

Oregon Legislative Emergency Board Minutes

December 16, 2010

Members Present

Representative Hunt, Presiding Chair

Senators Bates, Courtney, Girod, Johnson, Monroe, Nelson, Verger, Whitsett, Winters

Representatives Berger, Buckley, Edwards, Garrard, Jenson, Komp, Kotek, Nathanson, G. Smith

Member Excused

Senator Shields

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; and ORS 291.375, we hereby certify that the Emergency Board, meeting on December 16, 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.

Consent Agenda Federal Grants

Representative Kotek moved that the Emergency Board approve, en bloc, the following requests for approval to apply for federal grants: Item 6, Department of Education – retroactively to the U.S. Department of Education in the amount of \$150,000 for the Striving Readers Comprehensive Literacy Grant; Item 15, Department of Human Services – retroactively to the U.S. Department of Agriculture in the amount of \$189,479 for the Summer Electronic Benefit Transfer for Children demonstration project; Item 21, Oregon Health Authority – retroactively to the U.S. Environmental Protection Agency, Office of Pesticide Programs in the amount of \$375,000 over five years to enhance the collection of pesticide incident data and create effective prevention strategies; Item 39, Department of Agriculture – retroactively to the U.S. Department of Agriculture, Commodity Credit Corporation in the amount of \$15,299 to provide assistance to eligible aquaculture producers; Item 45, Department of Land Conservation and Development – retroactively to the National Oceanic and Atmospheric Administration in the amount of \$759,400 to help communities manage and adapt to coastal risks; Item 62, Public Utility Commission – retroactively to the U.S. Department of Commerce in the amount of \$3,550,000 to support state and local government activities and development related to electronic government use of broadband technology.

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. Senators Nelson and Shields excused.

1. Treasurer of State

Senator Johnson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Treasurer of State by section 1(2), chapter 287, Oregon Laws 2009, Performance-based compensation bonuses for agency personnel, by \$931,616.

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

The Treasurer of State reported additional information, as requested, on provisions in his compensation plan affecting the agency's investment officers, and requested an Other Funds expenditure limitation increase to permit payment of performance-based incentive bonuses for the 2009-11 biennium. Fourteen Investment Division employees are eligible for annual bonus compensation payments. These payments are offered when the performance of the investment portfolios that they manage exceed the performance in at least 55% of comparable public-sector investment funds. The amount of the payment varies with how well the portfolio's return ranks against other public funds, and is capped at a maximum of 30% of base salary.

The Treasurer's report commented on a number of possible changes to the compensation plan, and concluded that the current plan should not be modified at this time. The Other Funds expenditure limitation increase will allow the Treasurer to pay all costs associated with the incentive payments that were paid in 2010, plus up to the maximum potential cost of 2011 payments, if all employees are eligible for the top 30% payment in that year. The most recent bonuses were paid in February 2010 and were based on portfolio performance through the 2009 calendar year. All fourteen employees eligible for bonus payments received one. Including Other Payroll Expenses (OPE), primarily PERS contributions and Social Security taxes, bonus compensation costs totaled \$742,605. These payments exceeded the Other Funds expenditure limitation for performance-based compensation bonuses by \$137,778. The Subcommittee recommended increasing the Other Funds expenditure limitation to \$1,536,442 to retroactively allow payment of the 2010 payments, and to allow any payments authorized under the current compensation plan for 2011.

The Subcommittee recommended modifying the Legislative Fiscal Office recommendation and did not include the recommendation for the next Legislature to repeal the agency's exemptions from state budget and personnel laws.

The following Committee discussion occurred:

Representative Hunt read from a letter received from the State Treasurer dated December 15, 2010, in which the Treasurer states, in part, that "I am committed to increasing accountability and transparency across the State Treasury, and am open to making improvements wherever needed. As such, I believe it prudent to evaluate the current compensation structure for Treasury investment staff and, in particular, methods of strengthening accountability during years when the portfolio experiences negative returns." Representative Hunt expressed his appreciation for the Treasurer's willingness to engage in making some of these changes.

Senator Girod commented that the state had made high-risk investments and lost a tremendous amount of money in the Oregon Public Employees Retirement Fund, and that he would oppose this request.

Senator Whitsett indicated that he would be supporting the request reluctantly because he has received advice that the compensation plan represents a functional employment contract, and that the

state therefore needs to authorize the promised payments. He agreed that the plan should be revisited, however, and stated it was inappropriate to pay bonuses to persons whose advice lost the state money.

Senator Winters stated that she would not support the request because there is no data that we would lose any employees if we do not pay a bonus, and there is a need to make modifications to the compensation plan.

Representative Kotek asked for clarification on the whether there were annual contracts with the employees.

Senator Johnson responded that the Treasurer's letter suggests that he would be willing to renegotiate the contracts at some point in time, and that the contracts are annual contracts.

Representative Smith stated that like Senator Whitsett, but for the contractual obligation, he would have opposed the request. He agreed with Senator Winters that the timing of the request was not good, but noted that the dollars are being spent for performance-based compensation and are going to those who have merited that pay.

Representative Hunt noted that payments are made when performance exceeds the market, and that therefore payments can be made when portfolio values decline. He stated this was a problem and that there needs to be a change with this, but he had not heard any objections to performance-based pay for these employees in general, or objections that bonuses were inappropriate when market returns were positive.

Senator Winters indicated that there has been over a year's time for the Treasurer to have changed the compensation plan since the Joint Ways and Means Committee first raised these issues.

Representative Komp asked whether all employees are receiving the same percentage increase over base salary.

Senator Johnson replied that the bonus percentages varied.

Senator Bates asked Senator Winters if she thought the agency had just waited this issue out and not responded to legislative concerns.

Senator Winters replied that these issues were raised in her Subcommittee in the 2009 session, and that the Subcommittee approved the first-year payments but deferred approval of the second-year payments based on these concerns. She stated she believes that there has been time to address this issue.

Senator Bates replied that he will reluctantly support the request, but believes that the Emergency Board needs to send a clear message to the Treasurer that it wants changes to the compensation plan.

Representative Hunt commented that this issue has been exacerbated by the fact that the state has had three different Treasurers over the past 24 months.

Representative Berger expressed support for pay-for-performance, and stated she thought the real discomfort was the question of whether we can afford that level of compensation in state government. She indicated support for how the Treasurer's compensation plan incorporated a pay-for-performance component.

The motion carried. Senators Winters and Girod voted no. Senator Shields excused.

2. Judicial Department

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on the Oregon eCourt Program; acknowledge receipt of the Department's rebaselined Oregon eCourt Program budget; approve the transfer of \$6,450,359 Other Funds expenditure limitation established for the Judicial Department for general operations by section 2, chapter 723, Oregon Laws 2009 to the Oregon eCourt Program established by section 20(2), chapter 910, Oregon Laws 2009; approve the establishment of two limited duration positions (0.58 FTE); and approve an increase of 16.59 FTE for existing limited duration positions within the Oregon eCourt Program.

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

The Oregon eCourt Program announced a major implementation strategy change in February 2010 to move from a build strategy to a single source provider strategy that includes the procurement of a standard commercial off-the-shelf software product suite. This strategic change is a sound strategic decision.

For the Oregon eCourt Program to be successfully implemented on schedule and on budget, its COTS implementation should minimize customization; standardize business processes; limit maintenance and support costs; and limit future enhancements.

The Subcommittee discussed a common misperception that a COTS solution is a lower or no risk option because it is assumed to be a proven solution and that the State has numerous ongoing COTS implementations, many of which are facing significant challenges.

The Subcommittee engaged in a frank discussion of the risks and challenges facing the Oregon eCourt Program and how such risk must be mitigated in order to avoid the costly mistakes that are common to large and complex projects.

The Subcommittee noted the presence of a strong quality assurance vendor for the Program and a strong governance structure.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objection voiced. Senator Shields excused.

3. Judicial Department

Senator Whitsett moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on HB 2287 revenue.

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

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

Projected HB 2287 revenue is not materializing as anticipated and may fall short of the original \$39.6 million target. The current projection, based on revenue receipts and caseload data, is that only \$34 million of revenue will be received. While this is an improvement over prior projections, it would still be \$5.6 million, or 14%, below the Department's original revenue projection.

The Department is aggressively managing HB 2287 expenditures by eliminating services and supplies expenditures, holding positions vacant, and laying off some positions.

In September 2010, the Department reported a \$3.8 million unbudgeted HB 2287 ending balance.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields excused.

4. Public Defense Services Commission

Senator Whitsett moved that the Emergency Board acknowledge receipt of a report from the Judicial Department on HB 2287 revenue.

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.

Projected HB 2287 revenue is not materializing as anticipated and may fall short of the original \$39.6 million target. PDSC estimates it will receive \$11.7 million in HB 2287 revenue, which is \$2.5 million below the original estimate of \$14.2 million.

The Commission had been reporting a relatively flat caseload trend for the biennium. This trend may now be changing as at least one District Attorney (Multnomah County) has begun reducing some misdemeanor charges to violations. The Commission estimates that its caseload may decline by 1% from the prior year due to the change in local charging practices, resulting in a potential cost reduction of \$480,000 for the 2009-11 biennium.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields excused.

5. Public Defense Services Commission

Representative Nathanson moved that the Emergency Board defer the request to fund \$1,482,183 for trial-level public defense services until the 2011 legislative session.

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

The Commission calculated that its HB 2287 revenue may be \$1,482,183 short of its forecasted need. This estimate is based on current HB 2287 revenue receipts and caseload estimates as of October 31st, 2010.

The Subcommittee discussed that a temporary deferral of the request until early in the 2011 legislative session would allow for a re-calculation of the request based upon updated trial-level caseload data and an updated HB 2287 revenue estimate.

The Subcommittee heard testimony that a temporary delay in funding of this request will not impact the delivery of public defense services.

Senator Whitsett and Representative Garrard voiced concern that the Commission's special purpose appropriation was to fund a HB 2287 revenue shortfall which now exists.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried. Senator Whitsett and Representative Garrard voted no. Senator Shields excused.

7. Department of Education

Representative Smith moved that the Emergency Board allocate \$4,706,811 from the general purpose Emergency Fund established by section 1, chapter 910, Oregon Laws 2009, to supplement the appropriations made to the Department of Education by section 2(1), chapter 729, Oregon Laws 2009, for Early intervention services and early childhood special education programs by \$2,351,394; by section 2(5), chapter 729, Oregon Laws 2009, for Oregon prekindergarten program by \$2,325,241; and by section 57(2), chapter 95, Oregon Laws 2010, for Early Head Start education by \$30,176; and acknowledge receipt of a report from the Department of Education.

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

Following the issuance of the September 2010 Revenue Forecast and subsequent General Fund allotment reductions by the Governor, legislative leadership issued a letter to the Governor and Superintendent Castillo committing \$2.6 million to early education programs and requested the Department of Education to continue services to existing families through December 31, 2010. Without the restoration of \$2.6 million, 478 child slots would have been reduced in the Oregon Prekindergarten (OPK) program, services levels would have been further reduced in the Early Intervention/Early Childhood Special Education (EI/ECSE) program, and three child slots would have been reduced in the Early Head Start Program.

A bipartisan legislative workgroup met to review the reductions to early education programs and has expressed interest in restoring additional funding for services through June 30, 2010. Without funding beyond the current legislative commitment of \$2.6 million, services and child slots would have been reduced beginning January 1, 2011.

While full funding to restore services through the end of the biennium has not been identified, legislative leadership has decided to extend its commitment to the early education programs. To effectuate this decision, the Subcommittee recommended the Emergency Board allocate \$2,351,394 to EI/ECSE, \$2,325,241 to OPK, and \$30,176 to Early Head Start programs from the general purpose Emergency Fund. The additional funding to EI/ECSE and OPK should restore services through March 2011, and the Early Head Start funding is sufficient to carry the three slots through the end of the biennium.

The motion carried with no objection voiced. Senator Shields excused.

8. Department of Education

Representative Berger moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Education by section 3(3), chapter 729, Oregon Laws 2009, Youth Corrections Education Program, by \$957,300, with instructions.

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

The Youth Corrections Education Program (YCEP) provides education services to youth within nine Oregon Youth Authority (OYA) close custody facilities. Students in these facilities receive double-weighting in the State School Fund distribution formula. The Juvenile Detention Education Program (JDEP) provides education services to youth held in county juvenile department detention centers. Students in county detention centers are assigned a weight of 1.5 in the State School Fund distribution formula. The Department of Education (ODE) contracts with school districts or education services districts to provide these services.

ODE requested an increase in expenditure limitation to support contract obligations through April 2011 and intends to request an additional increase during the 2011 legislative session. The request letter outlined several options for shifting or reducing expenditures and/or modifying services. However, these options were not shared in a timely fashion with services providers, and several issues or concerns should be noted for continued monitoring:

- ODE's letter states that an increase of \$2.5 million Other Funds expenditure limitation will be needed to meet contract obligations through the end of the biennium. The Legislative Fiscal Office (LFO) questions whether they will have sufficient cash on hand to cover these expenditures. Based on the forecast submitted, ODE appears to be relying on caseload levels that likely will not materialize. Prior to submitting the most recent letter to the Emergency Board, ODE was aware that the first quarter population count was down 5% in YCEP, but did not include a contingency. Pending decisions concerning General Fund reductions to OYA would have significant implications for the number of youths to be served by this program as well as revenue implications.

Further, even if ODE's estimates eventually prove to be reasonably accurate, a limited cash balance is projected to carry into the 2011-13 biennium. ODE has suggested that it would use cash available to make the final 2009-11 payments to cover the first payments required in the 2011-13 biennium, and then use 2011-13 cash to support final reconciled payments for 2009-11. Not only is this a poor business practice, it leaves little contingency for reconciliation of caseloads.

- LFO is concerned with the lack of reliable financial information provided by ODE. In balancing the statewide General Fund budget, the Legislature has twice transferred funds from the YCEP/JDEP programs to the General Fund (i.e., sweep) in the total amount of \$1.3 million. On both occasions, ODE expressed no concerns for impacts to programs. Following the last of these transfers during the February 2010 special session, ODE issued services/contract reduction notices to providers. When legislative inquiries were made concerning the reductions, ODE's response was that accounts had been recently reconciled and the reduction notices were retracted. At that time, it became apparent that different divisions within ODE were not sharing and reconciling information in a timely fashion. In August 2010, ODE submitted a letter to the Emergency Board requesting an increase in expenditure limitation (the first version of the request that is before the Emergency Board in December). The letter was not advanced due to insufficient information. At that time, LFO outlined several questions and

a request for a 5-year service plan. A longer term plan was requested as the populations being served, and statewide resources, are trending down. In the intervening time, it appears that little improvement has been made to the information prepared and submitted by ODE.

- The letter to the Emergency Board also states “ODE is committed to implementing programmatic changes and reductions over the next two biennia working closely with OYA and county juvenile departments...” and further articulates the potential need for legislative action. LFO finds these statements curious as ODE has waited until now before outlining a timeline to begin to “pencil out plans and costs” that will carry well into the next legislative session leaving little time for legislative debate and implementation before the next round of contracts would be in place. In addition, ODE has admitted, and contractors have confirmed, that ODE attempted to keep its letter to the Emergency Board confidential and to not share it with the contractors. Not only does this action limit ODE’s ability to provide reasonable and accurate forecasts of revenues and service options, is hardly indicative of a close working relationship.

The Subcommittee recommended approval of an increase in Other Funds expenditure limitation by \$957,300. This amount should be sufficient to cover payments due to contractors for services through March 2011, plus ODE’s Personal Services and Services and Supplies through February 2011. Further, the Subcommittee recommended ODE be directed to prepare a management plan to address changes in population, service delivery, and funding options. The agency should be expected to present the plan no later than the first week of the 2011 legislative session and be able to demonstrate its collaboration with the Oregon Youth Authority and its local partner agencies.

The following Committee discussion occurred:

Senator Johnson asked whether the Subcommittee discussed the concerns for the reliability of information provided by ODE.

Representative Berger responded that discussions did occur and the Department is to report back immediately and address issues raised by the Legislative Fiscal Office. Other Subcommittee members concurred.

Representative Komp also noted she had concerns with the level of education being provided.

The motion carried with no objection voiced. Senator Shields excused.

9. Department of Education

Senator Girod moved that the Emergency Board defer the request to increase the expenditure limitation for the Oregon School for the Deaf.

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

The campus for the Oregon School for the Deaf (OSD) includes 52 acres and 18 buildings including a high school, elementary and middle school, gymnasium, pool, industrial arts building, cafeteria, and infirmary. In 2008, the Department of Education (ODE) contracted with Otak Architects, Inc. for a condition assessment survey of the buildings on campus. At that time, the cost to upgrade all of the buildings to current code was estimated to be \$37.5 million, including \$20 million for seismic upgrades and \$4.4 million in upgrades compliant with the Americans with Disabilities Act.

HB 3687 (February 2010) directs the Department of Administrative Services (DAS) to transfer 50% of the proceeds from the sale of the Oregon School for the Blind to ODE for improvements, repairs, and maintenance costs benefitting the health, safety, and housing of the students of OSD. DAS will transfer approximately \$2.4 million for this purpose, and may transfer additional resources once conditions of purchase are finalized.

ODE's letter outlines eight projects totaling \$550,000 which it believes can be completed prior to the close of the 2009-11 biennium while students are present on campus; and has submitted a larger list of projects totaling approximately \$5 million.

The Subcommittee recommended deferring the request until the 2011 legislative session. ODE should bring forward a five-year maintenance plan that is inclusive of funding available within the existing operating budget, community donations, proceeds from the sale of the School for the Blind, and any resources available from other state agencies. The report should also include an update on facility utilization with the improvements sponsored by Extreme Makeover.

The motion carried with no objection voiced. Senator Shields excused.

11. Oregon University System

Representative Komp moved that the Emergency Board increase the Other Funds expenditure limitation established for the Oregon University System by section 2(3), chapter 670, Oregon Laws 2009, Extension Service of Oregon State University, by \$2,174,285, and defer the request to increase the Other Funds expenditure limitation established for the Education and General Services program by \$17,398,584 until the 2011 legislative session.

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

The Oregon University System requested two Other Funds expenditure limitation increases totaling \$19,572,869. One of the Other Funds expenditure limitation increases requested was \$2,174,285 for the Extension Service. The additional funding comes from new program fees, additional federal support, and funding from counties who support the operation of local extension offices. This increase was recommended for approval by the Subcommittee.

The second component of the request was a \$17,398,584 Other Funds expenditure limitation increase in Education and General Services (E&G) to fully backfill the September 2010 General Fund allotment reduction. The Subcommittee recommended deferring this portion of the request due to uncertainty surrounding the state budget and revenue situation. In addition, Oregon must meet federal requirements for state funding levels for the post-secondary education sector. Deferral of the E&G request will allow the full Legislature to consider solutions for all of the post-secondary education area at the same time.

The following Committee discussion occurred:

Senator Girod stated he opposed the action because he saw no reason the schools should not be given the ability to spend tuition they have collected now.

Representative Berger stated there was spirited discussion in the Subcommittee and that she feels it is prudent to defer the request.

Senator Monroe said he had asked if any immediate harm would occur if the request was deferred and the testimony was that no immediate harm would occur.

Senator Whitsett stated he was opposed to the action for the same reasons as Senator Girod.

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

12. Oregon University System

Representative Smith moved that the Emergency Board establish a \$1,900,000 Other Funds (Other Revenues) Capital Construction expenditure limitation, for the biennium beginning July 1, 2009, for the University of Oregon to purchase the site of the Springfield motor pool, which is currently owned by the Department of Administrative Services.

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

The Oregon University System (OUS) requested the establishment of a \$1,900,000 Other Funds (Other Revenues) Capital Construction expenditure limitation to allow the University of Oregon (UO) to purchase the site of the former Springfield Motor Pool, which is currently owned by the Department of Administrative Services (DAS). DAS stopped operating the Springfield Motor Pool as part of the reductions included in their 2009-11 legislatively adopted budget. The site is currently being leased to OUS to operate a motor pool on the property, which is used by the University of Oregon. UO is negotiating a three year lease, with possible extensions, to continue motor pool operations on the property.

The former DAS motor pool site is approximately 4.2 acres. Under state surplus property sale procedures, surplus properties being sold are first offered to public entities. UO bid \$1,830,000 for the property, which was the appraised value of the property according to an appraisal conducted in May 2010. UO's bid was the only bid received from a public entity. The request for \$1,900,000 Capital Construction expenditure limitation includes \$70,000 for closing costs and any other expenses related to completing the sale. The purchase will be funded by a five year loan from the University's housing unit. The housing auxiliary has sufficient reserves to make the loan and the loan will be paid back with interest per OUS policy. No fee increases will be necessitated by this loan arrangement.

The Capital Construction expenditure limitations established by the Emergency Board with this action will expire at the end of the current biennium and will not extend the normal six year timeframe for a Capital Construction project. If the project's completion extends beyond June 30, 2011, the agency will be required to seek limitation for any remaining construction costs during the 2011 legislative session.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Girod stated he opposed the action because DAS will make a profit from selling the property to another state agency and they should not profit at the expense of another agency.

Senator Monroe claimed that state law requires that surplus property be sold at or above the appraised value.

Representative Smith noted that the profits from the sale would be deposited in the Uniform Rent pool and can help lower future rent charged to state agencies.

The motion carried. Senator Girod voted no. Senator Shields excused.

13. Oregon University System

Senator Girod moved that the Emergency Board establish a \$4,000,000 Other Funds (Other Revenues) Capital Construction expenditure limitation, for the biennium beginning July 1, 2009, to renovate the Computing Center facility at the University of Oregon.

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

The Computer Center building was constructed in 1967. The University of Oregon reports that the facility is challenged to meet the current information technology needs of the University due to ever increasing reliance on computers and the need for additional server space. The project is intended to upgrade the current server hub to allow more capacity within the existing facility's footprint. The University had planned on including this project as part of its 2011-13 budget request, however a university researcher received a federal grant on cloud computing that must begin this biennium. This research cannot be completed with the current university computing infrastructure. The project will be funded with \$1.2 million of indirect cost recovery charged against primarily federal grants and the remaining \$2.8 million will be paid with campus general fund which includes tuition revenue. The renovation project is scheduled for completion by the end of April 2011.

The Capital Construction expenditure limitations established by the Emergency Board with this action will expire at the end of the current biennium and will not extend the normal six year timeframe for a Capital Construction project. If the project's completion extends beyond June 30, 2011, the agency will be required to seek 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. Senator Shields excused.

14. Department of Human Services

Senator Bates moved that the Emergency Board acknowledge receipt of a report from the Department of Human Services on diversion and transition programs to provide appropriate long term services and supports for seniors and persons with disabilities.

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

In September 2010, the Emergency Board requested additional information from the Department of Human Services, Seniors and People with Disabilities division (SPD) on its federal "Money Follows the Person" grant (Oregon's On the Move program), on placements for individuals transitioning from hospitals to home and community based settings, and on SPD's other efforts for placing individuals in the appropriate levels of care.

SPD presented information on specific diversion and transition efforts to help individuals stay in their own homes and communities after, or instead of, a hospital or nursing facility stay.

The most significant activity has been through SPD's specialized nursing facility transition services staff, which has worked with more than 3,000 individuals who have been hospitalized or received rehabilitation services in a nursing facility.

SPD is also administering the federal "Money Follows the Person" grant, which supports home or community-based care instead of hospital or nursing facility placements by expanding eligible services or expenditures for which the state can claim Medicaid reimbursement. SPD reported that the Department of Justice investigation into the "Money Follows the Person" grant expenditures is continuing; a report on this investigation is expected by the end of January 2011. The agency will discuss the results of the investigation and any recommendations for changes in the program with the 2011 Legislature.

Other initiatives underway include:

- A \$1.6 million federal Real Choice Systems Change grant, which supports a pilot program in Lane County to provide Medicaid-eligible individuals with chronic conditions and/or physical disabilities with information assistance and services, and options counseling.
- Several federal Aging and Disabilities Resource Centers (ADRCs) grants being used for the Oregon Transitional Care Collaborative; the "Hospital to Home" (H2H) transition; and the Critical Pathways Providers. These are designed to help provide information, resources, and services to other individuals who are not now Medicaid-eligible but who could be at risk to spend down their financial resources and become Medicaid eligible in the event of a hospital or nursing facility stay.
- A pilot project with CareOregon to provide integrated case management with a medical home model, to serve seniors and people with disabilities who are jointly eligible for Medicare and Medicaid and at high risk of using medical services.

Outcome data from these initiatives is not yet available.

Subcommittee members discussed a number of issues raised by the report, including who should most appropriately have oversight responsibility for hospital transition efforts for these individuals, when outcome data from the pilot projects would be available to help inform program and budget decisions, and the need for a plan to get to a more coordinated care system. These issues will need further review early in the 2011 legislative session.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Several members stated their ongoing concerns with the agency's management and oversight of the federal "Money Follows the Person" grant, and reiterated the need for a close review during the upcoming legislative session.

The motion carried with no objection voiced. Senator Shields excused.

16. Department of Human Services

Senator Winters moved that the Emergency Board acknowledge receipt of a report from the Department of Human Services on planned expenditures for a U.S. Department of Health and Human Services grant to support the State Early Childhood Advisory Council.

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

The Emergency Board gave retroactive approval to apply for this three-year, \$1.2 million federal grant at its September 2010 meeting, subject to further information on the use of the grant funds and positions. The \$1.2 million grant will support the activities of a State Early Childhood Advisory Council (the Early Childhood Matters Advisory Council) for the next three years. The Council is to ensure statewide coordination and collaboration among the wide range of Oregon's early childhood programs and services, including child care; Head Start; preschool, infant, and family programs; and prekindergarten programs and services.

The Children, Adults and Families Division (CAF) of the Department of Human Services will act as fiduciary agent for the grant. Two limited duration grant positions – a senior policy advisor and a half-time administrative assistant – will be part of the CAF budget but will be housed in the Governor's Office. Personnel costs for these two positions, including fringe benefits, are estimated at \$532,000, almost half of the total grant expenditures. About \$474,000 is expected to be spent on contracts to support the Council's efforts and activities, a school-readiness assessment tool, and development of a comprehensive early childhood education and care budget. Travel, supplies, communications, and indirect charges make up the rest of the \$1.2 million total spending plan. CAF included the Federal Funds expenditure limitation and position authority as part of the Department of Human Services 2009-11 budget rebalance plan.

The 70% matching fund requirement will be met through \$2.7 million in pledges from The Children's Institute and The Oregon Community Foundation's Early Childhood Program through 2013.

The Subcommittee expressed support for the planned work, noting the focus on a comprehensive plan for early childhood care and education. The Governor's Office indicated that the initial phases of the grant would focus on needs assessment and an evaluation of what the state is currently doing.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

The Committee discussed the private matching funds being used for this grant, and a general concern that relying on private sources for matching funds could have undue influence on grant activities or outcomes.

The motion carried. Senator Johnson voted no. Senator Shields excused.

17. Department of Human Services

Representative Buckley moved that the Emergency Board allocate \$6,466,118 from the general purpose Emergency Fund established by section 1, chapter 910, Oregon Laws 2009, to supplement appropriations made to the Department of Human Services; approve the transfer of General Fund appropriations; increase Other Funds expenditure limitations; increase Federal Funds expenditure limitations; and approve the establishment of 72 positions (28.56 FTE); with the understanding that the Department of Administrative Services will unschedule Other Funds expenditure limitations; per the attached table.

The following is a summary of the request:

The Department of Human Services (DHS) presented a budget rebalance plan for the 2009-11 biennium based on direction given to the agency at the September 2010 meeting of the Emergency Board, subsequent changes in caseload costs and revenues, and proposed management actions to control costs in the Seniors and People with Disabilities budget.

The rebalance plan submitted by the agency included the use of \$123.3 million in additional federal Medicaid matching funds as directed by the Emergency Board in September, as follows:

- To offset \$104.4 million in General Fund program reductions that would otherwise be made as a result of the September General Fund statewide allotment reductions;
- To cover a net \$2.6 million increase in DHS program caseloads in the Fall 2010 caseload forecast, and backfill a projected \$12.6 million shortfall in tobacco tax revenues used in the Oregon Health Plan budget; and
- To use \$3.7 million to help continue funding for the Employment Related Day Care (ERDC) program, capped at a 10,000 caseload, through February 2011. The Emergency Board allocated an additional \$3 million General Fund in September for the balance of the ERDC costs and development of a new automated billing and payment system for the program.

The plan also made adjustments among the divisions for \$10.8 million General Fund in non-program cost reductions, which the Emergency Board requested in September to offset proposed reductions in Medicaid Home Delivered Meals and payments for assisted living facilities, residential care facilities, and nursing facilities.

Program cost increases since September include lower-than-expected savings and higher Graduate Medical Education costs in the Medical Assistance Programs, and higher costs in the Seniors and People with Disabilities Division (SPD), primarily in programs and services for developmental disability services. Projected Other and Federal Funds revenues are up overall. However, expected savings in the Oregon Kids (OR-KIDS) system will instead be reinvested to make sure the system functions properly before it is brought on-line. To help manage the projected large cost increases in developmental disability services programs, SPD will cap crisis diversion funding and reduce budget allocation to regional and local developmental disability programs, cap funding for children's in-home long-term supports, and focus assessments and rate reviews on existing adult residential clients. It will also delay some work on the Express Payment and Reporting System (eXPRS) into the next biennium, take further reductions in services and supplies expenditures, and cancel current contracts and eliminate the Lifespan Respite program as of January, 2011. After accounting for all these adjustments, the DHS budget would remain \$10.5 million General Fund out of balance. DHS did not request General Fund to fill the gap, but outlined possible offsetting actions and revenues that could balance the budget by the end of the biennium.

The Subcommittee approved the rebalance plan presented by DHS and adjustments recommended by the Legislative Fiscal Office, and made other adjustments to address program reductions or eliminations that would otherwise take place as of March 1, 2011.

The adjustments recommended by the Legislative Fiscal Office would have used \$9.5 million from the higher December forecast of tobacco tax revenues and other revenues identified by the Department to offset General Fund to help close the agency's \$10.5 million General Fund budget gap. The Subcommittee approved those offsets, with the exception of \$100,000 of \$2.4 million in federal Supplemental Nutrition Assistance Program bonus funds. The Subcommittee recommended that \$100,000 of the bonus funds be used instead in the Children, Adults and Families Division (CAF) to increase program outreach to seniors.

The Legislative Fiscal Office also had recommended that \$5.6 million in federal Temporary Assistance to Needy Families (TANF) contingency funds be used to supplement funding for the Employment Related Day Care program (ERDC) through the end of the biennium. This level of funding would require the program to be closed to new recipients other than those transitioning from TANF, but no current recipients would lose benefits as a result of the eligibility change. The Subcommittee instead supported continuing the program at its current 10,000 caseload cap, recommending an allocation of \$1.8 million from the general purpose Emergency Fund for this purpose. This allocation, together with a total of \$8.3 million in federal TANF contingency funds awarded to Oregon, is expected to fund ERDC at the 10,000 caseload cap through the end of this biennium.

The Subcommittee recommended the Emergency Board allocate an additional \$4.7 million from its general purpose Emergency Fund to continue other programs and services that were scheduled to be reduced or eliminated as of March 1, 2011. Of that amount, \$3.4 million would be allocated to continue In-home Instrumental Activities of Daily Living hours for aged and disabled clients at current levels through June 30, 2011. The \$1.3 million balance would extend funding through March 31, 2011, for community mental health services for adults and children not eligible for Medicaid, for Oregon Project Independence, for case management for children with developmental disabilities, for the developmental disability family support program, and for targeted case management services for persons with developmental disabilities.

The net effect of the adjustments recommended by the Subcommittee is displayed on the attached table. With these adjustments, the Department of Human Services General Fund budget is \$1.2 million short of balance. DHS will present its next 2009-11 rebalance plan to the 2011 Legislature in the spring.

The following Committee discussion occurred:

Committee members discussed the position actions included in the plan; it was noted that the increased number was primarily the result of limited duration positions tied to federal grants for which DHS had received approval to apply. It was also noted that the rebalance overall did not address larger budget decisions that will need to be made for the 2011-13 biennium, and that it would be critical to look at new delivery mechanisms in the future.

The motion carried. Senators Whitsett and Girod voted no. Senator Shields excused.

18. Oregon Health Authority

Senator Winters moved that the Emergency Board acknowledge receipt of a report from the Oregon Health Authority on the Oregon State Hospital replacement project, including the Behavioral Health Integration Project.

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

The construction at the Salem campus is progressing on schedule, and is expected to be finished by the end of 2011. This fall the new kitchen began operating and the Support Building opened. The admissions, stabilization, and corrections unit, now known as Harbors, has been completed, and patients will be moved in early January. The newly restored historic Kirkbride Building is expected to be completed this winter.

Based on decisions made during the 2009 legislative session, the new Junction City hospital is expected to open in 2013. The agency is currently re-evaluating the number and type of beds needed at Junction City, and plans to present a recommendation in early January.

The Behavioral Health Integration Project (BHIP) is the electronic medical records and management system for the new hospital. It is expected to go live in May 2011. There are significant challenges that BHIP and the State Hospital will face as staff move from a predominantly paper medical records system to an electronic system. In addition, this is an aggressive implementation schedule. However, the BHIP team has been very proactive at meeting the challenges they have faced, and have worked closely with the Legislative Fiscal Office, the Department of Administrative Services, and other partners.

The Subcommittee expressed concern about the cost of an additional hospital at Junction City, and the potential budget cuts that could affect the community mental health system. They also discussed the need to work closely with community partners in order to do more placements in the community and avoid the high cost of hospital placements.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Bates reiterated his concerns about the high cost of operating the hospital at Junction City, and the need to work with our partners to keep people out of the state hospital and in community placements.

Representative Jenson voiced his concern that funding to pay for the hospital in Junction City could come at the expense of funding to community services.

Representative Kotek noted that the agency is in the process of re-forecasting the demand for hospital services, and that the Legislature will want to consider that new information before making any final decisions.

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

19. Oregon Health Authority

Senator Bates moved that the Emergency Board acknowledge receipt of a report from the Oregon Health Authority on the Integrated Management and Services Demonstration Projects.

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

The 2009 Legislature directed the Addictions and Mental Health Division to develop two or three demonstration projects that would use an integrated management and service delivery system. The goals of the projects are to improve health care outcomes through better coordination between addictions and mental health treatment, recovery services, and physical health services, and more efficient administration of services through a single point of accountability. The agency created a conceptual framework that included the following three elements:

- Services – increase the availability, access, and quality of health care services through service integration.
- Financing – reduce costs through more efficient administration of services.
- Governance – create a single point of accountability.

The first project, the Central Oregon Demonstration Project including Crook, Jefferson, and Deschutes counties, began in the summer 2009. The project includes representatives from each county commission, the local community mental health programs, the hospital system, the federally qualified health clinics, and the Medicaid managed care plans. The second project, the Northeast Oregon Demonstration Project including Baker, Union, and Wallowa counties, is much newer.

One of the lessons learned from these projects is that changes of this magnitude will take longer than a biennium to implement. It has been difficult for projects to address service integration at the same time as financing and governance issues. For next biennium, the agency expects to analyze the outcomes of these projects, and identify components that could be replicated in other areas of the state.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Bates commented that the Legislature will not be able to wait another biennium before taking action. These kinds of changes will be necessary in order to avoid large program cuts during the next budget cycle.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

20. Oregon Health Authority

Representative Jenson moved that the Emergency Board acknowledge receipt of a report from the Oregon Health Authority on the implementation of the Health Professionals' Services Program.

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

HB 2345 (2009 session) directs the Oregon Health Authority (OHA) to establish a program to protect the public from impaired health professionals. An impaired professional is defined as a health professional licensed by a health profession licensing board, who is unable to practice safely because

of substance abuse or a mental health disorder. The agency is required to establish a monitoring program, and to contract with an independent entity to monitor licensee compliance. In addition, the agency is required to contract with a second independent entity to audit the program to ensure compliance with program guidelines.

Prior to HB 2345, six health profession licensing boards provided some sort of diversion program and services, including the Board of Dentistry, Medical Board, Board of Nursing, Board of Pharmacy, Board of Clinical Social Workers, and Board of Licensed Professional Counselors and Therapists. Ultimately, only the first four boards opted to participate in this new program.

On July 1, 2010, the new program was implemented. The program costs for the current biennium are estimated to be \$1.8 million, which will be transferred to OHA from the four participating boards based on an agreed-upon formula. OHA has hired a full-time program manager and a half-time support position to administer the program, but the bulk of the expenditures will pay for contracts with independent entities to operate the program and to provide the monitoring component. The expenditure limitation and position authority are included in the Department of Human Services rebalance request.

Subcommittee members commented that more professionals may be willing to seek help when they do not have to go through their professional Boards. Members also expressed hope that other Boards will join the program in the future.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

23. Commission for the Blind

Senator Winters moved that the Emergency Board increase the Other Funds expenditure limitation established for the Commission for the Blind by section 2, chapter 662, Oregon Laws 2009, by \$147,000 to offset decreases in the agency's General Fund appropriation.

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

The Oregon Commission for the Blind is requesting an increase in Other Funds expenditure limitation of \$147,000 to offset decreases in the agency's General Fund appropriation due to the state's current budget difficulties. Of this amount, \$100,706 will go towards the federal match requirement for the Federal Vocational Rehabilitation Grant. Without this limitation increase, the Commission may have to forego approximately \$400,000 in federal matching funds for this program. The balance (\$46,494) will go to cover additional participation on the Industries Program, which supports individuals with significant developmental needs in addition to blindness. Revenue for this program is provided by the Multnomah County.

The Subcommittee inquired about how much the federal match was for the Vocational Rehabilitation Program. The federal match is approximately \$4 for every \$1 contributed by the Commission.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

24. Psychiatric Security Review Board

Representative Jenson moved that the Emergency Board approve the transfer of \$75,000 from the appropriation made to the Psychiatric Security Review Board by section 88(1), chapter 95, Oregon Laws 2010, records and relief program, to the appropriation made to the Psychiatric Security Review Board by section 1, chapter 683, Oregon Laws 2009, to prevent program reductions; and increase the Other Funds expenditure limitation established for the Psychiatric Security Review Board by section 88(2), chapter 95, Oregon Laws 2010, records and relief program, by \$35,000 to accommodate unanticipated grant revenues.

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

The Psychiatric Security Review Board is requesting this action in order to prevent program cuts in the Guilty Except for Insanity program, as a result of the June and September 2010 allotment reductions. If implemented, the cuts would reduce the numbers of adult hearings each month, and reduce agency staff. This in turn could result in fewer patients being moved out of the Oregon State Hospital to community settings in a timely manner.

The Gun Relief Program was enacted last legislative session. It allows those individuals who have previously been banned from possessing a firearm because of mental illness to request a hearing to have their rights restored. The program was funded with a mix of General Fund and federal grant revenues passed through from the Oregon State Police.

The Gun Relief Program has savings for two reasons. First, the program took longer to get established than was originally expected, resulting in vacancy savings. Second, more federal grant funding is available than originally budgeted. Because of this, the program can transfer \$75,000 General Fund to the Guilty Except for Insanity program. The agency will need the additional \$35,000 Other Funds expenditure limitation in order to spend additional grant funding.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senators Winters and Shields and Representatives Komp and Berger excused.

25. Department of Justice

Senator Whitsett moved that the Emergency Board allocate \$376,516 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, for the legal costs to protect the state's interest in the Master Settlement Agreement payments.

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 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. 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 is an ongoing litigation that has been under way for a number of years. The agency has spent \$1.3 million on this activity in the current biennium as of the end of October 2010. The agency’s budget included \$1 million in resources for this litigation and another \$1.5 million General Fund was set aside in a special purpose appropriation.

The recommended \$376,516 in resources from the special purpose appropriation is sufficient to cover costs through March 2011. The agency currently estimates that it will request an additional \$540,000 for this activity before the end of the 2009-11 biennium. A better estimate will be available during the 2011 session as more information on the litigation schedule is known and as the agency continues to try to reduce the cost of this activity.

The Subcommittee recommended allocating \$376,516 from the special purpose appropriation to the Emergency Board for this activity.

The following Committee discussion occurred:

Representative Kotek asked whether the Legislature would know the outcome of the litigation by the end of the 2011 legislative session.

Legislative Fiscal Office staff responded that it was doubtful that information would be available at that time.

The motion carried with no objection voiced. Senators Winters, Bates and Shields and Representatives Komp and Berger excused.

26. Military Department

Senator Johnson moved that the Emergency Board approve the transfer of \$62,517 from the appropriation made to the Military Department by section 1(4), chapter 734, Oregon Laws 2009, Capital Debt Service and Related Costs, to the appropriation made to the Military Department by section 1(1), chapter 734, Oregon Laws 2009, Administration, and approve the transfer of \$220,163 from the appropriation made to the Military Department by section 1(4), chapter 734, Oregon Laws 2009, Capital Debt Service and Related Costs, to the appropriation made to the Military Department by section 1(2), chapter 734, Oregon Laws 2009, Operations, to prevent program reductions.

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

Treasury sales this biennium of General Obligation bonds and certificates of participation have been at more favorable interest rates and financing costs than originally anticipated in the 2009-11 legislatively adopted budget. This has resulted in General Fund and Other Funds Debt Service savings.

The Department requested to use \$1,446,321 of these savings in lieu of its June and September 2010 allotment reductions ordered by the Governor. The Department has only partially implemented its allotment reductions.

The Subcommittee recommended that only \$282,680 of the Debt Service savings be used for the temporary continuance of 44 existing positions (5.50 FTE) through March 2011. The positions had been slated for layoff on January 1st, 2011. The Administration Program will receive \$62,517 for the temporary continuance of six existing positions (0.75 FTE) and the Operations Program will receive \$220,163 for the temporary continuance of 38 existing positions (4.75 FTE).

The Subcommittee also requested that the Department of Administrative Services unschedule all remaining General Fund Debt Service savings, which is estimated to be \$1,254,911.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

27. Military Department

Representative Garrard moved that the Emergency Board defer the request to schedule \$812,459 of General Fund savings within the Community Support Program and to transfer \$519,459 General Fund to the Operations Program.

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

The Department is requesting to schedule and expend \$812,459 of General Fund savings that resulted from an increase in federal matching funds for the Oregon Youth Challenge Program. The Emergency Board deferred action on this request at its May 2010 meeting.

The Oregon Youth Challenge Program does not require these funds for its operations, which are now funded exclusively with Federal and Other Funds.

The request would transfer the majority of the savings to the Operations Program to pay for facility operation and maintenance costs and a Public Employee Retirement System liability.

The Subcommittee reiterated its recommendation from May 2010 that the Department present its argument to retain the Program's General Fund savings before the 2011 Legislature rather than the Emergency Board.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objection voiced. Senators Nelson and Shields and Representatives Komp and Berger excused.

28. Military Department

Senator Verger moved that the Emergency Board approve the transfer of \$12,880,304 Federal Funds expenditure limitation established for the Military Department by section 3(3), chapter 734, Oregon Laws 2009, Emergency Management, to the Federal Funds expenditure limitation established for the Military Department by section 3(1), chapter 734, Oregon Laws 2009, Operations, and approve the establishment of 14 limited duration positions (1.88 FTE); and approve the transfer of \$325,000 Federal Funds expenditure limitation established for the Military Department by section 3(3), chapter 734, Oregon Laws 2009, Emergency Management, to the expenditure limitation established for the Military Department by section 3(2), chapter 734, Oregon Laws 2009, Community Support, for additional operations and support program activities.

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

The Military Department requested various Federal Funds expenditure limitation increases for its Operations Program and Community Support Program.

The Equipment Refurbishment Program requested a \$6.3 million increase in order to meet projected demands for its services. The Installations Program requested a \$2 million Federal Funds increase for a variety of projects, including building a storage facility, data re-wiring, painting, flooring, utility work, and other miscellaneous projects. Kingsley Field Fire Protection requested \$1.5 million Federal Funds limitation increase to provide funding for six additional firefighters and equipment.

Two newly constructed facilities, the Ontario Readiness Center and the Salem Flight Operations Facility, requested \$1.5 million in additional Federal Funds expenditure limitation for furniture and other equipment purchases.

The Wildland Fire Management Program was expanded by the federal government under cooperative agreement with the Department. The Program requested \$1.4 million Federal Funds limitation increase and the establishment of 14 limited duration positions (1.88 FTE). The Subcommittee heard testimony from the Department that its establishment of the Wildland Fire Management Program was coordinated with the Department of Forestry and that its firefighting resources would be available for statewide firefighting activities, if needed.

The Operations program shifted nine General Fund positions to Federal Funds as part of the Department's General Fund allotment plan reductions. The Department requested \$201,537 of Federal Funds limitation for this fund shift and \$136,000 of Federal Funds limitation for 11 temporary positions.

The Community Support Program's Science and Technology Academy Reinforcing Basic Aviation and Space Exploration (STARBASE) requested a \$325,000 increase in Federal Funds limitation for teaching staff and computer.

The Department has excess Federal Funds expenditure limitation in the Office of Emergency Management that can be used to self-fund the Department's request without adversely impacting the delivery of emergency services.

The Subcommittee recommended transferring \$12,880,304 in Federal Funds expenditure limitation from the Office of Emergency Management to the Operations Program and establishing 14 limited duration positions (1.88 FTE).

The Subcommittee also recommended the transfer of \$325,000 in Federal Funds expenditure limitation from the Office of Emergency Management to the Community Support Program.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

29. Military Department

Senator Johnson moved that the Emergency Board approve the disposal of the Hillsboro Armory through an exchange with Washington County, and establish a \$386,000 Federal Funds Capital Construction expenditure limitation for the Military Department, for the biennium beginning July 1, 2009, for the design of an Army National Guard Readiness Center to replace the Hillsboro Armory.

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

The existing Hillsboro Armory was constructed in 1954 and is situated on 2.30 acres. The Department is requesting to exchange the Hillsboro Armory and property with 8.09 acres of unimproved land owned by Washington County.

According to an agreement between the Department and Washington County, the Department agrees to pay Washington County \$3.5 million for the 8.03 acres. The Department would transfer title of the \$2 million Hillsboro Armory to the County as a credit against the purchase price. The remaining \$1.5 million balance is to be repaid in ten years. In lieu of cash payments, the Department may construct improvements at the Washington County fairgrounds and/or allow the County to use the new Readiness Center rent free. Under this agreement, the Department is able to lease back the Hillsboro Armory for \$1 for a period of seven years with a three year renewal option.

The Capital Construction expenditure limitations 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. If the project's completion extends beyond June 30, 2011, the Department will be required to seek 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. Senator Shields and Representatives Smith, Komp and Berger excused.

30. Military Department

Senator Johnson moved that the Emergency Board increase the Federal Funds Capital Construction expenditure limitation established for the Military Department by section 2(1)(b), chapter 742, Oregon Laws 2007, Camp Withycombe Reserve Center, by \$4,365,000 for the purchase of furniture and equipment.

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

The Camp is in the final stages of constructing a \$69.7 million and 248,600 square foot Armed Forces Reserve Center and field maintenance shop complex. The funds would be used to purchase furniture and equipment.

Construction of the project should be substantially complete and the buildings occupied by July 2011. According to the Department, the project is on schedule and on budget.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields and Representatives Smith, Komp and Berger excused.

31. Military Department

Senator Johnson moved that the Emergency Board acknowledge receipt of an agency request letter from the Military Department on its 9-1-1 Program and the merits of consolidating the state's 49 Public Safety Answering Points.

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

During the February 2010 special session, the Joint Committee on Ways and Means reluctantly recommended acknowledging receipt of the Department's 9-1-1 report on the merits of consolidating the state's 49 Public Safety Answering Points (PSAPs) because the report was considered largely incomplete. The Legislature directed the Department to re-submit its report prior to the convening of the 2011 regular session.

The Department, however, has chosen not to submit a revised or redrafted report to the December meeting of the Emergency Board.

The Subcommittee expressed its disappointment that a report was not produced and that no progress was made toward addressing the tough budgetary issues facing state and local governments.

Senator Johnson noted that redundancy and duplication in the current PSAP structure could perhaps be performed in a more technologically efficient manner and that the Legislature may no longer have the luxury to defer difficult budgetary decisions such as PSAP consolidation.

The Subcommittee recommended acknowledging receipt of the request letter since no report was received.

The motion carried with no objection voiced. Senator Shields and Representatives Smith, Komp and Berger excused.

32. Department of Corrections

Senator Verger moved that the Emergency Board allocate \$19,992,677 from the general purpose Emergency Fund established by section 1, chapter 910, Oregon Laws 2009, to supplement appropriations made to the Department of Corrections; approve the transfer of General Fund appropriations; increase Other Funds expenditure limitations; and increase Federal Funds expenditure limitations, per the attached table; with the understanding that the Department of Administrative Services will unschedule \$4,000,000 Other Funds expenditure limitation for the Operations Division.

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

The Department of Corrections (DOC) presented a rebalance plan to the Emergency Board which was accepted other than to adjust the amount requested from the general purpose Emergency Fund. The rebalance plan had four major parts. First, it proposed moving General Fund resources between divisions and appropriation groupings to fill gaps caused by underfunding and some of the cuts included in the allotment reduction plans. The agency faced a series of spending gaps due to undesignated reductions in its legislatively adopted budget, as well as unexpected items such as unfunded employee health benefits increases and delayed implementation of some of the budget saving measures passed by the 2009 Legislature. To fill these gaps, the agency used two reserve funds it created; one from forced savings equal to 1 to 2% of each division's budget, and the second from savings generated from not having as many Measure 57 offenders as forecasted. In addition, \$82,000 General Fund is transferred from the Central Administration unit to Operations for mental health related housing and for inmate gardening activities.

The second component is the allotment from the general purpose Emergency Fund of just under \$20 million to backfill portions of the reductions included in the June and September 2010 allotment reduction plans not covered by the internal reserves. To backfill community corrections grants, \$9.9 million is proposed for county grants. The intent of this backfill was to keep the level of county grants equal to the amount sufficient to prevent counties opting out of the community corrections program for the remainder of the biennium. The net impact of this backfill and the overall Governor's allotment reductions is a \$6.5 reduction in community corrections grants. Another \$10.1 million is proposed as a down payment to prevent release of inmates and closures of prisons. Approximately \$28 million is estimated as the amount that will still be required early in the 2011 legislative session to prevent releases for the remainder of the current biennium. The Legislature will have the opportunity to review any possible savings in the DOC budget prior to deciding on this final amount.

The rebalance plan also includes Federal and Other Funds expenditure limitation increases to account for the receipt of grants relating to the Individuals with Disabilities Education Act, transition and training of inmates released into the community through the Workplace and Community Transition Training for Incarcerated Individuals program, housing resources for released inmates through the federal Second Chance Act Prisoner Reentry Initiative, and funding from the federal State Criminal Alien Assistance Program. In addition expenditure limitation designated for a diversion program for Ballot Measure 57 offenders was altered by increasing limitation in the Community Corrections unit by \$575,123 with the understanding that the Department of Administrative Services will unschedule \$4 million from the Other Funds expenditure limitation for the Operations Division that is no longer required since the program was placed under the Criminal Justice Commission.

The final component of the rebalance plan is the budget neutral transfer of the budgets for programs that are part of an ongoing reorganization effort at the agency. Included in this is a technical change moving expenditure limitation from the Personal Services category to the Capital Outlay category in the Operations Division.

The Subcommittee recommended the Emergency Board approved the rebalance plan and the allocation of \$19,992,677 from the general purpose Emergency Fund, per the attached table.

The following Committee discussion occurred:

Senators Johnson and Whitsett commented on the timing of this request and the availability of additional funding for the remainder of the biennium.

Representatives Hunt and Buckley outlined the overall budget plan for the remainder of the biennium.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

33. Department of State Police

Senator Johnson moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of State Police by section 3(1), chapter 862, Oregon Laws 2009, Patrol services, criminal investigations and gaming enforcement, by \$500,000 for purchase of mobile data platforms and video cameras, and increase the Federal Funds expenditure limitation established for the Department of State Police by section 3(4), chapter 862, Oregon Laws 2009, Administrative services, information management and Office of the State Fire Marshal, by \$20,000 for training.

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

The Department of State Police have been notified of receiving federal funding from two grants. The first is a \$500,000 award through the Community Oriented Policing Services (COPS) grant from the U.S. Department of Justice. The agency will use \$232,800 of the grant funds for the purchase of 50 mobile data platforms and another \$261,650 for the purchase of 42 patrol car video systems. The final \$5,550 of the total grant award will be for training staff on the proper installation of the camera equipment.

The second grant is a \$50,000 grant from the U.S. Bureau of Land Management for coordinating delivery of basic wild land fire training. The agency plans to use \$20,000 of this grant during 2009-11 with the remaining \$30,000 dedicated for 2011-13. Training will be provided to rural fire protection agencies across the state including those in Marion, Lincoln, Washington, Yamhill, Clackamas, and Polk counties.

The Subcommittee recommended the Emergency Board increase Federal Funds expenditure limitations by a total of \$520,000.

The following Committee discussion occurred:

Senator Winters commented on the state of equipment for state troopers.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

34. Department of State Police

Representative Nathanson moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of State Police by section 3(3), chapter 862, Oregon Laws 2009, Forensic services and State Medical Examiner, by \$480,000 for purchase of laboratory equipment and personnel costs; and increase the Federal Funds expenditure limitation established for the Department of State Police by section 3(4), chapter 862, Oregon Laws 2009, Administrative services, information management and Office of the State Fire Marshal, by \$655,000 for conversion of information and administrative costs; with the understanding that the Department of Administrative Services will unschedule \$105,000 General Fund for the Administrative Services Division.

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

The Department of State Police (OSP) has been notified that it will continue to receive federal funding for existing grants for which the total amount was not included in the budget approved by the 2009 Legislature. The Forensics Division will receive \$480,000; and use most of the funding to strengthen the capacity of the state DNA programs and prevent further backlogs in DNA testing. Additional funds will be used eliminate backlogs in other areas of analysis of forensic evidence and to train lab personnel.

The Law Enforcement Information Division will receive a total of \$550,000 in additional federal funds to convert existing microfiche images to an electronic document imaging system; and to convert existing fingerprint cards which do not have a corresponding electronic federal record. Both of these efforts will use an outside contractor for the conversions.

The expenditure limitation for the Administrative Services Division is to be increased by \$105,000 for the grants' share of central administrative and support costs. At the same time, the Subcommittee recommended that the Department of Administrative Services be requested to unschedule \$105,000 of General Fund since these new funds can be used to offset General Fund resources.

The Subcommittee recommended the Emergency Board increase Federal Funds expenditure limitations by a total of \$1,135,000, with the understanding that the Department of Administrative Services will unschedule \$105,000 General Fund.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

35. Department of Veterans' Affairs

Senator Nelson moved that the Emergency Board allocate \$108,359 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.

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

Record levels of enrollment in the Oregon Department of Veterans' Affairs (ODVA) Educational Aid program forced ODVA to suspend educational aid benefits in January 2009, after

available funding ran out. The Legislature subsequently approved \$290,000 of additional program funding during the 2010 special session, portions of which were allocated to the agency in February and May. This allocation -- the remainder of the special purpose appropriation -- should be sufficient to cover projected enrollment through the end of the 2009-11 biennium, provided there is no major increase in program enrollment.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields and Representatives Komp and Berger excused.

36. Employment Department

Representative Jenson moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Employment Department by section 5, chapter 665, Oregon Laws 2009, by \$24,986,951 for expenditures related to federal Unemployment Insurance extensions and the Reemployment and Eligibility Assessment Grant, with the understanding that the Department of Administrative Services will unschedule \$4,069,388 Other Funds expenditure limitation.

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

The extension of unemployment insurance benefits by Congress has resulted in additional federal funds being passed to states for reimbursement of associated administrative expenses. The Employment Department has received \$16.1 million in federal reimbursement to date, and expects to receive another \$7.8 million by the end of the 2009-11. The funds will reimburse the Employment Department for overtime, temporary employees, and additional staffing in the Office of Administrative Hearings to address case load increases related to unemployment insurance eligibility. The Employment Department will also invest in process and systems improvements, including the Unemployment Insurance Call Center phone system and electronic document management and security. \$986,581 of the recommended increase in federal funds expenditure limitation is related to administration of a grant from the U.S. Department of Labor for reemployment eligibility and assessment. The receipt of additional Federal Funds allows the Department to replace \$4,069,388 of planned Reed Act expenditures with Federal Funds.

The Subcommittee discussed the status of the Unemployment Trust Fund and the potential for additional federal or state extensions of unemployment insurance and asked for additional information on the race and ethnicity of Oregon's unemployed, including the unemployment rate for different racial/ethnic groups.

The Subcommittee recommended approval of the request for additional Federal Funds expenditure limitation, with the understanding that the Department of Administrative Services will unschedule \$4,069,388 Other Funds expenditure limitation.

The motion carried with no objection voiced. Senator Shields excused.

37. Department of Fish and Wildlife

Senator Girod moved that the Emergency Board acknowledge receipt of a report from the Department of Fish and Wildlife on the recently signed agreement with the Bonneville Power Administration regarding wildlife habitat protection and enhancement in the Willamette River basin.

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

The Oregon Department of Fish and Wildlife (ODFW) and the Bonneville Power Administration (BPA) signed a settlement agreement concerning wildlife habitat protection and enhancement in the Willamette River Basin on October 22, 2010. This agreement is intended to settle BPA's wildlife mitigation responsibilities caused by construction of BPA Willamette Valley power projects under the Northwest Power Act of 1980, with BPA providing funding to protect and enhance wildlife habitat in the region. In the agreement, BPA has agreed to provide enough funding to protect and restore at least 26,537 acres of wildlife habitat. The agreement runs through 2025.

The BPA will provide \$2.5 million per year for the first three years of the agreement and then \$8 million per year beginning in 2014. An annual inflation rate of 2.5% will be added starting with the 2015 payment. The total BPA funding for wildlife habitat acquisitions and restoration under the terms of the agreement will be \$117,864,424 through 2025. Funding for the program is anticipated to continue after 2025 at a \$2.2 million annually. The funds will be used to restore and protect, through acquisition or conservation easement, habitat in the basin that has been degraded. In addition, a trust account will be established to pay the long term costs of maintaining and monitoring property acquired or improved using funds provided under the agreement.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

38. Department of Agriculture

Senator Girod moved that the Emergency Board approve the transfer of \$1,577,689 Federal Funds expenditure limitation established for the Department of Agriculture by section 4(3), chapter 643, Oregon Laws 2009, Agricultural Development, to the Federal Funds expenditure limitation established for the Department of Agriculture by section 4(2), chapter 643, Oregon Laws 2009, Natural Resources, for additional funding for natural resources programs.

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

The Oregon Department of Agriculture sought to increase its Federal Funds expenditure limitation for the Natural Resources program by \$1,577,689. The Department needs the additional expenditure limitation in the Natural Resources policy area has received unanticipated additional federal support for Sudden Oak Death, noxious weed control, plant conservation, and pest prevention and management.

The Federal Funds expenditure limitation transfer from the Agriculture Development program area to the Natural Resources program area will allow the additional federal funds to be expended with zero overall increase to the Department's 2009-11 budget.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

40. Department of Forestry

Representative Berger moved that the Emergency Board acknowledge receipt of a report from the Department of Forestry on the 2010 fire season and defer the request to allocate General Fund until the 2011 legislative session when the Legislature takes action to rebalance the remainder of the 2009-11 biennial budget.

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

The Department of Forestry provided a report on the severity of the 2010 forest fire situation and the costs incurred in suppressing fire outbreaks. Severity costs for the 2010 fire season totaled over \$2.1 million. The Department requested an allocation for these costs from the special purpose appropriation made to the Emergency Board for the 2010 fire season. In addition, the Department requested the Emergency Board allocate \$1,072,374 from the Emergency Fund to restore funds from the September 2010 allotment reduction for expenditures incurred before the allotment reduction took place. The Department did not request an allocation for the costs associated with the catastrophic fire insurance premium since the final premium quotation will not be received until February or March of 2011 but planned to request the allocation when the Legislature meets in 2011.

Because the Legislature plans to take action to rebalance the remainder of the 2009-11 biennial budget early in the 2011 regular session, the Subcommittee recommended acknowledging receipt of the report and deferring the request for General Fund until the 2011 legislative session.

The following Committee discussion occurred:

Senator Girod voiced his disapproval for not allocating the General Fund because it appears to fall back on the landowners who have already experienced an increase in rates due to the approval of the reclassification and increase in salaries of Fire Program positions that is passed on to landowners.

Senator Whitsett commented on the impact of the allotment reduction on fire fighting resources giving an example of a forest fire in Central Oregon that grew to a larger size because the allotment reduction delayed placing a helicopter resource in Central Oregon.

The motion carried. Senators Whitsett, Verger and Girod and Representatives Smith and Garrard voted no. Senator Shields excused.

41. Parks and Recreation Department

Representative Smith moved that the Emergency Board acknowledge receipt of a report from the Parks and Recreation Department on the rules adopted by the Parks Commission for fee reductions, waivers and exemptions.

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

The Department reported a total of 292,966 camper nights related to fees waived for the period September 1, 2008 through August 31, 2010, totaling almost \$2.4 million in foregone revenue.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senators Johnson and Shields excused.

42. Parks and Recreation Department

Representative Smith moved that the Emergency Board acknowledge receipt of a report from the Parks and Recreation Department on the use of revenues from salmon license plate sales distributed to the Department.

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

The Department reported a total of \$575,000 was the estimated revenue from the sale of salmon license plates for the biennium. The Department has identified 30 projects related to the recovery of salmon populations in the form of interpretive services, natural resource assessments, and management, and stream conservation projects.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senators Johnson and Shields and Representatives Nathanson and Garrard excused.

43. Parks and Recreation Department

Representative Smith moved that the Emergency Board acknowledge receipt of a report from the Parks and Recreation Department on its business transactions with any nonprofit or tax exempt organization for the benefit of the Oregon State Fair and any resulting benefit to the Fair.

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

The Department reported the Oregon State Fair Foundation as the primary organization focused on fund raising efforts to build a new Oregon Youth Village for Oregon 4-H, Future Farmers of America and other youth organizations to participate at the Fair. To date the Foundation has collected \$23,472 and expects an additional \$10,000 cash donation in January 2011.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senators Johnson and Shields and Representatives Nathanson and Garrard excused.

44. Department of Environmental Quality

Representative Komp moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Environmental Quality by section 5(1), chapter 648, Oregon Laws 2009, Air quality, by \$1,378,000; and approve, within the Federal Funds expenditure limitation established for the Department of Environmental Quality by section 5, chapter 648, Oregon Laws 2009, the transfer of \$200,000 from subsection 3, Land quality, and the transfer of \$200,000 from subsection 4, Cross program, to subsection 1, Air quality, for additional funding for air quality programs.

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

The Department of Environmental Quality (DEQ) requested increasing its Federal Funds expenditure limitation for monies received through the American Recovery and Reinvestment Act (ARRA) to retrofit school buses and local government transit vehicles with diesel fuel emissions reduction technology. Some increase in federal funding for these type of “Clean Diesel” grants was anticipated during the biennium and the Federal Funds expenditure limitation for the program was increased in the 2009-11 legislatively adopted budget by \$652,000. However, this underestimated the amount of federal money the program received. DEQ has received a total of \$1,730,000 in ARRA funding for clean diesel programs in 2009-11. This necessitates an increase of \$1,078,000 to accommodate the unanticipated federal funding.

DEQ also received additional unanticipated funding from the Environmental Protection Agency (EPA) this biennium for specific air quality activities. These additions include \$122,000 for an economic analysis of the low carbon fuels standard, \$68,000 for the wood stove program, \$42,000 to support increased costs of base grant activities, and \$62,000 of increased base grant funding for operation of a lead monitor needed for the new EPA lead standard. DEQ also received more federal funding for work related to fine particulate pollution, or PM 2.5, work. This includes \$150,000 that will be passed through to the Lane Regional Air Protection Agency for its work implementing a statewide PM 2.5 monitoring system, a \$200,000 increase in state base grant support for PM 2.5 activities, and a one-time increase of \$56,000 to purchase PM 2.5 monitoring equipment.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senators Johnson and Shields and Representatives Nathanson and Garrard excused.

46. Department of State Lands

Senator Girod moved that the Emergency defer the request to allocate \$2,375,910 General Fund for expert witness expenses associated with the Portland Harbor Superfund until the 2011 legislative session when the Legislature takes action to rebalance the remainder of the 2009-11 biennial budget.

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

The Legislature allocated \$2,825,910 General Fund to a special purpose appropriation to pay the expert witness fees and Attorney General costs related to the Portland Harbor Superfund cost allocation process.

Because the Department's Other Funds expenditure limitation for most activities and projects of the agency are appropriated in one line item and revenue from statutory sources can be used for this project, the agency is able to continue to use its current Other Funds expenditure authority to pay the contractor and Attorney General costs until the Legislature convenes in 2011. The Department does not have sufficient statutory Other Funds resources to fund the entire project and maintain operations of the statutory programs.

Because the Legislature plans to take action to rebalance the remainder of the 2009-11 biennial budget early in the 2011 regular session, the Subcommittee recommended deferring the request.

The following Committee discussion occurred:

Representative Kotek asked if the agency would need the money in 2011 or does this delay implementation of the Portland Harbor evaluation.

The Legislative Fiscal Office indicated that the agency will need the allocation in 2011 and that deferral did not delay implementation of the work. The agency will continue to use Other Funds resources that will be needed to fund programs after March 2011.

The Subcommittee recommended deferring the request.

The motion carried with no objection voiced. Senator Shields excused.

47. Department of State Lands

Representative Komp moved that the Emergency approve the submission of a federal grant application to the U.S. Fish and Wildlife Service Cooperative Endangered Species Conservation Fund in the amount of \$3.9 million for the acquisition of over approximately 602 acres in Benton County to support implementation of the county Habitat Conservation Plan for declining native prairie species.

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

The Department of State Lands is the designated agency to apply for and receive federal grants from the U.S. Fish and Wildlife Service. The Greenbelt Land Trust and Benton County requested the Department apply for the grant on their behalf. The federal funding availability application deadline is January 18, 2011. The grant requires a 25% funding match which will be paid by the Greenbelt Land Trust. If the grant application is successful, the Department will require an increase in Federal Funds expenditure limitation to distribute the funds.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Winters suggested that the legislative representatives for the area that these land acquisitions are taking place be consulted before approving the request.

Senator Whitsett commented that he consistently votes no on taking private land and putting it into public ownership.

Senator Girod noted his support for the request, but expressed his concerns of Endangered Species listings by the federal government resulting in these land acquisitions to protect them.

Senator Bates clarified that because the property will continue as a working farm and public trail-use area after the acquisition property taxes will continue to be paid.

The motion carried. Senator Whitsett and Representative Garrard voted no. Senator Shields excused.

48. Department of State Lands

Representative Komp moved that the Emergency approve the submission of a federal grant application to the U.S. Fish and Wildlife Service Cooperative Endangered Species Conservation Fund in the amount of \$500,000 for acquisition of a conservation easement over approximately 282 acres in Yamhill County to support habitat for rare and declining Willamette Valley prairie species including Fenders Blue Butterfly.

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

The Department of State Lands is the designated agency to apply for and receive federal grants from the U.S. Fish and Wildlife Service. The Trust for Public Land requested the Department apply for the grant on their behalf. The federal funding availability application deadline is January 18, 2011. The grant requires a 25% funding match which will be paid by the Trust for Public Land. If the grant application is successful, the Department will require an increase in Federal Funds expenditure limitation to distribute the funds.

The Subcommittee recommended approval of the request.

The motion carried. Senator Whitsett and Representative Garrard voted no. Senator Shields excused.

49. Department of State Lands

Representative Komp moved that the Emergency Board approve the submission of a federal grant application to the National Oceanic and Atmospheric Administration under the Construction and Acquisition Grant Program in the amount of \$282,000 for construction projects at the South Slough National Estuarine Research Reserve.

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

The South Slough National Estuarine Research Reserve (Reserve) receives federal funding from the National Oceanic and Atmospheric Administration for operations and special projects, including construction. The application timeline for the grant did not allow the agency to seek prior approval to apply for the grant. Grant applications were due November 18, 2010. DSL submitted timely notification to legislative leadership of its intent to apply for this grant. If approved, the grant will provide \$102,000 to install an ultra-high efficiency wood-fired thermal mass heater at the Interpretive Center as well as to reconfigure and upgrade laboratory spaces at the Reserve science laboratory; and \$180,000 for improvements to a pioneer homestead structure located on the Reserve for wildlife monitoring and to secure management responsibility and make improvements for an existing road right of way with the Reserve property boundary.

The construction grant requires a 30% match which will be provided with a combination of construction materials on hand and in-kind project management services.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

50. Columbia River Gorge Commission

Senator Monroe moved that the Emergency Board acknowledge receipt of a report from the Columbia River Gorge Commission on the authority of the Commission to charge fees for services.

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

The Legislature instructed the Columbia River Gorge Commission to obtain legal opinions on the Commission's general authority to collect revenue from fees. Both Attorney General offices of Oregon and Washington have issued memoranda stating that the Commission does not have expressed or implied authority to charge fees. Such authority would require the legislatures of both Oregon and Washington to seek Congressional consent, as well as agree to amend the terms of the Gorge Compact and enact the changes in their respective state statutes.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Johnson voice concerns about the amount of funds used for attorney general services in light of the Legislative Fiscal Office's previous analysis that any revenue from fees would be small and unpredictable coupled with high administrative costs. Senator Johnson stated that the Commission needs to be meaningful and sustainable, or be dissolved.

Representative Jenson reminded the Committee that dissolving the Commission would also require an Act of Congress, and the legislatures of both Oregon and Washington to agree to specified terms for dissolving the Gorge Compact.

Representative Kotek reported that in one of the breakout sessions at the Oregon Leadership Summit on Monday, December 13th, there was expressed support for the Columbia River Gorge Commission. The participants felt that the Commission played a role in helping them manage the National Scenic Area designation.

The motion carried with no objection voiced. Senator Shields excused.

51. Department of Transportation

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Department of Transportation relating to the Oregon Wireless Interoperability Network project's current status and on alternatives for the project's design, scheduling, and financing to present to the 2011 Legislature.

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

The Oregon Wireless Interoperability Network project (OWIN) was created to replace the out-of-date existing state wireless communications infrastructure; meet the federal requirements to convert systems to narrowband frequencies by 2013; and meet the requirements of HB 2101 (2005) which outlined a single emergency response system for state agencies and interoperability needs for all public safety agencies. During the 2010 session, the Legislature moved the project to the Oregon Department of Transportation (ODOT) to take advantage of that agency's experience and resources relating to project management and large construction projects.

The purpose of this report is to provide an update to the Emergency Board on the status of the OWIN project and to identify potential alternatives for addressing the OWIN project during the upcoming 2011 legislative session. Given the tight timelines involved in this project, the Legislature will need to make some crucial funding decisions early in the 2011 legislative session.

The Subcommittee heard an update on what the OWIN project has accomplished or moved forward since September including:

- The last remaining major contract dealing with the purchase and installation of radios has been awarded. This will provide important information to move forward in developing a more in-depth project plan, schedule, and budget as more information becomes available.
- The project is on schedule to visit and assess the need of virtually all of the planned sites before the end of the year, which will provide working information on what each site requires for engineering, infrastructure, power sources, and other improvements.
- Long range planning on operational needs and costs are underway, as well as contingency plans if the project does not meet the scheduled milestones including the 2013 federal deadline for narrowband radios.

The Emergency Board in September instructed the OWIN project to return to this meeting to outline options to consider during the 2011 legislative session. There are two reasons for this: (1) the state's current fiscal situation as it faces a \$3.5 billion General Fund deficit for 2011-13, and (2) to insure that the project has looked at major technical designs other than the current planned design. The OWIN staff outlined seven alternatives regarding the future design of the program as well as its financing. The alternatives ranged from the current project design and schedule to completely shutting the project down. The OWIN team also looked at delaying portions of the project as alternatives. It was the expectation that these alternatives be further explored including their cost or savings, their impact on the original goals of the OWIN project, and the effect on the project's schedule. These alternatives then need to be presented to the Legislature in a variety of forums including an OWIN legislative workgroup. Whatever alternatives are fully developed, the Legislature needs to begin to address what route to take early in the 2011 legislative session so the project's progress is not set back significantly. If there is a large change made to the project due to financial or design related reasons, significant work on the project plan, schedule, budget, and other project management components will have to be made which will take time to complete. The OWIN project staff also discussed the challenges the project schedule faces and the consequences of delaying decisions on future direction for the project given the federal deadline and the timing of construction seasons. Early in 2011, the project must start arranging for the work that is to be completed during the 2011 construction season. The longer the delay in deciding what design and financing path to take, the less chance there is for the project to meet the federal deadline.

Even with the progress made by the OWIN project staff supported by ODOT resources, there are still a number of important concerns with the project that need to be addressed as the project progresses including:

- There are a number of decisions yet to be made before the final scope of the project can be locked in. These decisions include future funding decisions; changes in project design and

the number of towers and their locations now that the radio contractor has been selected; and how mobile data service will be delivered. Until the scope is locked in, final project plans, budget, financing needs, and schedule cannot be completed.

- While the OWIN project staff is working on the operational design, staffing needs, and costs, there still remains a great deal of uncertainty on what the ongoing costs of the project will be and what the governance model will be.
- The OWIN project is working under a very tight and aggressive timeline given the federal narrowband deadline, construction schedules, and the fact that one of the major contractors has just been selected. There is not clear evidence that the 2012 completion date can be met.
- Contingency plans have yet to be fully developed if the project does not meet the federal narrowband deadline or is not fully operational when “turned on.”

The Subcommittee also discussed a number of issues facing the project including its accountability, transparency, and the need to build trust after recent reports on past activities.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Girod expressed his concerns about this project and whether there is a need for the project.

Senator Johnson stressed the need for education of members of the Legislature regarding the project’s costs, risks, and complexity. She suggested that project staff make presentations to each of the caucuses.

Representative Garrard expressed concerns about the costs of towers as presented by the project staff during the Subcommittee meeting.

Representative Nathanson provided further background information on the original need of the project.

Representative Jenson stated that there are limited options available and also supported Senator Johnson’s idea of educating all legislators of this complex project.

Senator Verger outlined the challenges facing the project.

Representative Smith also stated the need for all of the legislators to be informed of the need and issues relating to this project.

Senator Bates described a success story in Southern Oregon relating to OWIN and local governments.

Senator Nelson provided some background information on the costs of the project.

Senator Winters outlined her concerns about not addressing the interoperability issues that are part of the OWIN project.

Senator Whitsett expressed the need for information on the ongoing operation and maintenance costs and where this function will reside in state government.

The motion carried. Senator Girod voted no. Senator Shields excused.

52. Department of Transportation

Representative Edwards moved that the Emergency Board acknowledge receipt of a report from the Department of Transportation on the status of the Innovative Partnership Program.

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

The Department is required by statute to report to at least twice to the Emergency Board each interim on the transportation projects proposed or agreed to under the Innovative Partnerships Program. This is the second report and included information about the expenditure of funds for evaluation of concepts and proposals for the purchase of two high-speed passenger train sets for passenger rail, the solar highway demonstration project, outsourcing highway maintenance pilot project, and the network of charging stations for electric vehicles.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields excused.

53. Department of Transportation

Senator Johnson moved that the Emergency Board approve the submission of a federal grant application to the Federal Motor Carrier Safety Administration in the amount of up to \$1.5 million to fund four projects in the Driver and Motor Vehicles Division.

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

The Oregon Department of Transportation (ODOT) Driver and Motor Vehicles (DMV) Division is implementing major changes to its computer systems due to changes in federal regulations issued in 2005, and in December 2008. Failure to achieve compliance can result in the withholding of federal highway funds. The grant is in an amount of up to \$1.5 million from the Federal Motor Carrier Safety Administration (FMCSA) for the Commercial Driver License (CDL) Program. Grant applications are due December 31, 2010. The grant will be administered through ODOT's Driver and Motor Vehicle Services Division. ODOT has previously received FMCSA grant funds to initiate necessary federal CDL program requirements. No state match is required.

The grant, if awarded, would be used to fund four projects within Driver and Motor Vehicles Division, requires no state match, and can be accommodated within existing staff. The projects include continuation of system upgrades to the Commercial Driver License Information System, installation of security cameras in knowledge testing areas for Commercial Driver License testing, piloting a skills testing software program containing a GPS, and reimbursing the State Highway Fund for the recent implementation of the automated knowledge testing system.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

54. Department of Transportation

Representative Edwards moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Transportation by section 2(3), chapter 739, Oregon Laws 2009, Public transit, by \$14,500,000, with the understanding that the Department of Administrative Services will unschedule \$14,500,000 Other Funds expenditure limitation.

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

The Oregon Department of Transportation (ODOT) Public Transit Division reported that total Other Funds revenue from various sources in the Public Transit Division will fall short of the projected amounts anticipated by the legislatively adopted budget. Other Funds revenue sources within the Public Transit budget include personal identification fees, tobacco taxes, non-highway fuel taxes, flexible federal highway funds, and miscellaneous and interest income. Most notably, \$10 million budgeted as Other Funds from federal sources will be received as Federal Funds. The availability of Federal Funds through the American Recovery and Reinvestment Act and federal flexible funds increased more than the legislatively adopted budget anticipated. The Department requests an increase in Federal Funds expenditure limitation to replace \$14.5 million Other Funds limitation to provide the grants to local public transit providers as planned.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

55. Department of Transportation

Senator Johnson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Transportation by section 1(7), chapter 739, Oregon Laws 2009, Modernization program, by \$25,000,000 and increase the Other Funds expenditure limitation established for the Department of Transportation by section 1(8), chapter 739, Oregon Laws 2009, Special programs, by \$26,000,000 to reflect planned and accelerated payments for highway projects.

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

The Oregon Department of Transportation reports that estimated contract payments for the Highway Modernization and Special Program areas have been paying out at different rates than originally estimated in the legislatively adopted budget. The mild weather in 2009-10 has had a positive impact on construction as well as the receipt of federal funds under the American Recovery and Reinvestment Act of 2009 and the Transportation Investment Generating Economic Recovery (TIGER) II program allowing more construction to be accomplished than expected. As a result, the Department requires an increase in expenditure limitation for the two programs to accommodate the anticipated contractor payments in the Modernization Program and in Special Program projects.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

56. Department of Consumer and Business Services

Senator Monroe moved that the Emergency Board acknowledge receipt of an annual report from the Department of Consumer and Business Services on workers' compensation insurance premium assessment rates mandated by ORS 656.612(6).

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

The Department of Consumer and Business Services (DCBS) levies an assessment on workers' compensation insurance premiums to finance the state's workers' compensation system and workplace health and safety programs. The Department submitted a report, as required by statute, on the assessment rates for 2011. The assessment rate will increase from 4.6% to 6.4% of the premium amount effective on January 1, 2011.

The increase follows four years of stable assessment rates, and is being implemented to avoid depletion of the Premium Assessment Operating Account, the account that supports the administration of the state's workers' compensation system. This account will be depleted by 2012 under current forecast projections, if the assessment rate is not changed.

Although the assessment rate has been held constant since 2007, assessment revenues have declined significantly since then. The assessment is levied on workers' compensation insurance premium payments, and revenues therefore fluctuate with the level of those payments. Premium payments have fallen by 25% during the current recession as both payrolls and premium rates have dropped. DCBS has implemented cost reductions, including staff layoffs, in response to this revenue decline, reducing total expenditures by 13.9% from the level two years earlier.

Although the assessment rate is being increased, pure-premium rates (the portion of the workers' compensation premium levied to finance expected claims) are being reduced by an average of 1.8%. These reductions will, on average, offset the assessment rate increase of 1.8 percentage points. DCBS sets pure premium rates based on recommendations of the National Council on Compensation Insurance Inc. (NCCI). NCCI recommended the rate changes based on claims data, and DCBS limited the assessment rate increase to 1.8 percentage points to keep total costs to employers stable on average.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Girod stated that this 39% rate increase, implemented at a time when businesses are struggling, is hard to accept. He noted that workers' compensation claims have dropped, and that the reason assessment revenue is down is because the number of people employed has fallen. Therefore, he commented, DCBS needs to reduce administrative costs, and he does not feel this has adequately been done. He indicated he would oppose the motion as that it puts out the wrong message at a time when the state needs to be open for business.

Senator Bates asked for clarification on the use of the assessment revenues. Legislative Fiscal Office (LFO) staff explained that assessment revenues funded the administration of the state's workers' compensation system and workplace health and safety programs, including Oregon OSHA.

Senator Bates responded that he had concerns about OSHA and about increasing funding for administration.

Senator Whitsett concurred with Senator Girod and indicated that he opposed transferring the employers' pure premium savings, generated from improving workplace safety, to program administration.

Senator Winters supported Senator Girod's and Senator Whitsett's comments, and expressed concerns about the assessment rate increase.

Representative Buckley asked whether the assessment increase would be used to increase salaries for OSHA employees. LFO staff indicated that the assessment increase will not be used to restore or expand agency programs, or for salary increases. The assessment increase will allow the program to remain solvent through the next biennium at the current level of program operations. Staff also clarified that the assessment rate is set by the Department and not by the Emergency Board. The Emergency Board is only considering whether to acknowledge receipt of a report on the rate increase.

Senator Whitsett asked whether reducing program costs, instead of increasing the assessment, would be an alternative way to retain solvency of the fund. LFO staff indicated that this was correct, and that the Department had reduced expenditures by about 14% on an annual basis to help address the revenue declines. If the current assessment rate was not changed, program funds would be depleted by 2012, even at this reduced expenditure level.

Representative Berger stated that she was voting no to indicate that the assessment increase represents a missed opportunity to be responsive to business needs. She stated that we need to make it easier for the business community to conduct business in this state.

Representative Kotek disagreed and stated that the Department has been responsive and prudent, and has taken steps to reduce its costs and staffing.

Representative Smith asked what level of expenditure reductions would be needed to avoid depletion of the fund next biennium.

Representative Hunt commented that he hears business requests to make other state programs as effective as workers' compensation and OSHA, and that business sees real value added from these two programs. He stated that they are successful programs that are helpful to businesses, and the state needs to support them.

LFO staff responded to Representative Smith's question by noting that program expenditures have been reduced from \$64 million to \$55 million per year over the past two years, but are still running about \$13 million per year below revenue. An additional \$13 million per year expenditure reduction would avoid further depletion of fund balances.

Senator Winters added that the Legislature will have to address many assessment increases in the next session.

Senator Bates stated that this rate increase sends the wrong message to the business community.

Senator Monroe noted that one reason worker's compensation premium rates are decreasing is because of improving workplace safety. This has reduced premium revenues. The Department is just following the law by increasing the rate to keep the program solvent. It is up to the Legislature, next session, to determine whether additional cost reductions are needed.

The motion carried. Senators Winters, Whitsett and Girod and Representatives Smith, Garrard and Berger voted no. Senator Shields excused.

57. Health Licensing Agency

Representative Kotek moved that the Emergency Board increase the Other Funds expenditure limitation established for the Health Licensing Agency by section 1, chapter 650, Oregon Laws 2009, by \$220,000 to cover costs related to Attorney General expenses.

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

The Oregon Health Licensing Agency sought to increase its Other Funds expenditure limitation by \$220,000. The agency needs the additional expenditure limitation to sufficiently cover costs related to Attorney General expenses.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Whitsett voiced concerns that Other Funds agencies are requesting additional limitation and using ending balance reserves.

The motion carried with no objection voiced. Senators Bates and Shields excused.

58. Health Licensing Agency

Representative Buckley moved that the Emergency Board acknowledge receipt of a report from the Health Licensing Agency relating to the status of fee changes.

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

The Oregon Health Licensing Agency was directed by a budget note to report on the status of fee changes. The review of the fee structure has resulted in the agency adjusting the cost allocation model to better reflect direct usage of licensing, business services, and regulatory divisions of the agency. Additionally, the review found that current fees of some of the boards within the agency were not sustainable and would not provide sufficient cash flow or working capital reserves.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senators Bates and Shields excused.

59. Bureau of Labor and Industries

Representative Smith moved that the Emergency Board increase the Other Funds expenditure limitation established for the Bureau of Labor and Industries by section 3(1), chapter 724, Oregon Laws 2009, on administrative expenses from the Wage Security Fund, by \$119,171, to allow the agency to maintain current operation levels for the remainder of the biennium.

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

The Bureau of Labor and Industries (BOLI) requested a \$389,723 Other Funds expenditure limitation increase to offset the agency's General Fund reduction that resulted from the second allotment reduction approved this biennium to avoid a General Fund deficit. BOLI reported that absent this increase, the agency would have to lay off critical staff and reduce enforcement activities. To avoid this, the agency proposed shifting a portion of the personal services expenses associated with seventeen positions from the General Fund to the Prevailing Wage Rate Education and Enforcement Account and to the Wage Security Fund. Both of these Other Funds sources have sufficient fund balances to finance the additional expenditures and retain prudent ending balances.

The Subcommittee recommended allowing a more limited fund shift than the agency requested, but one still sufficient to allow the agency to retain its current staff. The recommended Other Funds expenditure limitation increase, along with \$163,308 of excess Other Funds expenditure limitation generated from two Other Funds-supported position vacancies, will allow the agency to shift \$282,479 of personal services expenditures from General Fund to Other Funds. This will allow the agency to avoid layoffs of current General Fund-supported staff for the remainder of the biennium. The Subcommittee declined, however, to recommend approval of the use of fund balances to fill two existing General Fund-supported vacant positions. Because of the ongoing General Fund shortfall, the Subcommittee concluded that it was prudent to preserve these funds, which may be needed to address other current and future biennium needs. The Legislature may decide whether to use fund balances to fill the vacant positions when it does a comprehensive rebalance of the state budget during the 2011 session.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The following Committee discussion occurred:

Senator Girod indicated he was opposing the measure, which is designed to inoculate the agency from the impact of necessary General Fund cuts, and stated that if there is a need to reduce General Fund expenditures, this would be one of the agencies on the top of his list for reductions.

Representative Jenson stated that he does not necessarily disagree with Senator Girod, but noted that there have been a number of actions to patch existing budget shortfalls until the next session. He noted that we know the budget shortfall next session will be disastrous, and questioned whether the state should continue funding services that we know cannot be continued next biennium.

Representative Buckley remarked that this was an excellent question and one that legislators have struggled with. He noted a counter argument is that continued funding allows agencies to continue to fulfill missions we have asked them to fulfill, and provides agencies with the stability and time needed to redesign their services and budgets to address the revenue shortfall.

Senator Monroe pointed out that BOLI requested money to restore two vacant positions, and gave a compelling argument why those positions were necessary. The Subcommittee refused this request, however, and only recommended the level of funding needed to avoid layoffs. He commented that the full Legislature can determine whether the vacant positions need to be filled in February. He stated the Subcommittee was very careful in its recommendation.

Representative Jenson clarified that he did not want to give the impression that he had specific objections to BOLI's request, but that rather he was expressing concerns relating to the budget overall.

The motion carried. Senator Girod voted no. Senator Shields excused.

60. Board of Dentistry

Representative Kotek moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Dentistry by section 1, chapter 155, Oregon Laws 2009, by \$113,146 for expenses associated with the Health Professionals' Service Program.

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

HB 2345 (2009) established the Health Professionals' Service Program (HPSP) within the Department of Human Services (DHS). This program is designed to provide monitoring for health professionals suffering from mental health or substance abuse problems. The bill also required that the affected agencies transfer the operation of their in-house programs to DHS. DHS was required to establish a contract(s) with an outside vendor to provide monitoring of impaired professionals program and a vendor to provide an independent audit of the program. In addition, DHS is to recover their costs associated with the program.

The Board of Dentistry previously provided these services in-house as the Voluntary Confidential Diversion Program that utilized existing staffing and budget. Participating in the HPSP will result in an additional \$113,146 in expenses to the Board. This amount was not anticipated in the 2009-11 budget and the Board will have an adequate ending balance to cover the additional need.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

61. Board of Pharmacy

Senator Nelson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Pharmacy by section 1, chapter 88, Oregon Laws 2009, by \$189,000 to cover costs of Attorney General, Office of Administrative Hearings, and the Health Professionals' Services Program expenses.

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

The Health Professionals Services Program for impaired professionals was established within the Department of Human Services under HB 2345 (2009). The Board opted to participate in the new program; however the costs to participate exceed the budgeted amounts for the impaired professionals program previously operated within the Board of Pharmacy.

Additionally, the Board has encountered higher than anticipated legal expenses due to an increased number of cases and the cumulative impact of legislation passed during the 2009 session and 2010 special session. The Board requires additional limitation to cover current and projected Attorney General and Office of Administrative Hearings costs for the remainder of the biennium.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

63. Board of Nursing

Representative Buckley moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Nursing by section 1, chapter 380, Oregon Laws 2009, by \$1,060,000 for expenses associated with the Health Professionals' Service Program and increased Department of Justice costs.

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

HB 2345 (2009) established the Health Professionals' Service Program (HPSP) within the Department of Human Services (DHS). This program is designed to provide monitoring for health professionals suffering from mental health or substance abuse problems. The bill also required that the affected agencies transfer the operation of their in-house programs to DHS. DHS was required to establish a contract(s) with an outside vendor to provide monitoring of impaired professionals program and a vendor to provide an independent audit of the program. In addition, DHS is to recover their costs associated with the program.

In the 2007-09 biennium, the Board of Nursing spent approximately \$600,000 to support the Nurse Monitoring Program. The expenses associated with the HPSP, in FY 2011, will be \$1,178,343. The Board will need \$940,000 in additional Other Funds expenditure limitation to meet this increased expense. In addition, the Board has seen an increase in contested case hearings and case complexity resulting in increased Attorney General billings. The Board of Nursing has requested and additional \$120,000 in Other Funds expenditure limitation to cover this expense. The additional limitation can be taken from the agency's ending balance and leave an adequate ending balance.

The following Committee discussion occurred:

Senator Bates asked whether or not this was the correct policy for the state and what the long-term fiscal implications would be.

The motion carried with no objection voiced. Senator Shields excused.

64. Board of Examiners for Speech-Language Pathology and Audiology

Senator Winters moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Examiners for Speech-Language Pathology and Audiology by section 6, chapter 157, Oregon Laws 2009, by \$59,634, approve the establishment of a limited duration part-time Investigator 2 position (0.13 FTE), and temporarily increase the Executive Director position from part-time to full-time for the remainder of the biennium (0.10 FTE).

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

The Board of Speech-Language Pathology and Audiology has seen a significant increase in the number of complaints, investigations, and disciplinary cases from the prior biennium due in part to an increase in the number of licensees and the new statutory authority of the Board to conduct background checks. This increase has resulted in higher than anticipated legal expenses and the corresponding workload has resulted in a need to temporarily increase the Executive Director's FTE to full-time and to hire a limited duration part-time staff to assist with investigations. Any permanent changes to existing position authority or FTE will be deferred until the budget hearing process in the 2011 legislative session.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Johnson voiced concerns that agencies are not exploring more innovative approaches to address workload issues.

The motion carried. Senator Johnson voted no. Senator Shields excused.

65. Board of Licensed Social Workers

Senator Winters moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Licensed Social Workers by section 1, chapter 152, Oregon Laws 2009, by \$112,000 for increased costs.

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

The State Board of Licensed Social Workers is requesting an increase in Other Funds expenditure limitation of \$112,000 for increased costs to implement SB 177 (2009) and other operating costs.

SB 177 (2009) made a number of changes to the workload of the State Board of Licensed Social Workers (Board), including new licensing requirements for persons practicing clinical social work and expanding licensing to non-clinical social workers. The bill is effective January 1, 2011.

The budget bill for the Board (SB 5508) recognized that there could be additional costs associated with this bill, but since actual costs could not be determined, the Board was directed to return to the Emergency Board for any necessary additional Other Funds expenditure limitation. The Board has identified \$72,603 Other Funds in costs associated with implementation of SB 177:

- \$21,603 Other Funds for a part-time temporary investigator to assist with the anticipated complaint workload related to the new licensure violation caseload;
- \$31,000 Other Funds for increased criminal background checks for new licensees; and
- \$20,000 Other Funds for increased Attorney General Fees and increased information technology requirements.

The Board is also requesting an Other Funds expenditure limitation increase of \$39,397 for existing costs (\$24,000 Other Funds) for criminal background checks that was inadvertently omitted from the 2009-11 budget request, and unanticipated unemployment insurance claims (\$15,397 Other Funds) from two former employees.

The Subcommittee discussed the Board's decision to opt out of the Health Professionals' Service Program and the increase in unemployment insurance costs.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

66. Board of Accountancy

Senator Johnson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Accountancy by section 1, chapter 86, Oregon Laws 2009, by \$400,000 for developing and implementing an online licensing system.

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

During the 2007-09 biennium, the Board received legislative approval of a policy package to fund the preliminary work of the development of an online licensing system. When the former executive director retired in January 2009, the Legislative Fiscal Office (LFO) recommended that the agency delay the second phase of the project, and return to the Emergency Board after the new executive director was on the job for a sufficient amount of time to become familiar with the needs of the agency. Since then, the current director has had sufficient time to work with the Department of Administrative Services (DAS) and LFO to ensure that this project is justified by a sound business case, linked to agency business plans, and aligned with the state's enterprise information technology strategies. Current revenue estimates indicate that the Board will have sufficient revenue to absorb the increase in limitation.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

67. Board of Tax Practitioners

Representative Garrard moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Tax Practitioners by section 1, chapter 159, Oregon Laws 2009, by \$20,000 for Attorney General expenses.

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

Due mostly to an unexpected large case, the Board anticipates needing additional expenditure limitation for court cases and contested case hearings for the remainder of the biennium. The Board has attempted to absorb these unanticipated Attorney General costs through savings in other budget line items. However, as a small agency, adequate savings during this budget period appear unlikely due to the exceptional nature of Attorney General costs to date, and the level of legal activity anticipated for the rest of the biennium. Current revenue estimates indicate that the Board will have sufficient revenue to absorb the increase in expenditure limitation.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

**68. Department of Administrative Services
Department of Education
Department of Human Services**

Representative Komp moved that the Emergency Board acknowledge receipt of a report from the Departments of Administrative Services, Education, and Human Services on the status of the closure and sale of the former School for the Blind property, but defer any necessary budget adjustments until the 2011 legislative session.

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

HB 2834 (2009) directed the closure of the Oregon School for the Blind (OSB) prior to September 1, 2009. Further, the Department of Administrative Services (DAS) was directed to take the property into trust and to develop a plan for the sale and distribution of real and personal property. A special purpose appropriation to the Emergency Board totaling \$2.85 million General Fund was established to cover costs associated with the closure of the school including the work necessary to transfer title; inventory equipment, supplies, and records; employee layoffs; building and grounds maintenance until sale; and evaluating and screening students for services provided by the Department of Human Services (DHS).

Subsequent to the closure, various plaintiffs took legal action against the State of Oregon and the Department of Education (ODE) concerning portions of the OSB property. The passage of HB 3687 (2010) addressed several of the concerns raised, and Marion County Circuit Court signed a stipulated general judgment to settle the litigation. One provision of the bill directs the proceeds from the sale of the property to be allocated fifty-fifty to the Blind and Visually Impaired Student Fund (BVI) and for improvements, repairs, and maintenance costs benefitting the health, safety, and housing of the students of the Oregon School for the Deaf (OSD).

Department of Administrative Services

On October 19, 2010, DAS closed on the property's sale, receiving \$6 million from Salem Hospital. During the sale due diligence period, three underground storage tanks were discovered on the property. The Department of Justice (DOJ) advised that DAS is responsible for costs of mitigating any environmental impacts caused by the tanks.

This issue was resolved with the buyer by agreeing to place \$500,000 of the sale proceeds in an escrow account to cover decommissioning of the tanks and removal of any associated contamination. Actual costs are highly dependent on whether or not contaminants are found, but are expected to be at least \$40,000. It also unclear how long it will take to complete the mitigation process. Funds remaining in escrow after mitigation costs are recovered will be distributed to the BVI and OSD programs in the same manner as described above.

In the letter submitted to the Emergency Board, DAS indicates it also expects to recover the following costs of sale from the proceeds: \$185,000 for broker's fees (3%), \$70,000 for ODE legal fees, and \$450,000 for various DAS costs associated with the sale.

After subtracting these costs, sale closing fees, and the tank mitigation set-aside from the sales proceeds, the original estimate of funds available for initial distribution to the BVI and OSD funds was \$4,795,000. However, more recent information from DAS outlines about another \$150,000 in agency expenditures associated with the property sale.

Department of Education

Of the 28 students expected to attend OSB at the time of closure, ODE reports that 16 are currently enrolled in public schooling, one is receiving home instruction, one has graduated, six aged-out and are no longer eligible for education services, and four moved out of state. ODE continues to review, in cooperation with the DOJ, trust funds and other accounts associated with OSB. Of the funds in question, \$126,000 has been returned to donors, \$190,000 has been transferred to the BVI, and \$515,000 is still under review.

Subsequent to submitting the letter to the Emergency Board, ODE has identified the potential to incur \$50,000 in legal and unemployment insurance costs in addition to the \$588,917 in costs associated with staff and property transition.

Department of Human Services

DHS reports it is providing services in various Office of Developmental Disability Services programs for 19 of the 28 students initially moved from OSB. Of the nine not served, six did not pursue the services, two moved out of state, and one applied for services but was not eligible. Of the 19 served, 12 have or are projected to receive services through children's programs, primarily the General Fund- only Family Support program; seven are receiving services as adults, primarily through adult in-home supports. Although most of the individuals are being served with in-home supports, over half of the overall added costs come from out-of-home/residential care for just four individuals.

DHS estimates its 2009-11 direct services costs for the 19 students will be \$268,944 General Fund, \$727,231 total funds, and is requesting an allocation from the Emergency Board for the General Fund amount. This cost does not include general services such as case management, which DHS is covering through other budgeted resources.

Recommendation

Due to other actions by the Emergency Board, the special purpose appropriation associated with this request is not available for allocation at the December 2010 meeting. DHS costs are now part of the developmental disability services program caseload and should be considered in the overall context of DHS' budget during the expected Spring 2011 rebalance. In addition, some costs associated with the sale are still being reviewed and finalized, which may have an impact on the amount of sale proceeds available for distribution. For these reasons, the Legislative Fiscal Office recommended deferring any necessary budgetary adjustments until the 2011 legislative session.

The Subcommittee discussed the costs incurred by DAS, noting that costs are higher than what would be expected for the agency's role in this transaction.

The Subcommittee recommended acknowledging receipt of the report but deferring any budget adjustments until the 2011 legislative session.

The motion carried with no objection voiced. Senator Shields excused.

69. Department of Administrative Services

Representative Garrard moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services on revenue forecasting activities performed by the Oregon Department of Transportation.

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

The budget report for SB 5548, the primary 2009-11 budget bill for the Oregon Department of Transportation (ODOT), included a budget note regarding the agency's revenue forecasting work. The Office of Economic Analysis (OEA), within the Department of Administrative Services, was directed to review timeliness, objectivity, and methodologies used by the agency in performing its revenue forecasting duties.

To meet the budget note requirements, the Office of Economic Analysis contracted with ECONorthwest, an economic consulting firm, to provide an objective and thorough analysis of ODOT's forecasting efforts. ECONorthwest found the agency's forecasting process to be technically sound, but did recommend ODOT take steps to improve forecast methodologies and report processes. These steps include testing forecast precision more routinely and incorporating the potential impacts of legislation or policy changes into the revenue forecast.

OEA concurs with the report and the consultant's recommendations and plans to provide feedback to ODOT as the agency proceeds with improving its revenue forecasting activities.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields excused.

70. Department of Administrative Services Public Employees Retirement System

Representative Nathanson moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services and the Public Employees Retirement System on the new federal Early Retiree Reinsurance Program.

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

Federal health care legislation enacted in 2010 created a temporary reinsurance program for sponsors of employment-based health plans that provide health benefits to retirees who are over age 55 and not yet eligible for the Medicare program. The \$5 billion reinsurance program went into effect on June 1, 2010 and will run through January 1, 2014, unless the funding is used up prior to that date.

The program is intended to incentivize employers to keep offering early (pre-Medicare) retiree health benefits. Plan sponsors must be able to show that claim reimbursement dollars were not used to reduce their administration or budgetary levels of support for the plan.

The three state agencies and programs eligible for the Early Retiree Reinsurance Program (ERRP) are as follows:

Agency/Program	Eligible Participants	Estimated Reimbursements by Claim Year	
		2010 or 2009-2010	2011 or 2010-2011
Department of Administrative Services			
Public Employees’ Benefit Board	3,678	\$6,100,000	\$8,600,000
Oregon Educators Benefit Board	10,435	\$10,010,000	\$27,030,000
Public Employees Retirement System			
PERS Health Insurance Program	1,965	\$2,142,000	\$3,908,000

The extent to which the ERRP will reimburse claims will depend on the actual claims submitted and approved. The agencies plan to use reimbursements to stabilize rates and buy-down future premiums. Claims will be processed by the federal government on a first come, first serve basis.

The Subcommittee recommended acknowledging receipt of the report.

The motion carried with no objection voiced. Senator Shields excused.

**71. Department of Revenue
Oregon Youth Authority**

Representative Buckley moved that the Emergency Board allocate \$1,900,000 from the general purpose Emergency Fund established by section 1, chapter 910, Oregon Laws 2009, to supplement the appropriation made to the Department of Revenue by section 1, chapter 655, Oregon Laws 2009, administrative expenses, to prevent the layoff of staff in agency field offices and to maintain tax law enforcement and revenue collecting activities; and allocate \$3,000,000 from the general purpose Emergency Fund established by section 1, chapter 910, Oregon Laws 2009, to supplement the appropriation made to the Oregon Youth Authority by section 1(1), chapter 725, Oregon Laws 2009, Operations, to protect close custody beds and prevent staff layoffs.

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

Falling revenue forecasts led the Governor to reduce state agency spending through the allotment process. The June forecast led to reductions across the Executive Branch totaling over \$577 million and the September shortfall will lead to reductions totaling over an additional \$377 million. Separate legislative work groups met to discuss cuts affecting the Department of Revenue and public safety agencies, including the Oregon Youth Authority.

The following restorations were recommended:

- Department of Revenue – \$1,900,000 to prevent the layoff of staff in agency field offices and maintain tax law enforcement and revenue collecting activities.
- Oregon Youth Authority – \$3,000,000 to protect close custody beds and prevent staff layoffs. This amount is in addition to \$2,440,000 General Fund allocated at the September 2010 meeting of the Emergency Board.

The Subcommittee noted that additional funding will be needed at a future date to maintain these programs through the end of the 2009-11 biennium. Members also discussed how this agenda item only addresses a portion of the issues identified by legislators that need to be considered to mitigate cuts to critical state services. Adjustments related to the Department of Corrections, the Department of Education, and other programs are either being dealt with in other requests before the Emergency Board or are slated to be handled early in the 2011 legislative session.

The Subcommittee recommended approval of the request.

The motion carried with no objection voiced. Senator Shields excused.

72. Legislative Fiscal Office

Representative Buckley moved that the Emergency Board transfer unallocated balances in the amount of \$30,675,159 from special purpose appropriations made to the Emergency Board to the general purpose appropriation legal citation, per the attached table.

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

In addition to the primary appropriation of \$30,000,000 made to the Emergency Board by section 1, chapter 910, Oregon Laws 2009, the Seventy-fifth Legislative Assembly made 15 separate appropriations to the Emergency Board for special purposes. Special purpose appropriations not allocated by a specific time generally become available for any purpose for which the Emergency Board lawfully may allocate funds. When the Emergency Board met in December 2010, \$30,675,159 of expired special purpose appropriations were available for transfer based on the Legislative Fiscal Office recommendations on total requests.

The unallocated, unreserved balance of the general purpose \$30,000,000 appropriation to the Emergency Board available for its final meeting in December 2010 is \$5,390,447. While the unallocated balances of additional expired special purpose appropriations are also available, the legal authority for Emergency Board allocation of these funds is the original, separate appropriation authority. After transfer of the expired special purpose appropriations, the total amount available to the Emergency Board for its final meeting was \$36,065,606.

In order to facilitate any final Emergency Board actions, the Legislative Fiscal Office requested formal transfer of the special purpose appropriation balances to the general purpose appropriation authority. It is also possible that some agencies will need supplemental funding during the 2011 regular session to cover the ongoing costs of certain items where the special purpose appropriation authority has expired.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Nelson asked how much was available in the resources to both the Emergency Board and the entire Assembly during the 2011 session. He was informed that there was nothing left to the Emergency Board and there was approximately \$227 million available to the Legislature from General Fund ending balance, increased lottery revenues, reserve funds, and other sources.

The motion carried with no objection voiced. Senator Shields excused.

The meeting was adjourned at 11:50 a.m.

Representative Dave Hunt, Presiding Chair

Representative Peter Buckley, Secretary

ATTEST:

Ken Rocco, Legislative Fiscal Officer

DEPARTMENT OF HUMAN SERVICES 2009-11
December 2010

<u>Division/Appropriation Reference</u>	<u>Fund Type</u>	<u>Adjustments to Legislatively Approved Budget</u>	<u>Adjustments to Position Authority</u>
<u>Transfers, Allocation, Establishments, and Expenditure Limitation Adjustments:</u>			
Children, Adults and Families			
Ch 732 1(2)	General	15,739,540	
Ch 732 2(2)	Other Limited	3,253,281	
Ch 732 4(2)	Federal Limited	3,035,133	
	Total	22,027,954	2 positions / 0.75 FTE
Health Services			
Ch 732 1(3)	General	(32,446,258)	
Ch 732 2(3)	Other Limited	-	
Ch 732 4(3)	Federal Limited	98,823,171	
	Total	66,376,913	89 positions / 44.97 FTE
Seniors and People with Disabilities			
Ch 732 1(4)	General	17,792,891	
Ch 732 2(4)	Other Limited	11,764,444	
Ch 732 4(4)	Federal Limited	86,380,989	
	Total	115,938,324	
Administrative Services Division			
Ch 732 1(1)	General	5,972,532	
Ch 732 2(1)	Other Limited	-	
Ch 732 4(1)	Federal Limited	5,475,460	
	Total	11,447,992	(19) positions / (17.16) FTE
Capital Improvement			
Ch 732 1(5)	General	(592,587)	
Department Total			
	General	6,466,118	
	Other Limited	15,017,725	
	Federal Limited	193,714,753	
	Total	215,198,596	72 positions / 28.56 FTE

Request Department of Administrative Services to unschedule:

Health Services

Ch 732 2(3) Other Limited 8,173,777

Administrative Services Division

Ch 732 2(1) Other Limited 1,294,935

DEPARTMENT OF CORRECTIONS 2009-11
December 2010

Division/Appropriation Reference	Fund Type	Adjustments to Legislatively Approved Budget
<u>Allocations, Transfers, and Expenditure Limitation Adjustments:</u>		
Operations and Health Services		
Ch 860 1(1)	General	15,379,941
Ch 860 3	Federal Limited	4,939,427
	Total	20,319,368
Administration, Public Services, General Services and Human Resources		
Ch 860 1(2)	General	3,360,266
Transitional Services		
Ch 860 1(3)	General	(5,400,493)
Ch 860 2(3)	Other Limited	56,652
Ch 860 3	Federal Limited	615,081
	Total	(4,728,760)
Community Corrections		
Ch 860 1(4)	General	9,892,677
Ch 860 2(4)	Other Limited	575,123
	Total	10,467,800
Capital Improvements		
Ch 860 1(6)	General	(3,239,714)
Department Total		
	General	19,992,677
	Other Limited	631,775
	Federal Limited	5,554,508
	Total	26,178,960

Request Department of Administrative Services to unschedule:

Operations and Health Services

Ch 860 2(1)	Other Funds	4,000,000
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Special Purpose Appropriation Transfer Detail

Oregon Laws 2009 Chapter/Section	Agency/Purpose	Amount
Chapter 910, sec. 3(1)	Department of Justice - Tobacco Master Settlement Agreement defense	(453,039)
Chapter 910, sec. 48(1)	Legislative Administration Committee/Secretary of State - Redistricting costs	(600,000)
Chapter 910, sec. 49(1)	Legislative Branch Agencies - Costs associated with special session	(800,000)
Chapter 562, sec. 38(1)	Department of Education/Department of Human Services/Department of Administrative Services - Oregon School for the Blind closure costs	(2,850,000)
Chapter 635, sec. 7(1)	Department of Education - Local Option Equalization grants	(900,000)
Chapter 730, sec. 5(1)	Department of Forestry - Fire severity and fire insurance premium	(2,585,301)
Oregon Laws 2010 Chapter/Section		
Chapter 95, sec. 59(1)	Oregon Student Assistance Commission - 1st year Oregon Opportunity Grants	(5,000,000)
Chapter 95, sec. 77(1)	Public Defense Services Commission - Court fee revenue shortfall	(3,500,000)
Chapter 95, sec. 74(1)	Department of Human Services - Caseland and cost per case increases	(11,610,909)
Chapter 95, sec. 20(1)	Department of State Lands - Portland Harbor legal expenses	(2,375,910)
Total transfers from special purpose appropriations		(30,675,159)
Chapter 910, sec. 1, OL 2009	Emergency Board - General Purpose	30,675,159
Net General Fund Change		0