implementation, and report on the plan before seeking allocation of funds.

The funding request ultimately approved, which is outlined below, supports a mix of staff resources, data collection and sharing efforts, and legal costs.

Agency	General Fund	Other Funds	Pos	FTE
Department of Revenue				
Agency Expenditures	224,166		1	0.25
Payments to ICN Partners	525,834			
Department of Consumer and Business Services			1	0.50
Employment Department		33,932	1	0.50
Department of Justice			1	0.50
Bureau of Labor and Industries		159,538	2	1.00
Total	750,000	193,470	6	2.75

The positions are limited duration, consistent with the one-time nature of the funding. All the network agencies will need to demonstrate effectiveness of network compliance activities and identify the associated return on investment (new revenue) in order to justify future funding. The group’s action plan includes four key strategies and metrics to measure success. The focus areas are: coordinated enforcement; data sharing and analysis; investigation of criminal law violations; and outreach and assistance.

The Subcommittee heard testimony on how the program will use a cross-trained compliance team to gather and share information, conduct joint audits, perform compliance examinations, and create a coordinated enforcement and referral process. The goal is for one person from a single agency to verify compliance with the programs of all participating agencies to maximize the efficiency of the program and the number of businesses contacted.

The Subcommittee noted that enforcement of independent contractor laws is a sensitive topic and recognized how enforcement of those laws can sometimes have a negative impact on small businesses. The Subcommittee indicated this item would be ripe for discussion in the full committee.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Nathanson noted the focus of the network is to address fraudulent activity that is unfair to law abiding businesses and contractors.

Senator Johnson commented that while there are examples of unscrupulous employers taking advantage of employees, there have also been times when the definition of independent contractor has been used to go after individuals who are just barely trying to get by in rough economic times. She noted that the Labor Commissioner indicated the compliance efforts will be targeted on the most egregious offenders. Senator Johnson also committed to bringing this issue back to the Legislature if enforcement were to get out of hand.

Representative Berger indicated she wanted to make sure there is a report back as to the success of this investment. She is also concerned about going after the wrong people.

Senator Whitsett reiterated the concerns previously noted. He also gave an example of a situation where application of these laws result in the vilification and victimization of people in his district.

Senator Verger noted that she sees and can relate to both sides of this issue.

The motion carried. Senators Girod and Nelson voted no. Representative Garrard excused.

59. Public Employees Retirement System

Representative Nathanson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Public Employees Retirement System by section 1(1), chapter 75, Oregon Laws 2009, Administrative and operating expenses, by \$2,601,324, and authorized the establishment of 2 permanent full-time positions (0.63 FTE) and 4 limited duration full-time positions (1.00 FTE) to implement legislation from the 2009 session.

The following is a summary of the request and Subcommittee (General Government) action:

Two bills from the 2009 legislative session, SB 399 and SB 897, made substantive modifications to public retirement statutes. To implement changes required by these bills, the Public Employees Retirement System requested additional budget authority.

SB 399 allows members to purchase retirement credit using funds from certain other tax-advantaged plans, while SB 897 allows members to request a data verification of certain information before retirement and permits retired Oregon Public Service Retirement Plan members to participate in the system's Health Insurance Program.

The agency's request was for a combination of one-time costs to update financial systems and ongoing staffing to complete data verification work. Systems costs have increased since the agency's initial estimates during session primarily due to having more detailed system impacts. There are over 80,000 members who would be immediately eligible to request data verification in July 2011. Even with a solid online system for data verification, the agency will still need staff to review information and complete data verification.

The Legislative Fiscal Office recommended approval of the request, which consisted of \$12.8 million Other Funds expenditure limitation and 12 full-time permanent positions.

Subcommittee members questioned some flawed assumptions used by the agency in developing its original cost estimates during session. They also discussed the agency's ability to find other resources to support this work, which some perceive to be a core function the agency should already be doing. One member noted that the Subcommittee should keep in mind that the work is being directly driven by legislative mandates. The Subcommittee was concerned about the number of positions being requested and their permanent nature.

Several subcommittee members noted they would support moving the request to the full committee for additional discussion, but would reserve the right to vote "no".

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Nathanson explained that while the Subcommittee sent the request out of subcommittee as "recommended," many Subcommittee members still had reservations. She offered the motion above to substitute for the Legislative Fiscal Office recommendation moved forward by the Subcommittee. The position detail for this request is as follows: one permanent Operations and Policy Analyst 2 (0.25 FTE), one permanent Principal Executive Manager B (0.38 FTE), two limited duration

Retirement Counselor 1 (0.50 FTE), and two limited duration Retirement Counselor 2 (0.50 FTE). All of the positions are full-time.

Representative Nathanson indicated the revised recommendation was intended to provide the needed one-time expenditure authority to make changes to the agency's financial systems to implement the legislation. The positions would allow for permanent staff to manage and oversee the program while the limited duration positions would tie to workload. She also noted that existing staff from the agency's eligibility unit will be also be trained in the new program and used to complete data verifications. Data verification tasks will take priority over benefit estimate and withdrawal processing functions.

Between now and the 2011 legislation session, the agency will seek input from members to better estimate the number of data verification requests it will actually receive in July 2011. This information will be used to help validate the level of program resources needed for 2011-13.

Senator Verger stated that, while she was disappointed in the original recommendation, she could support this revised plan.

Senator Whitsett indicated that, while he is still very concerned about how far off the agency was with its original cost estimates for system changes, he will support the replacement motion.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

60. Department of Administrative Services

Senator Whitsett moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services on compensation plan changes and position allocations.

The following is a summary of the request and Subcommittee (General Government) action:

The Department of Administrative Services (DAS) is required under ORS 291.371 to report state salary plan changes to the legislative review agency (the Joint Committee on Ways and Means during session and the Emergency Board during the interim).

DAS reported on the results of binding interest arbitration with the Department of State Police Officers Association employees at the Department of State Police for salaries and insurance. It includes:

- Effective January, 1, 2010, increasing the state-paid subsidy for insurance premium costs up to 5% of the actual monthly composite rate for plan year 2010.
- Effective April 1, 2010, establishing a 3% Technical Leader differential for a number of classifications.
- Effective May 1, 2010, suspending the step that was added to the top of each salary range in all classifications that became effective June 30, 2009.
- Effective January, 1, 2011, increasing the state-paid subsidy for insurance premium costs up to 5% of the actual monthly composite rate for plan year 2010.

The cost of the arbitration award is estimated to be \$1.1 million in the 2009-11 biennium, with \$900,000 of those costs being General Fund. The total phased-in costs for 2011-13 are expected to be an additional \$1 million, with \$780,000 of those costs being General Fund.

The Department of State Police expects to be able to cover the costs of the arbitration award by capturing savings within its current budget.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

61. Department of Administrative Services

Representative Edwards moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services on the potential cost benefits and efficiencies of merging the Oregon Educators Benefit Board with the Public Employees' Benefit Board.

The following is a summary of the request and Subcommittee (General Government) action:

During the 2009 legislative session, the Department of Administrative Services received two budget notes regarding the two benefit boards administered by the agency. One note required reporting during the interim on the potential cost benefit and efficiencies of merging the boards in a global sense, while the other was focused only on administrative functions. The intent of the budget notes was to inform legislative budget decisions and not to duplicate efforts or supersede other legislative direction.

The Legislature also passed HB 2009, which moved the benefit boards to the Oregon Health Authority, and HB 2116, which implemented an insurer-paid assessment on health insurance premiums. The bill also included an assessment on self-insured group health plans provided by the Public Employees' Benefit Board. The implementation of these legislative and other changes, such as shifting more to self-insurance and a new focus on evidence-based plan design, are requiring a significant amount of planning and effort this interim.

The Department of Administrative Services reported the boards are finding ways to better utilize resources and become more efficient. Examples of these include sharing staff during peak workloads and using joint procurement processes. The agency also noted that the budgets for these boards are expected to be moved into the Oregon Health Authority in the 2011-13 budget cycle. As that new organization forms, there will be an opportunity for the Legislature to review administrative and policy resources of the boards to ensure they are being used effectively. A formal merger of the boards or integration with other Oregon Health Authority programs will likely need to evolve over time as all agency programs are stabilized.

The Subcommittee discussed the cost savings associated with the creation of the Oregon Educators Benefit Board. The Department of Administrative Services clarified that the bulk of those savings were administrative in nature and had already been captured. Other potential savings are driven primarily by benefit plan choices and utilization rates, over which the Board has less influence.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

62. Department of Administrative Services

Representative Nathanson moved that the Emergency Board establish a Capital Construction Other Funds expenditure limitation for the Department of Administrative Services in the amount of \$750,000 for the 2009-11 biennium to reseal the Revenue Building, and increase the Other Funds expenditure limitation established for the Department of Administrative Services by section 2(3), chapter 657, Oregon Laws 2009, Capital improvements, by \$500,000 for capital improvements to pay for energy conservation projects.

The following is a summary of the request and Subcommittee (General Government) action:

The Department of Administrative Services originally scheduled the Revenue Building for exterior reseal work during the 2011-13 biennium. However, water has begun to seep through the building's envelope and is damaging interior walls. The agency requested expenditure limitation to accelerate the project's timeline and complete it during the current biennium. There is available cash balance from Capital Projects Fund to pay for the work.

The Department also requested \$500,000 Other Funds expenditure limitation to use grant funds awarded to the agency by the Oregon Department of Energy. These funds were made available under the federal American Recovery and Reinvestment Act of 2009. The grant will be primarily be spent on projects at the Archives Building and Portland Crime Lab.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

63. Department of Administrative Services

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services on proposed 2011-13 uniform rent rates; recommend to the next regular session of the Legislative Assembly that it not appropriate amounts sufficient to pay rentals under said proposed schedule; and direct the Department to return to the 2011 legislative session with a revised uniform rent schedule with rates set at or below 2009-11 levels, with instructions.

The following is a summary of the request and Subcommittee (General Government) action:

ORS 276.390 requires the Department of Administrative Services to submit to the Emergency Board a schedule of proposed uniform rent rates for the upcoming biennium. Once it approves a proposed rental rate schedule, the statute requires the Emergency Board to "recommend to the next regular session of the Legislative Assembly that it appropriate for each agency occupying space in such a building or facility an amount sufficient to pay rentals required under the schedule."

The Department of Administrative Services proposed increasing the uniform rent rate for office space from the current \$1.38 per square to \$1.41 per square foot. No change was proposed for storage space rental, which would remain at \$0.50 per square foot.

The Legislative Fiscal Office recommended approval of the request.

Subcommittee members questioned the cost assumptions used by the Department in developing the rate. They also expressed concern that the rate was going up and returned this item to the Emergency Board without recommendation.

The following Committee discussion occurred:

Representative Nathanson instructed the Department of Administrative Services that the revised schedule to be submitted during the 2011 legislative session should include the level of funding each state agency requires to pay those rates. Additionally, the Department should also report on the methodology used for setting that schedule, financial impact to state agencies, and how the schedule aligns with the level of state government services that can be realistically budgeted for 2011-13.

Representative Nathanson explained the Subcommittee's concern with the request and why it was sent forward without a recommendation. She offered the motion above to substitute for the Legislative Fiscal Office recommendation made in the Subcommittee meeting.

Senator Johnson indicated her appreciation for finding a resolution that she can support.

The motion carried with no objection voiced. Representatives Garrard and Jenson excused.

64. Department of Administrative Services

Senator Johnson moved that the Emergency Board defer action until the 2011 legislative session on a request by the Department of Administrative Services for Lottery Funds expenditure limitation in the amount of \$1.3 million for the School Facilities Task Force.

The following is a summary of the request and Subcommittee (General Government) action:

HB 2013 (2009) established the Oregon School Facilities Task Force, staffed by the Department of Administrative Services. The task force's first body of work was to develop and report on multiple options for conducting a study of public school facilities. The bill sets out a series of evaluations, assessments, and other topics that are to be included in the study. Following the report on options and based on funding availability, the task force would then conduct the actual study.

The 2007-09 lottery ending balance of \$1.4 million was allocated to fund the task force and the study, with \$35,000 being made available initially to support the options report. The Department's request was for the \$1.3 million Lottery Funds expenditure limitation needed to spend the remainder of the lottery resources set aside for the study. Both in its February report and in the current request letter, the Task Force has made it clear that the areas targeted for review under HB 2013 require resources well beyond those allocated in the bill. It is uncertain what level of funding would be needed to fully meet the bill's requirements. Cost estimates range from \$12.3 million to \$49 million to produce facility assessments complying with HB 2013.

The Legislative Fiscal Office recommended deferral of the request. This action supports further refinement of costs associated with the school facilities study. It also allows the Legislature an opportunity to potentially reprioritize funding allocated for the study for statewide uses.

The Subcommittee discussed the importance of this work and how Oregon needs to move forward to gain a better understanding of the condition of school facilities statewide. Many states have

comprehensive K-12 schools facilities plans in place. However, due to the current economic situation, the Subcommittee concurred with the recommendation to defer the agency's request.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

Representative Buckley indicated that he was struggling with the recommendation to defer and would like the agency to bring the request back before the Emergency Board in September. He noted that there are some potentially dangerous conditions in schools and this work needs to be kept on the front burner.

Representative Komp stated she was in agreement with Representative Buckley. She noted that many schools are in disrepair and can't meet requirements under the Americans with Disabilities Act.

Senator Johnson offered an amendment to the motion, which is to defer the request until September 2010, rather than the 2011 legislative session.

Senator Verger noted that if funding is going to schools to maintain buildings, it needs to be used for that purpose and not other things. She commented she would like to have this issue brought to the table for discussion in the future.

Senator Whitsett commented that the condition of school buildings in his areas varies greatly among school districts; some buildings are beautifully maintained and others are falling down. He noted that since schools get about the same amount of funding per student, this is really about how well school districts manage their funds.

The Committee considered the amended motion:

Senator Johnson moved that the Emergency Board defer action on a request for Lottery Funds expenditure limitation in the amount of \$1.3 million for the School Facilities Task Force until the September 2010 meeting of the Emergency Board.

The motion carried with no objection voiced. Representative Garrard and Senator Girod excused.

65. Department of Administrative Services

Representative Nathanson moved that the Emergency Board defer action on a request for reimbursement of costs associated with the disposal of the former Oregon School for the Blind and direct the Department of Administrative Services to return to the September 2010 meeting of the Emergency Board with a report on the agency's progress in selling the property.

The following is a summary of the request and Subcommittee (General Government) action:

HB 2834 (2009) directed the Department of Administrative Services to develop a plan for the sale of the real property owned by the Oregon Department of Education known as the Oregon School for the Blind. In February 2010, the Department of Administrative Services was directed to proceed with selling the property in "as is" condition.

Since assuming responsibility for the property effective July 1, 2009, the Department has incurred costs associated with maintenance and disposal of the site. These include structure support, facility security, real property appraisal, review appraisal, environmental site assessment, title survey, utilities survey, and historical resource assessment.

The bill provides for the agency to recoup its costs from the sale proceeds and/or via an allocation from a \$2,850,000 special purpose appropriation to the Emergency Board established in HB 2834; that bill's budget report shows \$900,000 as designated for potential use by the Department of Administrative Services.

The Department's request to the Emergency Board was for \$612,431 General Fund to pay for costs to date and for keeping the property maintained in "as-is" conditions for six months. The recommendation from the Legislative Fiscal Office was to defer the agency's request until the September 2010 meeting of the Emergency Board. This delay allows for receipt of additional information regarding the likelihood of selling the property in a timeframe supporting cost recovery from the sale proceeds.

During the Subcommittee meeting, the Department reported that the Facilities Division is in the process of hiring a Commercial Real Estate Broker to conduct the sale. The broker selection and contract is projected to be completed by June 8, 2010. The agency expects a broker can sell the property within 90 days.

The Subcommittee discussed the status of parcels of the property that do not yet have clear title due to pending, but understood to be resolved, litigation. There were also questions regarding the agency's use of an outside broker to complete the sale. The Department explained it wanted to make sure an objective third-party was handling the sale, in part because of the high level of interest in the property from both the public and potential buyers.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objection voiced. Representative Garrard and Senator Girod excused.

67. Department of Veterans' Affairs

Representative Buckley moved that the Emergency Board acknowledge receipt of a report from the Department of Veterans' Affairs on the process used to site a second Veterans' Home skilled nursing facility.

The following is a summary of the request and Subcommittee (Human Services) action:

The Oregon Department of Veterans' Affairs was directed to report on and answer questions related to the process used to determine the site for a second Veterans' Home skilled nursing facility. In mid-April, the Department announced plans to site a smaller facility than was contemplated in the agency's Request for Proposals, generating questions and concerns regarding the fairness and transparency of the decision-making process. Subcommittee questions and discussion centered around the use of verbal versus written communication provided to applicants for the facility, the size and location of the proposed facility, and next steps regarding the facility's funding and construction.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Buckley cited specific flaws in the process used by the Department to make its siting decision.

Senator Whitsett characterized some of the Department’s written responses to questions about the issue as non-factual or unresponsive.

Senator Bates voiced concerns about the size of the facility in relation to state and national trends toward de-institutionalization of the elderly and disabled.

Representative Jenson stated that the majority of Oregon veterans were from more rural areas of the state relative to the site of the proposed facility, which may have the effect of placing veterans far from friends, family, and existing support networks.

The motion failed. Representatives Berger, Buckley, Edwards, Hunt, Jenson, Komp, Kotek, Nathanson and Smith, and Senators Bates, Johnson, Monroe, Shields, Verger, Whitsett and Winters voted no. Representative Garrard and Senator Girod excused.

The meeting was adjourned at 12:05 p.m.

EMERGENCY BOARD:

Representative Dave Hunt, Presiding Chair

Representative Peter Buckley, Secretary

ATTEST:

Ken Rocco, Legislative Fiscal Officer