

AGENDA

EMERGENCY BOARD

Friday, January 5, 2001
Hearing Room F – 8:30 a.m.

Representative Snodgrass, Presiding

Confirmation of Appointment of Representative Elaine Hopson to the Emergency Board

Approval of November 17, 2000 minutes

Oregon Economic and Revenue Forecast

1. Department of Education (State School Fund)
2. Department of Justice (Interim Construction Fraud Evaluation Unit report)
3. Legislative Fiscal Office (special purpose Emergency Fund transfers)
4. Judicial Department (reports)
5. Judicial Department (Multnomah County standardized citations)
6. Department of Administrative Services; Department of Public Safety Standards and Training (training facility)
7. Department of Administrative Services (Justice Center building)
8. Government Standards and Practices Commission (legal expenses)
9. Public Employees Retirement System (reengineering project and additional FTE)
10. Department of Revenue (Elderly Rental Assistance)
11. Department of Higher Education (OSU Bell Tower)
12. Department of Higher Education (OSU McNary Dining Hall)
13. Oregon Student Assistance Commission (Need Grant over-commitment)
14. Teacher Standards and Practices Commission (legal expenses; Title II grant)
15. DHS – Director’s Office (disability policy unit grant limitation)
16. DHS – Office of Alcohol and Drug Abuse Programs (Conference grant application)
17. DHS – Office of Alcohol and Drug Abuse Programs (residential rate restructure)
18. DHS – Office of Alcohol and Drug Abuse Programs (Synar Amendment agreement)
19. DHS – Health Division (newborn hearing screening grant application)
20. DHS – Health Division (public health nurses grant application)
21. DHS – Health Division (Senior Farmers’ Market Nutrition Pilot Program grant application)
22. DHS – Health Division (Pregnancy Risk Assessment Monitoring System grant application)
23. DHS – Mental Health and Developmental Disability Services Division (long range plan report)
24. Department of Corrections (Lincoln County SB 1145 facility)
25. Department of Corrections (rebalance plan)

26. Department of State Police (rebalance plan)
27. Oregon Youth Authority (reports)
28. Employment Department (groundfish commercial fishery failure)
29. Housing and Community Services Department (lottery-backed bonds)
30. Dept of Agriculture; Economic & Community Development Dept/Oregon Tourism Commission (*withdrawn*)
31. Department of Fish and Wildlife (Columbia River Basin grant application)
32. Department of Forestry (fire suppression)
33. Department of Land Conservation and Development (legal services expenditures report)
34. Land Use Board of Appeals (revenue shortfall)
35. Division of State Lands (forest fire costs)
36. Division of State Lands (New Carissa removal)
37. Parks and Recreation Department (Facility Investment/Parks and Prisons reports)
38. Department of Aviation (airport improvement projects)
39. Department of Consumer and Business Services (Board of Boiler Rules fee increase report)
40. Department of Consumer and Business Services (expanded information technology support report)
41. Health Licensing Office – Board of Direct Entry Midwifery (financial status report and legal expenses)
42. Board of Clinical Social Workers (legal expenses, contested case hearings, and office equipment)

MINUTES OF THE EMERGENCY BOARD

January 5, 2001

State Capitol

Salem, Oregon

Members Present: Representative Snodgrass, Presiding Chair;
 Representatives Butler, Hansen, Hopson, Lewis, Minnis, Montgomery,
 Schrader, Westlund and Winters;
 Senators Adams, Bryant, Ferrioli, Hannon, Shields, Qutub, Timms,
 Trow and Yih

The meeting was called to order by Representative Snodgrass, Presiding Chair, at 8:40 a.m. in Hearing Room F of the State Capitol.

Confirmation of Appointment

Representative Snodgrass moved that the Emergency Board, acting under authority of ORS 291.332(3), confirm the appointment of Representative Elaine Hopson to the Emergency Board, effective upon approval of the motion. Representative Hopson will replace Representative Ross who resigned effective December 31, 2000.

Representative Snodgrass' motion carried with no objections voiced.

Minutes

Senator Trow moved that the Emergency Board approve the minutes of the November 17, 2000 meeting, as mailed, and upon hearing no objections it was so ordered.

Oregon Economic and Revenue Forecast

Cora Parker, Economist, Office of Economic Analysis, Department of Administrative Services, presented a general overview of the December 2000 Economic and Revenue Forecast. Ms. Parker responded to questions by members. (Summary of Forecast attached)

1. Department of Education

Representative Minnis moved that the Emergency Board, acting under the authority of ORS 291.326 (1)(a), allocate \$12,100,000 from the amount reserved in the Emergency Fund, established by section 1(1), chapter 910, Oregon Laws 1999, to supplement the appropriation made to the Department of Education by section 2, chapter 914, Oregon Laws 1999, and authorize the transfer of \$1,800,000 from the appropriation made to the Department of Education by section 1, chapter 914, Oregon Laws 1999, to the appropriation made to the Department of

Education by section 2, chapter 914, Oregon Laws 1999, for the 1999-00 and 2000-01 school years, respectively, for anticipated local revenue shortfalls in the State School Fund.

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

The 1999 Legislative Assembly approved a \$4.811 billion state funding level for K-12 education to be distributed to schools and education service districts (ESDs) for 1999-01. This amount comprises several funding sources, including state General Fund, lottery funds, proceeds from lottery-backed bonds, increased Common School Fund distributions and one-time funding under Senate Bill 622. At close of session, 1999-01 local revenues were estimated to be \$1.9 billion, bringing total funding to \$6.7 billion. Since close of session, the anticipated level of local resources for schools and ESDs has dropped by approximately \$21.8 million, mainly due to undercollection of imposed property taxes. Previously, as reported to the Emergency Board in April 2000, \$9.7 million was attributable to 1999-00 and \$12.1 million to 2000-01. Using current property tax collection data, \$7.9 million of the shortfall is attributable to 1999-00 and \$13.9 million to 2000-01. Thus, the total shortfall remains at \$21.8 million.

Collections of property taxes are affected by payment of delinquent taxes from prior years, early payment discounts, and appeals of the assessed values of property. Currently, not all of the factors contributing to the lower collections are known. Regardless, the collected-to-imposed ratio has been declining. In 1994-95, the statewide ratio was 102.2%; in 1995-96, 100.8%; and in 1998-99, 99.3%. The close-of-session estimate assumed this ratio would be 100% for 1999-01. However, current data indicates a ratio of 99.1% for 1999-00. The ratio for school property taxes is even lower - 98.7% for 1999-00. The anticipated shortfall in the State School Fund assumes the same rate for 2000-01.

In April 2000, the Emergency Board allocated \$9.7 million General Fund for the 1999-00 shortfall and established a \$12.1 million reservation for 2000-01. Based on current local revenue data, it appears the allocation for 1999-00 is \$1.8 million more than needed. However, data for 2000-01 indicates a shortfall of \$13.9 million. Therefore, the Department requested the Emergency Board transfer the \$1.8 million excess from the 1999-00 allocation to 2000-01 as well as allocate the \$12.1 million reservation in the Emergency Fund, for a total of \$13.9 million for 2000-01.

The 1999 Legislative Assembly approved limits on the allocation of total state and local resources from the State School Fund based on close-of-session property tax estimates. If the actual 1999-01 property tax collections exceed the most recent estimates, any excess will be returned to the State but is dedicated to pay debt service on education lottery-backed bonds.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Snodgrass stated this action is an unprecedented move and one that fulfills the funding obligation the 1999 Legislature made to schools. She commended the Emergency Board for its decision to keep the K-12 budget whole.

Representative Minnis' motion carried with no objections voiced.

2. Department of Justice

Representative Schrader moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), acknowledge receipt of a final report from the Interim Construction Fraud Evaluation Unit (ICEFU) on its progress in identifying the incidents of unlawful activity and on its progress in achieving the goals identified by the 1999 Legislature, and increase the Federal Funds expenditure limitation established for the Department of Justice by section 3, chapter 268, Oregon Laws 1999, by \$2,817,748 so the Department can disburse available federal Victims of Crime Act formula grant funds.

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

The Department of Justice (DOJ) submitted its final report of the three-person Interim Construction Fraud Evaluation Unit (ICFEU) created by the Seventieth Legislative Assembly. ICFEU has, under the jurisdiction of the Department of Justice (DOJ), evaluated incidents of illegal activity involving construction contractors; evaluated training needs; investigated and prosecuted a limited number of cases; and ensured legislative oversight through periodic reporting to the Emergency Board.

The report discusses each of ICFEU's goals. It also highlights the Construction Contractors Board's general activities, and provides detailed information on its licensing, claims and enforcement programs. To create statistically valid data from agency activities, analysis was done on randomly selected claims (220) and enforcement investigation (333) files closed in calendar year 1999. All 228 files referred directly to ICFEU for evaluation between November 1, 1999 and October 31, 2000 were reviewed. From this data the ICFEU identified several issues:

- Scope of unlicensed contractor activity
- Level of theft-related criminal activity
- Enforcement sanctions imposed and collected by CCB
- Case investigation and prosecution activity and outcomes

As directed, the final report also makes policy recommendations. They are categorized in three areas: 1) creation of a multi-agency Construction Fraud Unit; 2) change in the Construction Contractors Board statutory program and policy mandates to increase the agency's enforcement of its regulatory program; and 3) change of statutes to increase effective consumer protection.

CCB administrator Ken Keudell stated the agency's disagreement with the report conclusions and recommendations which relate to the effectiveness of the agency's enforcement program. He indicated that many of the cases of working without a license are unintentional or may be the result of a lapse in the license that is later corrected.

The subcommittee advised DOJ and CCB that the report needs a thorough review of the data and a policy decision made, before the agencies' budgets are completed.

DOJ also presented an addendum to its Emergency Board report request, requesting an increase in Federal Funds expenditure limitation by \$2,817,748 to allow DOJ to disburse available federal Victims of Crime Act funds. In April 2000, DOJ received a \$4,602,000 federal Victims of Crime Act (VOCA) formula grant from the US Department of Justice. In June 2000, the Emergency Board increased the Federal Funds expenditure limitation by approximately \$1.6 million based on the assumption that the funds would be spent over a two-year grant period (October 1, 2000 through September 30, 2002). In August 2000, the VOCA Advisory Committee determined that the grant funds would best be disbursed in a one-year period. In order to expend the funds in this manner, DOJ estimates that it needs approximately \$2.8 million in additional Federal Funds expenditure authority for the 1999-01 biennium.

The Subcommittee questioned the timing of this request and potential precedent for addendum items. LFO explained that DOJ representatives contacted the Department of Administrative Services (DAS) and the Legislative Fiscal Office (LFO) to find out the best way to address the problem. This was identified as the most efficient and effective way to avoid interruption in disbursement of the grant funds. Steps have been taken to ensure that the DOJ budget office will receive timely notice of VOCA Advisory Committee policy actions.

The Subcommittee recommended the report be acknowledged and the Federal Funds expenditure limitation be increased by the requested \$2,817,748.

Representative Schrader's motion carried with no objections voiced.

3. Legislative Fiscal Office

Senator Bryant moved that the Emergency Board, acting under the authority of ORS 291.326(1)(d), authorize the transfer of \$7,213,280 in unallocated balances from special purpose appropriations to the Emergency Board, per the attached schedule, to supplement the general purpose appropriation made to the Emergency Board by section 1(1), chapter 910, Oregon Laws 1999.

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

In addition to the primary appropriation of \$41,900,000 made to the Emergency Board by Section 1(1), Chapter 910, Oregon Laws 1999, the Seventieth Legislative Assembly made 56 separate appropriations to the Emergency Board for special purposes. Special purpose appropriations not allocated by a specific time, generally November 1, 2000, become available for any other purpose for which the Emergency Board lawfully may allocate funds. Following actions of the Emergency Board at its meeting of November 17, 2000, 24 of these special purpose appropriations had unallocated balances totaling \$7,213,280. The legal authority for Emergency Board allocation of these funds is the original, separate appropriation authority. In order to facilitate any final Emergency Board actions or Seventy-first Legislative Assembly disappropriation of Emergency Board appropriations, the Legislative Fiscal Office requested formal transfer of the special purpose appropriation balances to the general purpose appropriation authority.

The Subcommittee recommended approval of the request.

Senator Bryant's motion carried with no objections voiced. (Senator Ferrioli excused)

4. Judicial Department

Representative Schrader moved that the Emergency Board acknowledge receipt of reports on six budget notes requested by the 1999 Legislature and the Emergency Board.

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

The Judicial Department was requested by the 1999 Legislature to report on a variety of issues including workload and staffing needs, pro tem judgeships, the Public Defense Services Commission, and indigency verification. The Department has provided preliminary reports on most of these issues as part of requests for allocation of Emergency Board reservations, and in related reports to the Joint Interim Judiciary Committee. The Department was asked to report to the Emergency Board on these issues at the last meeting before the 2001 Legislative Session. The Department was also requested by the Emergency Board to report on staffing allocated during the biennium. The Chief Justice reported on the following items:

- Implementation of the Chief Justice's plan to prioritize expenditures.
- The ongoing centralized review and management by the Office of the State Court Administrator of existing positions, including a review by the National Center for State Courts on judicial and court staffing needs.
- Evaluation of the statewide pretrial release system and recommendations.
- State-wide staffing allocations, including positions allocated or increased during the 1999-01 biennium.
- The prioritized listing of judicial resources, needs and allocation of pro tem judges, including any reallocation or reduction in pro tem assignments.
- The preliminary findings and recommendations of the Public Defense Services Commission.
- A pilot study of three indigency verification units.

The Subcommittee discussed the Governor's recommendations for the Judicial Department budget and the need for an organized and prioritized budget presentation. In the budget presentation, the Department was specifically requested to:

- Submit a prioritized list of position requests;
- Prepare a report on actual system savings from family and drug courts;
- Report on the integration of the Oregon Judicial Information Network with the Law Enforcement Data System and the Criminal Justice Information System;
- Analyze and report on the use of pro-tem judges and methods to expedite cases using pro-tem judges; and
- Evaluate methods to improve efficiency and outcomes in the public defense system, including any cost savings.

Representative Schrader's motion carried with no objections voiced. (Representative Westlund and Senator Ferrioli excused)

5. Judicial Department

Senator Trow moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Judicial Department by section 3, chapter 323, Oregon Laws 1999, by \$170,000 for production of citation forms by the Multnomah Circuit Court.

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

The Multnomah Circuit Court prints all citations used by Portland Parking Enforcement, Portland Police Bureau, and the Gresham Police Department to ensure that a standardized form is used by all agencies. The court serves as the municipal court for all cities in Multnomah County, with the exception of the City of Troutdale, and the use of standard citations ensures efficient case management and processing. Revenue from the sale of the citations to enforcement agencies fully covers the cost of creating the citations.

Between 1998 and 2000, citation use by local agencies increased by 110%, from 380,000 to 798,600. The increase in citation use is due to increased enforcement activity and the purchase of redesigned forms necessitated by law changes made by the 1999 Legislature. As a result of the increased sales, the Department will exceed the revenues and expenditures budgeted in 1999-01 for the production and sale of these citations. The Department needs an expenditure limitation increase to pay the increased cost for the additional citations.

The Subcommittee recommended approval of the request.

Senator Trow's motion carried with no objections voiced. (Representatives Westlund and Minnis, and Senators Bryant and Ferrioli excused)

**6. Department of Administrative Services
Department of Public Safety Standards and Training**

Representative Schrader moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds Capital Construction expenditure limitation established for the Department of Administrative Services by section 1(7)(p), chapter 624, Oregon Laws 1997, by \$400,000, so that site evaluation and programming work can be completed for a public safety training facility.

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

The Department requested that the Emergency Board increase its Capital Construction Other Funds expenditure limitation by \$400,000 for siting evaluation and programming preliminary to construction of a public safety training facility.

The 1999 Legislature directed the Department of Public Safety Standards and Training (DPSST) to work with the Department of Administrative Services (DAS) to develop a facilities plan that would achieve the goals and objectives of its strategic business plan, and included \$250,000 within DPSST's 1999-01 Other Funds expenditure limitation to initiate the process. The \$250,000 has been nearly all obligated to cover expenses for project management, a facilities needs assessment study, a preliminary space requirement report, and to start a site

analysis and selection process. DAS and DPSST are requesting the Emergency Board increase the DAS Capital Construction Other Funds expenditure limitation by \$400,000 so that it can complete the site evaluation and selection process; complete the next level of space programming; develop the Requests for Proposal for architect and engineering studies, and construction management oversight; and start preliminary design work. Completion of these tasks will allow presentation of a core training academy construction proposal to the 2001 Legislature.

A similar request was presented to the Emergency Board in November 2000. It was deferred so that both agencies could provide a follow-up report that would include additional information on the siting process, evaluation criteria, and the decision to restrict finalist sites to those located in the Willamette Valley.

DPSST attached 20 exhibits totaling 54 pages to its request letter in an effort to the specific questions and policy issues raised at the full committee Emergency Board meeting in November 2000. The key information contained in that documentation described the participants in the siting criteria development process, the criteria developed, the rationale for proximity of site to I-5 corridor, the site evaluation process, the Department plans for regional training delivery, and the construction and travel cost considerations.

The information provided was responsive to the questions raised at the November 2000 Emergency Board meeting and showed that DPSST has been diligent in collecting input from its constituents and taking steps to identify a cost-effective location for its core facility. The rationale for placement of the facility in the Willamette Valley is well documented and reasonable. The Legislative Fiscal Office would like to have seen more geographic diversity represented in both the Core Facilities Workgroup and the Facilities Steering Committees as well as a more structured evaluation of the community proposals, comparing them against all twenty-one of the established siting criteria.

The Legislative Fiscal Office considers the request for a \$400,000 Capital Construction Other Funds expenditure limitation increase to be reasonable and appropriate based on necessary activities planned for the remaining months of 1999-01. This funding level is based on project costs that have been estimated by the DAS architect and confirmed by a contracted architectural/engineering firm. The requested amount should ensure that adequate funds are available to complete remaining programming work; complete additional requested work on phase-in scenarios; and create a product for use in the legislative decision making process. The requested amount should also provide some flexibility so that passage of a supplemental DPSST/DAS 1999-01 funding bill may not be necessary during the early months of the 2001 legislative session.

To comply with the required action areas identified at the June 2000 and November 2000 Emergency Board meetings, DAS and DPSST still need to:

- Complete the analysis of the cost effectiveness of continuing to lease space at Western Oregon University;
- Evaluate ways to reduce size/number of building components once a site is selected and training delivery models are developed and refined;
- Identify ways to reduce overall costs through changes in design;
- Search for partners to share in development costs and work to establish long-term fee-for-service uses of the facility to offset on-going operating costs; and

- Further develop phase-in scenarios/affordable options, including one that shows the incremental cost of providing separate classroom, housing, and office space for OSP, so that this option can be considered by policy makers when the facility construction proposal is presented to the 2001 Legislature.

The Subcommittee discussed policy issues and concerns that were raised at the November 2000 full Committee Emergency Board meeting. Senator Yih testified and urged the Subcommittee to direct DPSST's core facility work group to give full consideration of the City of Sweet Home before a determination of finalists is made. The Subcommittee unanimously recommended the Emergency Board increase the existing Capital Construction Other Funds expenditure limitation already established for DAS by the 1997 Legislature by \$400,000 so that DAS and DPSST can continue facility planning activities.

The following Committee discussion occurred:

Senator Yih advised the Committee that she testified before the Subcommittee to highlight the need for the siting process to consider the economic development opportunity such a facility could provide to struggling communities that have been timber-dependent communities. Senator Yih indicated that she was pleased to find out that DPSST had not eliminated any of the Willamette Valley sites and that all information provided by those communities would be thoroughly reviewed and considered prior to making a final siting decision.

Chair Snodgrass asked when the siting decision would be made and Senator Yih responded by stating that it would be made within the next calendar quarter.

Representative Schrader's motion carried with no objections voiced. (Senator Ferrioli excused)

7. Department of Administrative Services

Senator Bryant moved that the Emergency Board, acting under authority of ORS 291.326(1)(b), increase the Other Funds Capital Construction expenditure limitation established for the Department of Administrative Services by section 3(7)(g), chapter 909, Oregon Laws 1999, by \$375,000 for preliminary design of a new Justice Center building.

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

The 1999 Legislative Assembly approved an expenditure limitation of \$125,000 for preliminary planning of a proposed Justice Center building. A budget note in the budget report for the Capital Projects appropriation bill required the Department of Administrative Services (DAS) to conduct a feasibility study to assist the Legislature in evaluating the need for a justice building. Among other things, the study was to provide an analysis of leasing versus owning the needed space and should consider use of existing facilities. DAS contracted with a consulting firm to develop an analytical tool that it could use for all proposed major construction projects for evaluating the net cost of owning versus leasing. The analysis applied to the proposed Justice

Center building shows that it is less expensive in the long run to construct and maintain a new building than to continue leasing space over the same period of time.

This request was brought to the Emergency Board in November and was not approved. Concerns about the statutory review process, cost of preliminary design, and other issues were raised at that meeting. The Department provided additional information and reduced the request to an amount that it believes will be needed only to pay for preliminary design costs through the end of June. The balance of limitation needed for planning and design costs will be sought during the 2001 Legislative Session.

The General Government Subcommittee heard testimony from the Department of Administrative Services and the Department of Justice. The Subcommittee discussed the issue at length and agreed that the Department of Administrative Services should review the cost of acquiring the building located at the corner of State and 12th Street in Salem, but that review should not hold up the planning and design of the Justice Center Building.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Bryant added that an analysis had been performed by DAS comparing the current lease costs of the Robertson Building to the estimated cost of state construction and ownership of that building. Three separate existing leases range from \$1.46 to \$1.84 per square foot per month. The estimated rental rate required for state construction of that space today would be \$1.35 per square foot per month.

Representative Schrader asked if the debt service is anticipated in the Governor's 2001-03 budget. Mike Stinson, Legislative Fiscal Officer, responded that the COP issuance and building would occur in 2001-03, building occupancy, rent and debt repayment would not begin until 2003-05. Representative Schrader also asked if this request and the additional identified \$1 million represented the entire architectural and engineering costs of the building. Senator Bryant replied that it did.

Senator Timms stated that planning is often lacking in government activities. He said that this request followed the legislatively prescribed planning process.

Representative Butler indicated that he had computed the probable debt service requirement of the building and determined that the General Fund share would be \$1.4 million. Representative Butler also stated that successful governments expanded their physical presence in local communities, not in the capitol. Finally, he questioned the need to take this action one-week in advance of the legislative session.

Senator Shields said that he understood that the leased facility was built with utility capacity for expansion. He asked if it might be feasible to build it out to capacity and then acquire it. Senator Bryant replied that all options should be included in the DAS acquisition alternative study.

Representative Lewis stated that the DAS economic feasibility analysis showed that the savings crossover for the proposed building would not occur until between 2014 and 2017.

Representative Snodgrass asked what would be the effect of a delay. Dave White, DAS Facilities Administrator, replied that it would only set back planning for six to eight months.

Senator Yih asked if the project had gone through the central review process. Mr. White indicated that it had be subjected to the review and was recommended.

Senator Adams said that, based on the Committee's discussion, he will allow the next Legislative Assembly to make this decision.

Senator Bryant's motion failed with Representatives Lewis, Montgomery, Schrader, Minnis, Winters, Butler and Snodgrass, and Senators Yih, Qutub, Shields and Adams voting no. (Senator Ferrioli excused)

8. Government Standards and Practices Commission

Senator Hannon moved that the Emergency Board, acting under the authority of ORS 291.326(1)(a), allocate \$44,000 from the Emergency Fund, established by section 1(1), chapter 910, Oregon Laws 1999, to supplement the appropriation made to the Government Standards and Practices Commission by section 1, chapter 378, Oregon Laws 1999, to pay for Attorney General expenses, with the understanding that the Department of Administrative Services will unschedule the funds until the expenses are incurred, and send a letter to the President of the Senate and the Speaker of the House requesting support and assistance in seeking an Attorney General opinion or letter of advice on the constitutionality of the gift statute.

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

The Government Standards and Practices Commission (GSPC) received a total of \$21,938 for Attorney General expenses in its 1999-2001 budget. As of December 2000, GSPC had spent \$38,107 on legal fees, or \$16,709 more than budgeted. Additionally, the Commission anticipates needing legal assistance in at least six court cases and/or contested case hearings over the rest of the biennium. No savings or Other Funds revenues are available to offset these exceptional expenses. The Government Standards and Practices Commission requests that \$50,000 be allocated from the Emergency Fund to cover existing and prospective Attorney General expenses.

The Subcommittee discussed the recent Attorney General opinion on the unconstitutionality of the law on campaign contributions. The Subcommittee was concerned that the gift limitation statute, which is under regulation of the Government Standards and Practices Commission, might possibly be unconstitutional as well. Since violations of the gift limitation statute are responsible for the pending court cases, the status of this law may have a bearing on the Commission's Attorney General expenses. The Subcommittee decided to recommend to the Committee to ask legislative leadership to seek an Attorney General opinion on the constitutionality of gift limitation statute.

The Government Standards and Practices Commission cannot absorb the Attorney General expenses without spending money allocated for web site development and other technology investments which are critical to Commission operations. The Department of Administrative Services modified the request, reducing the amount to \$44,000 by removing anticipated expenses related to the gift limitation violations and stating that the Department of Administrative Services would unschedule the funds until the Attorney General billings are received. The Subcommittee unanimously recommended approval of the modified request.

The following Committee discussion occurred:

Representative Westlund clarified that the Commission is to not incur further legal expenses related to gift limitation violations pending an opinion from the Attorney General on the constitutionality of the gift limitation law. He also suggested that the request be for a letter of advice from the Attorney General rather than an opinion, since a letter of advice would be more timely and less expensive. Per his discussion with the Attorney General's office a letter of advice could be produced in two to three weeks.

Senator Adams asked if the Commission would treat a letter of advice from the Attorney General the same as an opinion. Pat Hearn, the Commission's Executive Director, stated the Commission would abide by the content of either a letter of advice or opinion from the Attorney General. He also said the cases currently pending in court are subject to court timelines and the Commission has little control over the pace of litigation at this point. There is no court activity scheduled on any of the cases until sometime in February.

Representative Schrader expressed concern about possible public perception that the Emergency Board is trying to interfere with the statutory responsibilities of the Government Standards and Practices Commission. Senator Adams responded that a legislator's first priority is to uphold the constitution and he wants to make sure the Commission is acting both legally and constitutionally. He suggested the 71st Legislative Assembly might want to look at making changes to the statute.

Senator Shields noted many of these issues were discussed by the Subcommittee and asked Committee members to think about potential differences between the perception of reality and reality itself.

Senator Hannon stated he was not attempting to change the rules or create mistrust, simply working toward a recommendation that allows the Commission to conduct its business while seeking clarification on the constitutionality of the gift limitation statute.

Representative Lewis affirmed a legislator's first duty to uphold the constitution and agreed that legislators need to deal with the issue of how to control gifts without violating free speech.

Senator Bryant declared a potential conflict of interest, stating he would abstain from voting if he could. He remarked that he and the other legislators, in court due to alleged gift limitation violations, decided to appeal the Commission's decision because they disagree in principle, not for financial reasons. He doesn't want to see the Commission facing a large legal bill as a result of the outcome of these court cases.

Representative Schrader voiced appreciation of the compromise, but felt the issue of integrity was extremely significant.

Representative Hannon's motion carried with Representative Schrader voting 'no'.
(Representative Minnis and Senator Ferrioli excused)

9. Public Employees Retirement System

Representative Butler moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Public Employees Retirement System by section 1, chapter 191, Oregon Laws 1999, by \$1,773,123 for the Public Employees Retirement System's reengineering and systems development project, with the understanding that the Department of Administrative Services will unschedule the funds pending additional review by the 2001 Legislative Assembly.

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

PERS has undertaken a substantial business process reengineering project that includes extensive information systems development. The project was begun in the 1997-99 biennium and is expected to be complete toward the end of the 2003-05 biennium. Original project cost estimates were \$31 - \$38 million and PERS management, until recently, stood by those estimates. PERS' approach to funding the project has been to seek approval of position authority and expenditure limitation incrementally as required activities and their costs are better known. To date, \$13.1 million of expenditure limitation has been used for the project.

PERS was last granted expenditure limitation in June 2000 to complete Phase I of the project. PERS has now completed Phase I and is seeking \$2.4 million expenditure limitation for a 90-day "Bridge Period." PERS feels this period is needed to give management time to "(1) make initial decisions about project scope, (2) negotiate cost-effective vendor contracts for the Build Phase, and (3) keep the project team intact and productive until the Build Phase begins March 1." At the end of the "Bridge Period," PERS will be ready to present to the Legislature for its consideration for funding of the Build Phase the following:

- 1) A list of build components for each build cycle through the end of the Build Phase.
- 2) A detailed project task plan for the first cycle of the Build Phase.
- 3) A firm cost estimate for the Build Phase setup costs.
- 4) A firm cost estimate for the first build cycle.
- 5) An estimated project cost range for the entire Build Phase.

PERS presented this Emergency Board request to the Joint Legislative Committee on Information Management and Technology on January 3, 2001. That Committee recommended the Emergency Board approve an increase in expenditure limitation of \$1,773,123 with the understanding that the Department of Administrative Services will unschedule the funds until the 2001 Legislative Assembly has had an opportunity to review details of the project status. The Subcommittee concurred with the recommendation of the Joint Legislative Committee on Information Management and Technology and made the same recommendation to the Emergency Board.

Representative Butler's motion carried with no objections voiced. (Representatives Westlund, Schrader and Minnis, and Senators Hannon, Ferrioli, Shields and Adams excused)

10. Department of Revenue

Senator Qutub moved that the Emergency Board, acting under the authority of ORS 291.326(1)(a), allocate \$530,000 from the Emergency Fund, established by section 1(1), chapter 910, Oregon Laws 1999, to supplement the appropriation made to the Department of Revenue by section 2(1), chapter 395, Oregon Laws 1999, for the Elderly Rental Assistance program, with the understanding that the Department of Administrative services will unschedule \$161,067 General Fund from the agency's operating budget for reversion at the end of the 1999-01 biennium to partially offset the allocation from the Emergency Fund.

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

The Elderly Rental Assistance (ERA) program provides direct tax relief to elderly, low-income taxpayers through a refundable credit. Benefits are based on income levels and the amount of rent, fuel, and utilities paid. Eligible renters are age 58 or over with household incomes under \$10,000, household assets that do not exceed \$25,000 (if under age 65; over age 65 there is no limit on household assets), and gross rent in excess of 20% of household income. Each year, most renters file claims in April for the previous tax year but renters have up to three years to file. The majority of the refunds are paid by the Department in the following October. The program has experienced a steady decline in payments to renters throughout the 1990s. In part, this is due to the fact that eligibility criteria are not indexed to inflation and, as Oregon's economy has improved, fewer individuals have met the criteria.

In addition to the refunds, the program provides direct payments to local governments in lieu of property taxes on certain tax-exempt housing for the elderly. These payments typically are made in November of each year. Payments to local governments have increased an average of about 8% annually since 1993. Currently, these payments represent about 20% of the ERA budget.

The 1999 Legislative Assembly approved a 1999-01 budget of \$9 million General Fund for the program. The Legislature also approved a \$750,000 special purpose appropriation to the Emergency Board, pending caseload information from the Department. The Department reported this information to the Emergency Board in September 2000, which approved allocation of the \$750,000. This action brought the total budget for the ERA program to \$9.75 million. This total represented a 5% decline from 1997-99 biennium costs, in line with historical experience and the Department's projections.

As it had in the past, the Department used trend analysis to make its best estimate for the funding needed for the second year of the 1999-01 biennium. State statute requires that if the sum of the obligations is estimated to be greater than available funds, the Department shall proportionately reduce assistance payments so that the State does not accrue a debt in excess of the amount of available funding. Based on its estimate, the Department did not proportionately reduce assistance payments, the majority of which were paid in October 2000.

Upon further analysis, however, the Department determined that the number of returns filed, including those from prior years, has not decreased as expected from 1999 to 2000. Additionally, an unexpected payment of nearly \$50,000 for one non-profit housing entity was required in November. The Department reported it will need an additional \$368,933 to pay the remaining refunds for the 1999-01 biennium.

The Department also reported that its accounting system did not limit the amount paid for ERA refunds and, as a result, has overspent its appropriation for the program by \$161,067. The Department will reduce spending in agency operations to repay the amount overspent but, by law, it cannot simply transfer savings to the ERA program, which has a separate appropriation. Therefore, it requested allocation of \$161,067 from the Emergency Fund to make up the deficit. The savings it generates in agency operations will revert to the General Fund at the end of the biennium, thereby “repaying” the Emergency Board allocation.

The Department reported that it plans to revise its forecasting methodology in recognition of the slowdown in the decline in the number of returns filed. It also has committed to revising its internal procedures to ensure the total amount paid through the program does not exceed the appropriation established by law.

The Subcommittee recommended approval of the request.

Senator Qutub’s motion carried with no objections voiced. (Representatives Westlund, Minnis and Butler, and Senators Hannon, Ferrioli and Adams excused)

11. Department of Higher Education

Representative Lewis moved that the Emergency Board, acting under the authority of ORS 291.326(1)(c), establish an Other Funds (Other Revenues [Including Federal Funds]) Capital Construction expenditure limitation of \$1,800,000 for the Department of Higher Education, for the construction of a Bell Tower on the campus of Oregon State University.

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

The Department of Higher Education is seeking approval to construct a new Bell Tower on the Oregon State University (OSU) campus. The construction would be entirely financed by gifts. The 65-foot tower would be located on the central library quad and include a small plaza at its base.

The university has received a \$550,000 donation for this project. This is sufficient, along with a \$150,000 Oregon State University Foundation match, to construct the plaza, the tower, and to install five bells. The donor is discussing with the university the possibility of adding a full carillon to the tower. If an agreement is met, the donor will provide an additional \$1,110,000 for the carillon. OSU hopes to dedicate the new tower in fall 2001. The costs of operating and maintaining the tower would be minimal, and would be financed by the OSU budget.

The Subcommittee recommended approval of the request.

Representative Lewis' motion carried with no objections voiced. (Representatives Westlund, Minnis and Butler, and Senators Hannon, Bryant, Ferrioli and Adams excused)

12. Department of Higher Education

Senator Trow moved that the Emergency Board, acting under the authority of ORS 291.326(1)(c), establish an Other Funds (Article XI-F(1) Bonds) Capital Construction expenditure limitation of \$1,500,000 for the Department of Higher Education, for the McNary Dining Hall Renovation, Phase III, at Oregon State University.

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

The residence halls and dining facilities of Oregon State University (OSU) are operating at capacity, and the university is projecting enrollment to grow another 4,000 students over the next ten years. To help to simultaneously achieve and address this growth, OSU is halfway through a 15-year plan to upgrade its residence and dining halls. The university has been renovating a minimum of one facility per year for the past several years.

McNary Dining Hall is a 24,000-sq. ft. facility that serves students living in several residence halls. Two renovation phases have already been completed at McNary. This request, Phase III, is to renovate 16,260 sq. ft. and includes replacing asbestos-laden ceiling and floor tiles, updating furniture and lighting, and reconfiguring the dining hall area. The scope of the renovation would be extensive, and would cover the central kitchen, the seating area, the bakery/coffee bar area, and the creation of a new area where food will be prepared to order.

University dining facilities are operated as auxiliary enterprises. Their operating and debt service costs are not supported by the state's General Fund, but rather from food sales, meal plan sales, and dormitory fees (dining and housing are combined into a single auxiliary budget). The renovation project would cost \$1.5 million and be financed by Article XI-F(1) bonds. The OSU Housing and Dining Auxiliary budget would finance the bond debt service, which would total \$256,000 per biennium. The costs incurred from this project should not necessitate any room rate increases. Instead, debt service costs would be financed by increased dining room cash sales, and by increasing meal plan rates between 4% and 6%. For the first three years of debt service, the Housing and Dining Auxiliary budget would need to subsidize the project with revenue from its other housing and dining facilities. This is primarily because of a requirement to prepay part of the bond interest in the first year. After the three-year period is over, the facility (including both its debt service and operating costs) should be able to operate entirely on a self-support basis.

The Governor included this project in his 2001-03 Recommended Budget for the Department. Because of rising enrollments, however, OSU wishes to accelerate the project so that it can be completed by fall 2001. Construction would occur over the summer when the facility is closed. The Subcommittee recommended approval.

Senator Trow's motion carried with no objections voiced. (Representatives Westlund, Minnis and Butler, and Senators Hannon, Bryant and Ferrioli excused)

13. Oregon Student Assistance Commission

Representative Lewis moved that the Emergency Board, operating under the authority of ORS 291.326(1)(b), increase the Lottery Funds expenditure limitation established for the Oregon Student Assistance Commission by section 4, chapter 897, Oregon Laws 1999, by \$918,335 to support Need Grants awarded by the Commission for the 2000-01 academic year.

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

The Oregon Student Assistance Commission administers the Need Grant program, which is the state's principal financial aid award and which is distributed on a need-basis to students in community colleges and public and private four-year colleges in Oregon. Approximately 16,000 students receive Need Grants each year. The program is primarily financed by the General Fund. It is also financed by Lottery and Federal Funds. The Lottery Funds consist of 25% of the earnings of the Education Endowment Fund. These earnings are continuously appropriated to the Commission for Need Grants.

The Commission has projected that the cost to provide Need Grants to all of the students who have accepted them is approximately \$1.16 million more than it has available. Without additional funds to cover this shortfall, the Commission will have to reduce award levels for the remainder of the academic year. This would reduce the total annual award amounts by an estimated 8.5 percent.

This year, the number of awards is projected to increase 5.6% over the prior year level. This growth has occurred almost entirely among community college students. The number of awards to private school students is up only slightly, and the number to Oregon University System students is down from last year. The growth is higher than the Commission anticipated when it established application cut-off dates for the school year. More community college students were eligible than expected, and a greater portion of those who were awarded Need Grants actually used them than expected. Last year, only 36.2% of community college students who were awarded a Need Grant actually used it. This year that percentage is up to over 40%.

The Commission requested that the Emergency Board authorize additional funds to eliminate the need to reduce award amounts. Specifically, the request is to use an additional \$918,335 of Education Endowment Fund earnings (Lottery Funds) and an Emergency Fund allocation of \$240,365. The Lottery Funds are dedicated for Need Grants by law, but the agency requires an expenditure limitation increase to allow it to use these funds this biennium. The agency's existing Lottery Funds limitation was designed to allow some funds to be held as a reserve against lottery revenue shortfalls and as a source of funds to address future program cost growth. The requested Lottery Funds expenditure limitation increase would allow the agency to spend all of this reserve to address this year's shortfall. The Emergency Fund allocation would cover the remainder of the Need Grant shortfall not covered by these additional Lottery Funds.

The Education Subcommittee recommended that the Emergency Board approve the Lottery Funds expenditure limitation increase, but that the Emergency Fund allocation be denied. Because of difficulties in projecting program usage, students are likely to receive smaller awards than were announced. Although this is unfortunate, the Subcommittee did not believe it advisable to allocate Emergency Funds to address this issue. To do so would reduce the

resources available to the next legislative session for the 2001-03 biennial budget. Resources for that budget are far short of what is needed to continue currently approved programs. The Subcommittee did not support using Emergency Fund resources given this situation, and noted that the Commission has heard from school officials that they do not anticipate any significant fallout from award reductions, even if no additional funds become available.

The Subcommittee also noted that under the Commission's revised estimates of program usage, the funding shortfall will be lower than previously assumed. The agency will also have unused funds available from the Medical-Dental Loan and Nursing Loan programs that can be transferred to support the Need Grant. Finally, the agency may and should pursue operating efficiencies and apply General Fund savings on its operating expenses to the Need Grant program to address the funding shortfall. With the combination of these factors, it is quite likely that the Commission may not need to reduce award amounts at all, even without receiving the Emergency Fund allocation it requested.

The following Committee discussion occurred:

Representative Lewis commented that she is concerned that the Commission awards more Need Grants than funds allow with the expectation that a portion will not be picked up and needed. This year, more of the awards were picked up than in the past. She noted that the Commission will change its model for projecting how many awards will be picked up. She also stated that Oregon does not provide financial aid at the levels that other states do, and that she hopes future legislatures will be able to expand financial aid support. Finally, she noted the downside to the Subcommittee recommendation – that money that would be available for awards next biennium would be spent now. She felt this was justified to avoid award cuts to students who are expecting a certain level of funding this year.

Representative Schrader noted that the Commission had asked to spend these funds now, knowing that this would provide less funding for the program in the future.

Representative Snodgrass commented that the approval of this request is another example of this legislature making a commitment to education and to kids.

Representative Lewis' motion carried with no objections voiced. (Representatives Westlund and Minnis, and Senators Timms and Ferrioli excused)

14. Teacher Standards and Practices Commission

Senator Qutub moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Teacher Standards and Practices Commission by section 1, chapter 28, Oregon Laws 1999, by \$122,712 for unexpected attorney general costs and expenditure of federal Title II grant funds from the Oregon University System for reports cards on teacher education programs.

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

The Teacher Standards and Practices Commission requested an increase of \$122,712 in its Other Funds expenditure limitation for (1) unexpected Attorney General costs of \$104,528

and (2) expenditure of \$18,184 in federal Title II grant funds from the Oregon University System for report cards on teacher education programs.

The Commission reported that its Attorney General costs are substantially over budget this biennium. Although the number of cases is at 1996 levels, the costs per case have increased dramatically, from an average of \$500 per case in 1997-98 to an average of \$900 per case this biennium. This is due in part to an increase in the complexity of the cases. In 1997-99, the Commission was able to absorb the excess costs through savings in other budget areas. It does not appear the Commission can do so this biennium, based on expenditures incurred to date and projected expenditures for the remainder of 1999-01.

The Commission reported that federal grant funds from the Oregon University System are available for Commission expenses incurred for the Title II Teacher Quality Enhancement Program. This program is designed to improve student achievement through better teacher quality and includes implementing changes in recruitment, preparation, certification, and ongoing support of teachers. This is a multi-agency effort with the Oregon University System acting as the lead agency and primary recipient of the federal funding. The funds passed through to the Commission (and expended by it as Other Funds) will pay for changes to its database as well as travel and meeting costs related to development of report cards on Oregon's teacher education programs. The Subcommittee discussed the costs and benefits of the report cards.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Winters asked if the Subcommittee discussed whether Attorney General costs were rising because new and inexperienced attorneys were assigned to cases. Senator Qutub responded no.

Senator Bryant discussed how the hearings process can drive up legal costs for agencies.

Senator Trow stated that some of these costs might go away due to sunseting of the program that required all applicants for license renewal be subject to a criminal history check.

Senator Qutub's motion carried with no objections voiced. (Representatives Westlund and Minnis, and Senators Timms and Ferrioli excused)

15. Department of Human Services—Director's Office

Representative Hopson moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b) and 291.371, increase the Federal Funds expenditure limitation established for the Department of Human Services by section 3(4), chapter 916, Oregon Laws 1999, Director's Office, Department-wide Support Services by \$280,883, and approve the establishment of six limited-duration positions (1.15 FTE) to create a disability employment strategy unit, and direct the Department to report on its activities to enhance the employment of persons with disabilities in its presentation to the 2001 Joint Committee on Ways and Means.

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

At its September 2000 meeting, the Emergency Board approved, retroactively, a request from the Department of Human Services to apply for a federal Health Care Financing Administration grant. The grant provides funding to improve state “infrastructures” to assist persons with disabilities to obtain employment. DHS was recently notified by HCFA that it had been awarded the \$2.1 million grant to create a new disability employment strategy and policy unit within the Director’s Office.

The Subcommittee recommended approval of the Department’s request with two modifications. First, the expenditure limitation and FTE should be changed to reflect a project commencement date of February 1st. Second, because this grant from HCFA is one of many DHS efforts related to employing persons with disabilities, the Subcommittee recommends that the Emergency Board direct the Department to report on its various grants and other programs that promote the employment of persons with disabilities to the 2001 Joint Committee on Ways and Means.

Representative Hopson’s motion carried with no objections voiced. (Representatives Lewis, Westlund and Minnis, and Senators Timms and Ferrioli excused)

16. Department of Human Services—Office of Alcohol and Drug Abuse Programs

Senator Hannon moved that the Emergency Board, acting under authority of ORS 291.375, approve the submission of an application by the Office of Alcohol and Drug Abuse Programs for a federal grant from the Substance Abuse and Mental Health Services Administration (SAMHSA) in the amount of \$50,000 to support the costs of the Eighteenth Annual Alcohol, Tobacco and Other Drug Abuse Prevention Conference.

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

The goal of the SAMHSA grant is to improve the quality of substance abuse treatment and prevention services and systems. The conference will involve coordinating, exchanging, and disseminating knowledge to improve the provision of effective treatment, recovery, early intervention, and prevention services for individuals who suffer from, or are at risk for, problems related to substance abuse.

Furthermore, the conference will focus on substance abuse prevention in relationship to the following areas:

- Issues pertaining to rural area substance abuse
- Information on drugs in the workplace
- Issues pertaining to youth in high risk situations
- Issues that assist in meeting the critical substance abuse prevention needs of a diverse population
- Information on substance abuse by the elderly

The conference is scheduled to take place in November 2001. The grant will support up to 75% (to a maximum of \$50,000) of total direct costs of the conference. If the grant is awarded, the funds will be used to replace General Fund currently budgeted for the conference.

OADAP would appear before the Joint Committee on Ways and Means with a request to increase the Federal Funds limitation for the 2001-03 biennium.

The Subcommittee recommended approval of the request.

Senator Hannon's motion carried with no objections voiced. (Representatives Lewis, Westlund and Minnis, and Senator Ferrioli excused)

17. Department of Human Services—Office of Alcohol and Drug Abuse Programs

Senator Shields moved that the Emergency Board acknowledge receipt of a report explaining the extent and nature of administrative versus program expenditures and why costs have exceeded the 1999 legislatively approved level, and request the Department of Administrative Services reschedule \$1,488,440 General Fund, \$1,361,823 Other Funds, and \$4,998,125 Federal Funds identified in the November 2000 Department of Human Services rebalance as available for these expenditures.

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

In the Department of Human Services' November 2000 rebalance plan submitted to the Emergency Board, the Office of Alcohol and Drug Abuse Programs (OADAP) requested to increase expenditures for program enhancements beyond the level approved by the 1999 Legislative Assembly. Concern was expressed over the extent and nature of administrative expenses. The Emergency Board asked the Department of Administrative Services to unschedule these funds and requested OADAP to return to the January 2001 Emergency Board with a report clarifying the level of expenditures and explaining the nature of the administrative costs.

The 1997 Legislative Assembly, through a budget note, directed OADAP to study a restructuring of the residential rate reimbursement system. The study was completed in September 1999 and a redesigned residential rate system was implemented in May 2000. Treatment beds that had been financed through the Oregon Health Plan, previously unknown to OADAP, were included in the restructuring. Including these beds led to cost over runs. Excluding these beds would mostly likely have led to program closures and destabilization of the system. The cost of the rate restructuring has exceeded original estimates by approximately \$3.3 million. Additionally, an increase in demand for technical assistance and training has also exceeded estimates by about \$3.6 million in the current biennium. Rapid growth in the field, combined with an increased emphasis on outcome based accountability, has led to a dramatic increase in the need for training and technical support. The training and technical assistance costs were the administrative costs discussed during the November 2000 Emergency Board meeting.

After further review, OADAP has taken steps to decrease the shortfall resulting in a reduced amount of funds needing to be rescheduled. These management actions have included the ability to recoup funds for underutilized Medicaid bed days, freezing personal and technical service contracts for the remainder of the biennium, and reducing the amount of training being provided. The total savings are estimated to be \$965,288. OADAP is also implementing systems improvement measures to prevent future budget overspending.

The Subcommittee expressed concern that program enhancements are nearly double the \$10 million approved in the 1999 legislatively adopted budget. The Subcommittee also encouraged the Legislative Fiscal Office to take a thorough and extensive look at OADAP's administrative costs during the upcoming legislative session.

The Subcommittee recommended acknowledging receipt of the report.

Senator Shields' motion carried with no objections voiced. (Representatives Lewis, Westlund and Minnis, and Senators Qutub and Ferrioli excused)

18. Department of Human Services—Office of Alcohol and Drug Abuse Programs

Senator Yih moved that the Emergency Board acknowledge receipt of a report on the agreement Oregon has with the federal government to implement an alternative to the Synar Amendment penalty, and request the Department of Administrative Services to reschedule \$794,950 General Fund to implement the remainder of the agreement.

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

The Synar Amendment, enacted by Congress in 1991, requires states to monitor retailer compliance to ensure they prohibit tobacco sales to children. Under the Amendment, states are required to conduct random, unannounced inspections of tobacco vendors to assess their compliance with state access laws. States that fail to meet compliance targets can lose a percentage of their federal Substance Abuse Prevention and Treatment Block Grant funds.

Oregon's target rate for 1998 was set at 20%, meaning no more than 20% of random inspections could result in a sale of tobacco products to a minor. Oregon's actual compliance rate for the year was 29 percent. The Oregon State Police, by means of a contract with the Office of Alcohol and Drug Abuse Programs (OADAP), conducted these inspections. The potential penalty for exceeding the compliance target was a 40% reduction in the SAPT Block Grant, approximately \$6.4 million, for the following year (1999).

Oregon elected to appeal the penalty and requested a hearing. Prior to the hearing, the state negotiated an agreement that eliminated any penalty but required the state to enhance the program by \$944,950. According to the agreement, \$150,000 would be used for retailer education, \$397,475 would be used for compliance checks and inspections, and \$397,475 would be used for additional retailer education, diversion programs, and youth education.

In June 2000, the Emergency Board increased OADAP's Other Funds expenditure limitation by \$150,000 for the first portion of the negotiated settlement. At the November 2000 Emergency Board meeting, the balance of \$794,950 was approved during the Department of Human Services' rebalance. However, the Emergency Board requested the Department of Administrative Services to unschedule the funds pending a report on the retailer compliance visits to be made relative to the agreement requirements.

Senator Hannon expressed concern over the conflict between the inspection requirements of the negotiated agreement and the Oregon statutes regarding inspection requirements.

The Subcommittee recommended acknowledging receipt of the report.

Senator Yih's motion carried with no objections voiced. (Representatives Westlund and Minnis, and Senators Qutub and Ferrioli excused)

19. Department of Human Services—Health Division

Senator Hannon moved that that the Emergency Board, acting under authority of ORS 291.375, approve, retroactively, the submission of an application by the Health Division for a federal grant from the U.S. Department of Health and Human Services, Maternal and Child Health Bureau for newborn hearing screening.

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

The Department of Human Services Health Division proposes using grant funds to support implementing and evaluating universal newborn hearing screening programs in Oregon. The goal of this project is to protect infant hearing by assuring that all Oregon newborn babies receive appropriate hearing screening, treatment, and follow-up care for hearing loss. The proposal will build upon existing local community care systems, such as the CaCoon program, to coordinate care and home visits to children with special health needs. Nurses and outreach workers will also provide parents with information and educational activities related to their child's hearing loss.

The Health Division unsuccessfully applied for this grant last January. The U.S. Department of Health and Human Services (DHHS) awarded \$3 million to 22 states during fiscal year 2000, with an average grant of \$136,000 per year. DHHS recently received additional funds and suggested Oregon re-apply. No state funds are required. If the proposal is funded, the Division may request additional expenditure limitation and position authority from the 2001 Legislature.

The Division notified the Emergency Board Co-Chairs by letter on November 20, 2000 of the need to apply for the grant prior to requesting Emergency Board approval. DHHS first announced the grant competition on November 3. The closing date for applications was December 8.

The Subcommittee recommended approval of the request.

Senator Hannon's motion carried with no objections voiced. (Representatives Westlund, Minnis and Hopson, and Senators Qutub and Ferrioli excused)

20. Department of Human Services—Health Division

Representative Winters moved that the Emergency Board, acting under the authority of ORS 291.375, approve the submission of an application by the Health Division for a federal grant from the U.S. Health Resources and Services Administration to address the shortage of public health nurses in Oregon.

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

The Oregon Nurses Association and Oregon Nursing Leadership Council, among other groups, have identified a shortage of nurses in Oregon. Several factors contribute to the shortage, not the least of which is a public health nursing workforce that is approaching retirement within the next five years. Added to the aging problem, is the increasing need for bilingual skills in the nursing profession, especially public health nursing, to serve Oregon's increasingly diverse population.

The shortage in nurses has caused many local public health departments to hire nurses prepared at the associate degree level. Associate degree nursing programs do not include public health nursing in the curriculum, but baccalaureate degree programs do. This grant provides an opportunity for Oregon schools of nursing, local health departments, and the Health Division to work together to improve the basic public health nursing capacity at the local health department level.

The Health Division proposes partnering with the state of Minnesota which has developed a comprehensive public health nurse curriculum. The Health Division anticipates targeting the curriculum to nurses who do not now have the education to consider public health as an occupation and nurses who need continuing education to sharpen public health nursing skills before going into that vocation. The Health Division plans to conduct the training and certify successful completion. The grant proposal anticipates using a combination of contract and Health Division Personnel.

The grant application is due February 22, 2001. The grant request will be for \$215,000 per year, up to four years. The Health Resources and Services Administration expects to fund 20 programs across the nation and will award the grants by July 2001. If the grant application is accepted, the Health Division may request additional spending limitation and position authority from the 2001 Legislature.

The Subcommittee recommended approval of the request.

Representative Winters' motion carried with no objections voiced. (Representatives Westlund, Winters and Hopson, and Senators Qutub and Ferrioli excused)

21. Department of Human Services—Health Division

Senator Hannon moved that the Emergency Board, acting under the authority of ORS 291.375, approve, retroactively, the submission of an application by the Health Division for a federal grant in the amount of \$1.5 million to the U.S. Department of Agriculture for a Seniors Farmers' Market Nutrition Pilot Program.

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

This grant proposes a partnership between the Oregon Department of Agriculture and the Department of Human Services, Health Division and Senior and Disabled Services Division to establish a Senior Farmers' Market Nutrition Pilot Program. The grant provides low-income

seniors with coupons that can be redeemed for fresh fruits and vegetables at participating farmers' markets and fruit stands. The goal is to increase seniors' ability to eat nutritious foods and expand opportunities for sale of agricultural commodities.

The Senior and Disabled Services Division will determine who is eligible; the Health Division will coordinate grant management and coupon distribution and redemption; the Department of Agriculture will encourage participation of farmers' markets and stands in the program. The Health Division already oversees a similar Farmers' Market Nutrition Program through WIC for eligible women, infants and children. The agency assured the subcommittee that a mechanism to provide transportation for seniors to markets and roadside stands exists and will be addressed if the grant is awarded.

If awarded, seniors over the age of 65 and with an income below 135% of federal poverty level will be eligible for the program. Clients will receive a packet of \$2 coupons to use between May and October at participating farmers' markets and fruit stands. Coupons are limited to \$20 per month. Fifteen thousand individuals are estimated to be eligible for the program.

Twenty-three markets in 17 counties will be part of the farmers' market network. The Department of Agriculture expects to add roadside and farm stands in up to 10 more counties to the network. The Department believes more than 400 individual farmers will participate in these markets and stands. Each client will receive information on the importance of including fresh foods in their diets and a list of participating markets and stands.

The Department of Human Services advised the Emergency Board Co-Chairs by letter on November 17, 2000 of the need to apply for the grant prior to requesting Emergency Board approval. The Health Division first learned of this grant opportunity on November 3 and discussed it with the Oregon Hunger Task Force on November 9. Proposals were due by December 1.

The Subcommittee recommended approval of the request.

Senator Hannon's motion carried with no objections voiced. (Representatives Westlund, Hansen, Minnis, Butler and Hopson, and Senators Qutub and Ferrioli excused)

22. Department of Human Services—Health Division

Senator Shields moved that the Emergency Board, acting under the authority of ORS 291.375, approve the submission of an application by the Health Division for a federal grant from the Centers for Disease Control and Prevention, to support the Oregon Pregnancy Risk Assessment Monitoring System.

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

The Oregon Pregnancy Risk Assessment Monitoring System (PRAMS) will survey a sample of mothers three to four months after the birth of their babies. The survey follows a national model that asks a standard set of questions to identify mothers knowledge and behavior before, during, and after pregnancy, with particular emphasis on factors that are related to mother and child health.

The goal of this project is to improve mother and child health by surveying effectiveness of existing pregnancy education and support programs. The information gained from PRAMS will improve identification of health issues of women and infants, and identify appropriate strategies to improve outcomes. The issues include such things as barriers to prenatal care and encouraging proper sleep positioning to reduce Sudden Infant Death Syndrome. The study findings will be distributed to policymakers, program managers, healthcare providers, and the public.

The grant application is due to the Centers for Disease Control and Prevention by January 12, 2001. Funding is expected to begin by April 2001. Successful grant applicants are expected to receive approximately \$150,000 per year for five years.

The Subcommittee recommended approval of the request.

Senator Shields' motion carried with no objections voiced. (Representatives Westlund, Minnis, Butler and Hopson, and Senators Qutub and Ferrioli excused)

23. Department of Human Services—Mental Health & Developmental Disability Services Division

Representative Winters moved that the Emergency Board accept and approve a progress report on implementation of the long range plan for developmental disability services.

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

The 1996 long range plan for developmental disability services called for closure of the Fairview Training Center, with reinvestments in community housing and services. The Mental Health and Developmental Disability Services Division presented a report in November 2000 on its progress under the plan. The Emergency Board asked the agency to provide more information at the January 2001 meeting on costs, services, provider wages, and plans for sale of the Fairview property.

Fairview Training Center was closed in February 2000, 4 months earlier than originally planned. The agency reported it would cost an estimated \$145.9 million in 2001-03 if Fairview had continued to operate with 300 residents. The 2001-03 budget has \$130.9 million for on-going community costs under the long range plan, and \$6.4 million for housing start-up costs. The budget supports long range plan investments for 24-hour care for 284 persons moved from Fairview to community homes; services for 1,050 persons on waiting lists; regional back up services for high-need, crisis situations, and wage increases for direct care staff in community homes.

The agency presented information that provider wages have increased more than the total \$1.00 per hour expected in the original plan. They are on average \$2.32 per hour higher, with cost-of-living adjustments. However, the increases have only kept pace with comparable market wage growth. As a result, staff turnover and quality of services continue to be concerns. Subcommittee members discussed staff wage and turnover issues. Members asked the agency to

bring a fiscal impact for a \$.25 per hour wage increase and a plan to address staff turnover in the community homes to the 2001 Legislature.

The Subcommittee reviewed expenditure information presented for self-directed support services, including administrative costs. Senator Yih asked agency staff for a written explanation of the “Other” expenditures, the administrative costs for these services including local administration, and a review of Linn County’s personnel costs.

The Department of Administrative Services reported that it continues to work with the city of Salem on planning for the use and sale of the Fairview property. There are several issues, such as zoning and city services to the property, that need to be resolved before it can be sold. Senator Hannon asked the agency to update the 2001 Legislature on the City of Salem’s efforts to resolve the issues, and the disposal plan for the property. The Department reported there are also discussions underway on how to reduce the property maintenance costs pending a sale.

The following Committee discussion occurred:

Senator Yih explained that she voted ‘no’ on this item in Subcommittee because she doesn’t feel the agency has paid provider wage increases from savings as called for in the original plan. She reiterated her request for a fiscal impact estimate of a \$.25 per hour wage increase for the 2001-03 biennium. She also expressed concern about the information presented on administrative costs. Senator Yih stated that the Joint Task Force on Mental Health and Chemical Dependency recommended that the 2001 Legislature get accurate, complete and verifiable information from the agency to review before approving its budget.

Speaker Snodgrass expressed her concern that individual community homes throughout the state would soon be facing repair and maintenance issues, as well as the wage and turnover issues.

Representative Winters confirmed that the Subcommittee had asked the agency to come in with a plan to address group home staff turnover. In addition, she reported, it had asked the Department of Administrative Services to accelerate its efforts to dispose of the Fairview property and reduce property maintenance costs.

Representative Winters’ motion passed with Senators Yih and Adams voting ‘no’.
(Representatives Westlund, Minnis and Butler, and Senator Ferrioli excused)

24. Department of Corrections

Senator Trow moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds Capital Construction expenditure limitation established for Lincoln County by section 9(2) of chapter 909, Oregon Laws 1999, by \$1,563,008 for construction of a SB 1145 correctional facility.

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

The Department of Corrections (DOC) has submitted a request to increase its Other Funds Capital Construction expenditure authority so that it can secure financing for construction

of a local SB 1145 correctional facility that will serve Lincoln county. The site-specific facility plan is supported by the local public safety coordinating council and a majority of the county's board of commissioners. DOC and the SB 1145 Implementation Committee have also critically reviewed the proposal and recommend approval. The facility is designed to efficiently meet local sanction and treatment continuum needs.

Legislative authority to secure \$94.2 million in financing for construction of 21 correctional facilities in 33 counties was provided during a February 1996 Special Session. Lincoln was one of three counties that did not submit construction proposals at that time. ORS 423.525(2)(a) allowed Lincoln county until June 30, 1999 to request funding for construction, acquisition, expansion, or remodeling of correctional facilities. Lincoln County submitted its initial funding proposal to DOC prior to the June 30, 1999 deadline. That proposal was forwarded to the Emergency Board for review in February 2000. The Emergency Board deferred the request, since Lincoln County had not identified a site for its facility and directed DOC to develop and submit a site-specific proposal in an amount equal to or less than \$1,563,008. Since February 2000, Lincoln County has located a 1.3 acre site in the South Beach area of Newport located in a primarily industrial, non-residential area. The sales price of the property is \$300,000 and the City of Newport has agreed to allow the site to be used for the Community Justice Transition Center.

Since the initial funding proposal could not be thoroughly reviewed by DOC or the Governor's SB 1145 Implementation Committee prior to the end of session, the 1999 Legislature established a \$1 Other Funds Capital Construction expenditure limitation for Lincoln County. This was done with the understanding that DOC would request expenditure limitation increases from the Emergency Board when the review was completed. A DOC technical review steering committee reviewed the proposals between August and November 1999 and recommended numerous changes. The Governor's SB 1145 Implementation Committee reviewed and endorsed the revised proposals on January 18, 2000 and recommended that DOC present the final proposal to the Emergency Board. DOC has submitted the proposal at this time and plans to finance approximately \$1 million using project savings and excess interest earning proceeds derived from prior sales of certificates of participation (COP). The remaining amount would be funded through a planned February 2001 COP sale.

The proposal is to build a \$1.6 million residential transition and instruction facility that will provide structured housing for up to 30 probationers, parolees at risk of incarceration, and inmates transitioning from prison or jail. The one-story facility will have two four-person dormitories; four two-person units; and fourteen individual units. Included in the design are two classrooms, one counseling unit, and three offices for counseling and training services. The facility will serve both male and female offenders. The facility should free up jail beds for more dangerous offenders; reduce early jail releases; centralize additional treatment, training, and education opportunities; provide expanded strategic deployment of work crews; increase the likelihood of successful transition to the community; and increase offender accountability. The estimated total construction cost per bed is \$52,633. The estimated operational cost per bed day is \$25.60. These are both within the ranges of 21 previously approved local correctional facilities. The county plans to have offenders staying in the facility pay rent to cover annual maintenance and service expenses, purchase/prepare their own food, and provide for their own laundry needs. An architectural and engineering firm has developed a site-specific cost estimate for the project. The estimated cost is \$1,579,000 or approximately \$16,000 above the original request. The county is prepared to cover these additional costs and does not plan to make any

other contribution to this construction project. The estimated net annual operating costs for the facility are \$280,783. In 1999-01, Lincoln County will receive approximately \$2.9 million in community corrections grants. The biennial operating costs represent about 20 percent of the current corrections grant funds. The Legislative Fiscal Office recommended approval of the request.

The Subcommittee discussed, at length, the steps taken by community corrections officials to address local siting issues; belief in local control; respect for decisions of locally elected public officials; and the need for the state to fulfill its commitment to provide facility funding so that Lincoln County can carry out its responsibilities under SB 1145. Lincoln County representatives confirmed that a number of public hearings had been held; letters had been sent to adjacent property owners; lots of information had been provided but there were still local citizens that remained concerned with the location of the facility and the operating costs; the facility would provide an alternative to jail as well as assist with offender transition from incarceration to community; and that plans were made to set-up a neighborhood advisory committee so that any on-going concerns could be voiced and addressed. The Subcommittee unanimously recommended approval of the request.

The following Committee discussion occurred:

Representative Hansen indicated that he had served on the original SB 1145 facility review committee and that he was very pleased with the construction and operating cost numbers developed by Lincoln County.

Senator Trow's motion carried with no objections voiced. (Representatives Westlund, Minnis, Winters and Butler, and Senators Ferrioli and Shields excused)

25. Department of Corrections

Senator Qutub moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b) and (d), and 291.371, approve the transfers of \$530,832 from the appropriation made to the Department of Corrections by section 1(5), chapter 912, Oregon Laws 1999, Debt Service, and \$628,500 from the appropriation made to the Department of Corrections by section 1(3), chapter 912, Oregon Laws 1999, Central Support/Operations and Administration, to section 1(1) Institutions, Correctional Programs and Inmate Work Programs, in the amount of \$530,832, to the 1997-99 Capital Construction appropriation established by the Emergency Board at the January 1999 meeting and amended by the Emergency Board at the June 2000 meeting, in the amount of \$628,500; increase the Federal Funds expenditure limitation established by section 3, chapter 912, Oregon Laws 1999, for Institutions, by \$2,862,981 to allow debt service savings on delayed construction projects to be used for unbudgeted obligations in Institutions and Correctional Programs, to allow Central Support/Operations operating budget savings to be used to add a freezer in an existing warehouse at the distribution center, to expend additional funds available from the federal State Criminal Alien Assistance Program, and to allow proper recording of accounting transactions; approve the increase of 3.55 FTE to staff the accelerated Two Rivers Correctional Institution population management plan; and acknowledge receipt of the Department's report on the impact of the October 2000 Oregon Corrections Population Forecast.

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

The Department of Corrections (DOC) has submitted a rebalance plan to address differences between the amount budgeted for 1999-01 and newly projected needs. The rebalance plan does not require allocation of any funds from the special appropriations made to the Emergency Board or the general purpose Emergency Fund. No Other Funds expenditure limitation changes are necessary. DOC needs to increase an existing capital construction appropriation for a freezer addition at the Distribution Center. DOC also needs to increase its Federal Funds expenditure limitation to spend available grant funds from the State Criminal Alien Assistance Program. The plan does require an increase of 3.55 FTE in response to changes in the prison population management plan.

The rebalance plan is based on a department-wide review of all program area expenditures, problems, and management strategies for creating offsetting savings. The plan is also based on the October 2000 prison population forecast, which indicates the Department will be responsible for the incarceration of 10,716 inmates by June 2001. This represents an increase of 151 offenders when compared to the April 2000 forecast that formed the basis for the population management plan funded by the Emergency Board when it approved DOC's June 2000 rebalance plan. DOC has modified its long-range Construction Plan based on the new forecast and the policy decision to delay elimination of temporary beds until February 2004. The revised plan delays previously reported facility completion dates at seven facilities by two to ten months.

The Department has identified \$13.2 million in General Fund needs beyond the 1999-01 Legislatively Adopted Budget. Approximately 84% (\$11.1 million) of the needs relate to unfunded health care costs; 6% (\$0.9 million) relates to anticipated utility cost increases; 5% (\$0.6 million) relates to additional costs to accommodate the October 2000 population forecast during the remainder of this biennium; and the remaining 5% relates to costs to remodel an existing warehouse at the distribution center to add a freezer. In response to the increase in the projected population, the rebalance plan proposes to accelerate the phase-in of five housing units at the Two Rivers Correctional Institution in Umatilla without having to request Emergency Funds. The Department proposes to resolve the \$13.2 million in problems as follows:

- \$7.6 million in savings from planned changes to program services delivery systems;
- \$2.9 million in additional Federal Funds from the State Criminal Alien Assistance Program;
- \$1.6 million in savings from management actions that created an internal reserve balance;
- \$0.6 million in funds transferred from the Distribution Center's operating budget; and
- \$0.5 million in debt service savings from delayed COP sales on construction projects.

The rebalance plan is complete and calls for all program managers to continue to provide all required programs with fewer resources. It is achievable unless the circumstances under which the plan is expected to be executed change significantly through future forecasts, unforeseen equipment failures, and weather-related operational cost increases.

The success of the rebalance plan relies heavily on the "management actions" yet to be executed by the Department's program managers, especially in the area requiring changes to the manner correctional programs are delivered. While the amounts identified will clearly require skillful management of expenses, prioritized filling of vacancies, and on-going feedback to those managers charged with achieving the identified savings, they do not appear unrealistic. To the plan's benefit, some of the elements have been in place for several months. It should be noted,

however, that this rebalance plan will not work if a higher prison population forecast is issued in April 2001; if any disturbances occur that create significant overtime demands; if the program areas have major equipment failures that require costly replacements (refrigerators, stoves, locking systems, etc.); or if severe weather during the remainder of the biennium results in a substantial increase in heating and utility costs.

The Legislative Fiscal Office recommended approval of the plan, noting that the plan was based on a comprehensive review of program needs and expenditures, and has involved the participation and commitment of various program managers to guard against the establishment of unrealistic savings targets. The Department will monitor plan execution and provide timely feedback to those charged with achieving the savings and ensuring that only reasonable cost saving methods continue to be used.

The Subcommittee complimented the Department on its efforts to rebalance; its timely efforts to make changes necessary to carry out the Governor's Recommended Budget for 2001-03; and expressed its appreciation for the thorough information that was provided to each of the Subcommittee members in advance of the meeting. The Subcommittee unanimously recommended approval of the request.

Senator Outub's motion carried with no objections voiced. (Representatives Westlund, Minnis, Winters and Butler, and Senators Ferrioli and Shields)

26. Department of State Police

Representative Lewis moved that the Emergency Board, acting under the authority of ORS 291.371, acknowledge receipt of a report on changes to the Department's business plan to address unfunded 1999-01 obligations; approve the rebalance plan; and approve the establishment of 10 permanent positions (2.79 FTE) for implementation of Ballot Measure 5 firearms regulation, with instructions.

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

The 1999 Legislature directed the Department by budget note to provide a progress report to the Emergency Board on its efforts to address unfunded 1999-01 obligations. A report was provided in February 2000. At that time, the Emergency Board directed the Department to provide a follow-up report to the Emergency Board if unforeseen circumstances prompt significant business plan changes that would adversely affect the Department's ability to meet legislatively established minimum patrol staffing levels. Expenditure patterns, revenue shortfalls, and plans to scale back operational plans to meet funding levels of the Governor's recommended 2001-03 budget have adversely impacted the Department's ability to meet minimum staffing levels and prompted this follow-up report.

OSP submitted a rebalance plan to address differences between the amount budgeted for 1999-01 and newly projected needs. The rebalance plan does not require allocation of any funds from the special appropriation made to the Emergency Board or the general purpose Emergency Fund. All changes to Other Funds are addressed within existing limits. The rebalance plan is based on a department-wide review of all program area expenditures, problems, and management strategies to create offsetting savings. The plan is based on expenditures as of August 31, 2000.

The Department will review expenditures through October or November 2000 by the time this request is before the Emergency Board and will provide an update. No major changes in the problem areas or the management actions to address them are expected.

The Department initially identified \$6.0 million in General Fund needs beyond the 1999-01 Legislatively Adopted Budget. Approximately 36%, or \$2.2 million, of the needs relate to unfunded compensation plan changes; \$1.0 million represents the disappropriation made during the 1999 Legislative Session to address 1997-99 budget issues; \$1.0 million corresponds with ODOT revenue reductions for truck enforcement activities; \$0.7 million relates to conflagration fire costs; \$0.7 million is linked to education differential payments that are required based on an arbitration award; and the remaining \$0.4 million relates to reduced sex offender registration revenues. Only \$3.3 million in General Fund problems had been identified as of February 2000 when OSP provided a business plan report to the Emergency Board. The \$2.7 million in additional problems relate to ODOT revenue, educational differential, most of the fire costs, and sex offender revenue issues that developed subsequent to that report. The Department proposes to resolve the \$6 million in problems as follows:

- \$3.5 million in reduced capital outlay and supplies expenditures;
- \$2.7 million from delayed or cancelled recruit schools; and
- \$1.0 million from delayed filling/elimination of vacant positions.

The rebalance plan will continue to provide all legislatively approved programs, but with fewer resources. It is achievable unless circumstances under which the plan is expected to be executed change significantly through large Young vs. Oregon overtime pay outs; incidents requiring significant overtime and vehicle operation expenses; unforeseen equipment failures; and/or other weather-related operational cost increases.

In December 1999, the Emergency Board allocated \$300,000 and approved the establishment of five permanent Fish and Wildlife enforcement positions (1.25 FTE) as of January 1, 2001. These positions would have been stationed in Central and Eastern Oregon. Due to General Fund reductions taken in the development of the Governor's Recommended Budget for 2001-03, OSP does not have funding necessary to continue these positions and has cancelled the January 1, 2001 recruit school. Since the \$300,000 will not be used to hire positions for only six months during 1999-01, the Department proposes to utilize these funds to restore capital outlay reductions (equipment and vehicles) that it made to finance unbudgeted salary increases. LFO recommends that OSP be allowed to use the General Fund for equipment and vehicle expenses in lieu of using \$300,000 that would otherwise be spent using Oregon Department of Fish and Wildlife (ODFW) Other Funds revenue. This would not have any adverse impact on the program; would allow an additional \$300,000 in Other Funds to be carried over with ODFW's revenue that can correspondingly increase the amount transferred to OSP for 2001-03; and would give the 2001 Legislature the ability to prioritize use of these funds through the Division's 2001-03 Legislatively Adopted Budget.

The rebalance plan relies heavily on savings created when OSP eliminates plans to hire 75 new patrol troopers and five new fish and wildlife troopers. Funding for these positions was included in the Department's 1999-01 Legislatively Approved budget. These actions represent a portion of the sworn position scale backs necessary to meet budget reduction targets imposed when the Governor's Recommended Budget for 2001-03 was developed. The key policy question posed by this request is whether or not the Emergency Board desires for OSP to carry out plans to hire sworn positions authorized and funded in the 1999-01 Legislatively Adopted

Budget. If this action were taken, it would put significant pressure on the 2001 Legislature to identify and allocate the necessary additional General Fund support to continue the positions or would require the Department to lay off up to 80 of the newly trained officers by July 1, 2001. The Department has already notified candidates for the January 2001 recruit school that it will not be held due to planned budget reductions. Since the Governor's recommended budget eliminates 96 new patrol troopers, 36 existing detectives, and 22 fish and wildlife officers (17 of 22 are existing), it appears that the highest priorities for restoration would be the 48 existing positions.

The plan should work unless the circumstances in which it is executed change significantly. The largest known risk to the success of the rebalance plan is the Young vs. Oregon overtime case. The Department will not know the amount of unbudgeted liability until claims are filed and reviewed. Additional information is not expected to be available before January 2001. The plan leaves the Department with approximately \$1.2 million in reserve for this and other unforeseen problems. LFO recommended the Subcommittee:

- Approve the establishment of 10 new positions (2.79 FTE) to implement Ballot Measure 5;
- Acknowledge receipt of the business plan report;
- Approve OSP's rebalance plan, which includes plans to scale back hiring of newly authorized positions. This will allow the 2001 Legislature to comprehensively assess statewide budget priorities before deciding what, if any, of the sworn reductions can or should be restored; and
- Instruct OSP to expend the \$300,000 General Fund provided by the Emergency Board in December 1999 for necessary services, supplies, and capital outlay items in lieu of expending \$300,000 in ODFW Other Funds revenue to correspondingly increase the amount of Other Funds that can be transferred to OSP in

The Subcommittee expressed its appreciation for the Department's efforts to stay within its budgeted resources; expressed its disappointment with the reductions in patrol and fish/wildlife troopers; and asked the Department to explain the impact of the reductions. The Department and LFO staff confirmed that the reductions would have an adverse impact on the Department's ability to fulfill cooperative policing agreements; reduce crime and crashes; return local resources to other duties; and could potentially impact officer safety. The Subcommittee unanimously adopted the LFO recommendation.

The following Committee discussion occurred:

Representative Lewis expressed her disappointment with the Governor's cut of 157 State Police sworn positions which did not allow the Department to hire 75 new troopers on January 1, 2001 or to increase the fish and wildlife troopers by 5 as planned.

Chair Snodgrass indicated her agreement stating that it was hard to see negotiations undermined; that other 1999-01 funding priorities were given up to fund the officers; and that with recruitment being so difficult it was a disservice to the candidates who did not get jobs.

Senator Hannon indicated that he and Representative Westlund were already working to address the issue; that he believed promises were not fulfilled by the agency or the Governor; and that promises made should be promises kept.

Senator Trow indicated that he knew the Governor was faced with some difficult choices based on limited resources but that he was disappointed with the choice to reduce sworn officers.

Chair Snodgrass concluded that she believed the Governor needed to fulfill his promises before going on to fund new programs.

Representative Lewis' motion carried with no objections voiced. (Representative Westlund, Minnis and Winters, and Senators Ferrioli and Shields excused)

27. Oregon Youth Authority

Senator Qutub moved that the Emergency Board acknowledge receipt of reports on youth offender parole revocations and on the Deschutes County Delinquent Youth Demonstration Project, with direction that a more detailed report on the Deschutes County project be presented to the 2001 Legislature.

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

The 1999 Legislature, by budget note, asked the Oregon Youth Authority to report on the causes of parole revocations that resulted in youth offenders being returned to close custody. The agency compiled data from the Juvenile Justice Information System for the year ending October 2000. The information shows that technical parole violations, such as running away, skipping school or treatment, or using drugs, caused 62% of the revocations. Suspected law violations made up 27% of the cases; 11% of the revocations were for adjudicated law violations. Subcommittee members expressed interest in getting more information during the 2001 legislative session on how these numbers and juvenile corrections revocation practices compare to revocation numbers and practices in adult corrections.

The second report presented information on the Deschutes County Delinquent Youth Demonstration Project. This is a six-year pilot project that allows the county to manage non-violent juvenile offenders who would otherwise be in Oregon Youth Authority facilities. The first youth were admitted to the program in January 1998. To date, the project has treated 60 youth, reduced the county's use of state close custody beds by 72%, and used savings to fund six local juvenile crime prevention programs. The Subcommittee asked that a more detailed project report be presented to the 2001 Legislature. The report should include more information on the costs of housing and services for the youth, and project evaluation efforts, to help the Legislature as it considers continuing the pilot or expanding it to other counties.

The following Committee discussion occurred:

Senator Qutub stated that the Subcommittee did get a more detailed report on offender demographics and other information. She also said the Subcommittee encouraged Deschutes County to not wait too long to share information on the project that would be useful for the Legislature and for other projects.

Senator Bryant commented that the project was one of 25 finalists in the Ford Foundation's Innovations in American Government competition. As such, it received a \$20,000 award. He indicated that representatives from Portland, a Southern Oregon county and four states were interested in starting up similar efforts.

Senator Qutub's motion carried with no objections voiced. (Representatives Westlund and Minnis, and Senators Ferrioli and Shields excused)

28. Employment Department

Senator Ferrioli moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Federal Funds expenditure limitation established for the Employment Department by section 4, chapter 279, Oregon Laws 1999, by \$1,750,000; and approve the submission of an application for a National Marine Fisheries Service grant for aid to Oregon citizens negatively impacted by the groundfish commercial fishery failure, with the understanding that the Department of Administrative Services will unschedule the Federal Funds expenditure limitation pending award of the federal grant.

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

The National Marine Fisheries Service (NMFS) declared a commercial fishery failure for the Pacific Coast groundfish fishery in January 2000. In response, several of Oregon's state and local agencies, including the Oregon Employment Department (OED) and the Oregon Department of Fish and Wildlife (ODFW), worked together to develop the Groundfish Disaster Outreach Program (GDOP). The Sea Grant Extension Program at Oregon State University is currently administering the GDOP, which is initially focused on job training for dislocated fishery workers. ODFW updated legislative leadership on the Program at the November 2000 meeting of the Emergency Board.

In federal response to the fishery failure, Congress appropriated \$5 million in grant funds to the states of California, Oregon, and Washington; using a formula based on the disaster's impact in Oregon, the state may receive up to 35% of the total or \$1,750,000. The funds are earmarked for assistance to individuals, families, and communities negatively impacted by the groundfish fishery disaster. The Employment Department, in partnership with other agencies, will use the funds to expand services offered by the Groundfish Disaster Outreach Program. The expanded program will offer transition income in addition to job training. The plan is to provide \$1,000 to \$1,500 in monthly income to applicants for a period of six to nine months; it is estimated that up to 220 individuals could receive transition income through this grant. The Employment Department will be responsible for disbursing the transition income, assisting in determining applicant eligibility and training plans, and accounting for the grant expenditures.

To receive the funds, Oregon must submit a grant application and provide matching funds at the rate of 25%, or \$583,333. NMFS is currently reviewing Oregon's proposed \$572,000 in matching funds, consisting of expenditures supporting fishery research, for compliance with grant requirements. If NMFS does not accept the proposed match, GDOP agencies will have to identify other sources for match. Under this scenario, the amount of Federal Funds received may be somewhat reduced, depending on the quantity of match obtained from these other sources. The Employment Department should receive a response from NMFS on the status of the matching funds and a formal grant solicitation in January 2001 or sooner.

The Subcommittee unanimously recommended approval of the request with the understanding that the Department of Administrative Services will unschedule the funds pending their receipt and identification of approved match.

Senator Ferrioli's motion carried with no objections voiced. (Representative Westlund excused)

29. Housing and Community Services Department

Senator Yih moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Housing and Community Services Department by section 2, chapter 742, Oregon Laws 1999, by \$5,183,989 for proceeds related to lottery-backed revenue bonds to be used for Community Development Incentive Project Fund projects.

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

The 1999 Legislative Assembly established the Community Development Incentive Project Fund as one element of the Oregon Livability Initiative. The Initiative is aimed at creating more jobs in distressed communities that want economic growth, increasing the supply of affordable housing, and revitalizing downtowns and mainstreets. The role of the Fund in achieving these objectives is to provide flexible gap funding that serves as an incentive to quality development. It is intended as a method to help local communities shape the way in which they grow and develop.

The legislation provided for bonding resources to be used in the Fund. Several major projects, such as Columbia River dredging and the Coos Bay pipeline, held a priority position over the available bonding. If any of the priority projects did not materialize, the Housing and Community Services Department was authorized to issue bonds for the remaining amount of total bonding authority up to a maximum of \$25 million.

The 1999 Legislature approved a \$1 Other Funds limitation for the Community Development Incentive Project Fund, and requested the Department to appear before the Emergency Board if lottery revenue bond proceeds became available. In November 2000 the Department of Administrative Services approved the issuance of \$5,760,000 of lottery-backed revenue bonds to be used for the Community Development Incentive Project Fund. Of the \$5,760,000 of bonds to be issued, \$4,999,999 will be available for approved projects, \$183,990

for costs related to the issuance of the bonds and \$576,010 will be used for reserves (limitation is not necessary for the amount held in reserve).

The Housing and Community Services Department is currently accepting applications for projects. Some of the projects may include rehabilitation of historic districts, development of housing projects, acquisition and/or development of sites to locate a business near a town center, mainstreet revitalization projects, public open space projects, and public infrastructure development. Depending upon project financial needs, funding will be provided as grants, loans, and/or credit enhancements.

The Subcommittee recommended approval of the request.

Senator Yih's motion carried with no objections voiced. (Representatives Westlund, Minnis and Butler, and Senators Bryant, Ferrioli and Shields excused)

30. (withdrawn)

31. Department of Fish and Wildlife

Representative Hansen moved that the Emergency Board, acting under the authority of ORS 291.375, approve, retroactively, application by the Department of Fish and Wildlife and five other state agencies for a federal grant from the Bonneville Power Administration for projects critical in the implementation of the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program, with the understanding that any state agency receiving project funding from the grant application will return to the Legislature for review of the project and approval of the required Federal Funds expenditure limitation.

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

The Department of Fish and Wildlife submitted a grant application to the Bonneville Power Administration (BPA) on behalf of six state agencies with responsibilities for the protection and restoration of fish, wildlife, and watershed health in the Columbia Basin. The application includes 28 project proposals totaling \$57 million. Only \$15 million is available and applications are expected from three other states, 13 tribes, and 2 federal agencies. The projects must address imminent risks to the survival of fish and wildlife species and must be started no later than September 30, 2001.

The projects submitted for consideration by Oregon include proposals for the mitigation of wildlife habitat losses caused by the hydropower system; for fish passage improvements in the tributaries of the Columbia and Snake Rivers; for protection and enhancement of flows in the tributaries of the Columbia and Snake Rivers; and for assessments to guide protection and restoration efforts and to monitor and evaluate progress in attaining protection and restoration goals.

The request is for retroactive approval of the grant application submission since BPA did not issue a request for projects until November 9, 2000, after the deadline for submittal of requests for the November meeting of the Emergency Board. The deadline for receipt of completed applications was December 15th.

The Subcommittee recommended approval but requested that, once the selected projects are identified by BPA, the agencies return to the Legislature with detailed project descriptions and to request the appropriate Federal Funds expenditure limitation, either as a supplement to the 1999-01 budget or as part of the agency's 2001-03 adopted budget.

Representative Hansen's motion carried with no objections voiced. (Representatives Minnis and Butler, and Senators Bryant and Ferrioli excused)

32. Department of Forestry

Representative Hansen moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Department of Forestry by section 2(2), chapter 892, Oregon Laws 1999, Protection from Fire, by \$3,670,000 for fire protection and prevention activities, with the understanding that the Department of Administrative Services will unschedule \$1,290,000 of the Other Funds expenditure limitation increase until the federal allocation from the U.S. Forest Service is received by the Department of Forestry and the 1999-01 biennium expenditures can be estimated.

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

In cases of extraordinary fire conditions in the state, the Department of Forestry (ODF) provides reports to the Emergency Board on the severity of the situation, the costs incurred in suppressing fire outbreaks, and the outlook for the remainder of the fire season. Accompanying the reports, the Department will also request any necessary Other Funds expenditure limitation increases or Emergency Fund allocations resulting from fire fighting activities.

The Department first reported on the fire season in September and received an expenditure limitation increase based on estimated additional costs for fire suppression. The Department's latest report indicated that the fire situation improved during the remainder of the season. No allocation from the Emergency Fund is necessary, but the agency needs an additional \$2,380,000 Other Funds expenditure limitation for actual costs incurred during the fire suppression season.

In addition, the severity of the fire season nationwide prompted Congress to make additional federal resources available for fire readiness and fire prevention activities. The Department anticipates receiving approximately \$1,290,000 under existing grant agreements in the State Fire Assistance (SFA) and Volunteer Fire Assistance (VFA) programs. The additional federal funding will be used for fire readiness and to address issues related to the wildland/urban interface. Federal Funds received by the Department under these programs are spent as Other Funds in the agency's budget.

The Subcommittee recommended approval of the requested Other Funds expenditure limitation increase. Since the timing of receipt of these funds and the amounts able to be spent in

the current biennium are not known, the Subcommittee also recommended that \$1.29 million of the expenditure limitation increase be unscheduled by the Department of Administrative Services until the actual amounts to be received and expended are known.

Representative Hansen’s motion carried with no objections voiced. (Representatives Minnis and Butler, and Senators Yih and Ferrioli excused)

33. Department of Land Conservation and Development

Senator Bryant moved that the Emergency Board acknowledge receipt of the report on Department of Land Conservation and Development legal services.

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

The Department worked with the Attorney General’s Office to determine the last two years of actual billings for these various categories. Adjustments were made for SB 543 and for Measure 7.

Projected legal services expenditures for the biennium are expected as follows:

Service Category	Allocation	Percentage of Total
1. General Advice to Agency	\$ 84,508	21%
2. Advice to LCDC	24,145	6%
3. Cases against LCDC	36,218	9%
4. Cases by LCDC	16,097	4%
5. LUBA Appeals	205,232	51%
6. Rulemaking	12,073	3%
7. Enforcement Orders (DLCD)	16,097	4%
8. Enforcement Petitions (Citizen)	8,048	2%
TOTAL	\$ 402,418	100%

The Department noted that these projections are tentative, as there is uncertainty about the number of LCDC decisions that will be appealed and uncertainty about Measure 7’s scope and meaning.

Representative Montgomery asked the Department to explain the Land Use Board of Appeals (LUBA) appeals further, as this was the largest category of legal expenses. The Department handed out a listing of the LUBA appeals for this biennium (see attached). The Department reported that they are filing fewer appeals than in previous years and that they prevail in most cases. Senator Bryant noted that the LUBA appeals included 2 large Metro cases

and asked if these had been concluded. The Department reported that these cases had been concluded.

Representative Butler asked why the Department had taken legal action against Lane County regarding Measure 7. The Department explained that approximately 45 cities and counties have adopted ordinances to prepare for Measure 7. Most have adopted a claims process with a provision to waive the ordinance when there are not sufficient funds for the claim, or when the choice is made not to spend. The Department has reviewed 15-18 cases that include waiver provisions and has concerns that these provisions may violate state law. The Lane County case was the first of these cases and the Department filed legal action when facing the 40-day response window. The Department will not be pressing forward on the case until after an Attorney General opinion is rendered as to local government's waiver authority. Senator Ferrioli commended the Department for deferring action on Lane County until the Attorney General's decision and noted that the decision may affect other local government program areas as well.

The Subcommittee recommended approval of the request.

Senator Bryant's motion carried with no objections voiced. (Representatives Minnis and Butler, and Senators Yih, Ferrioli and Adams excused)

34. Land Use Board of Appeals

Representative Montgomery moved that the Emergency Board, acting under the authority of ORS 291.326(1)(a), allocate \$20,000 from the Emergency Fund, established by section 1(1), chapter 910, Oregon Laws 1999, to supplement the appropriation made to the Land Use Board of Appeals by section 1, chapter 242, Oregon Laws 1999, for payment of additional rent expenses not included in the 1999-01 adopted budget.

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

The Land Use Board of Appeals (LUBA) rents office space in the Public Utility Commission building. The building was renovated in the early 1990s with proceeds from certificates of participation (COPs). Building occupants are charged the uniform rent rate for square footage used plus a surcharge to pay off the COPs. The surcharge amount was not included in the agency's 1999-01 budget. After discussing the budget omission and the effect of not providing the funds, the Subcommittee recommended the allocation of \$20,000 to assist the agency in paying these additional rent costs.

The agency's original request also included an additional allocation of approximately \$15,000 to help pay personal services expenses. The agency explained to the Subcommittee that, due to new information, an attempt would be made to manage within the amounts previously provided and did not request the additional allocation from the Emergency Fund for these expenditures.

The following Committee discussion occurred:

Representative Montgomery remarked that the agency should look at its budget more closely in the future in order to avoid such problems.

Senator Bryant pointed out that the budget mistake was made by the Department of Administrative Services (DAS) who is hired and paid an administrative fee to calculate these parts of the budget. Senator Bryant added that the mistake was made before the three current referees were employed by LUBA and that the decisions of LUBA need to be made on a regular basis for land use reasons.

Representative Montgomery commented that DAS gets blamed when something is negative, but when it is positive, the agency takes credit. Representative Montgomery added that agencies generally start their employees at the second step of the salary range and that LUBA started their new referees at the top step, which took more money out of their budget and was not justified. Representative Montgomery concluded that this was also a mistake in their budget that was the responsibility of the agency.

Representative Hansen remarked that the Legislature did not catch the mistake either.

Representative Montgomery's motion carried with Representatives Lewis and Montgomery and Senators Timms and Yih voting 'no'. (Representative Minnis and Senator Ferrioli excused)

35. Division of State Lands

Senator Ferrioli moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Division of State Lands by chapter 635, Section 2(3), Oregon Laws 1999, by \$250,000, with the understanding that the Department of Administrative Services unschedule \$232,000 of the limitation until the Division has determined the amount required to reimburse the Bureau of Land Management for costs associated with suppression of the Big Gulch fire.

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

In August, 2000 the Division experienced two fires on its Common School Fund land. The first fire was caused by lightning in the Big Gulch area of Harney County. The Burns Interagency Fire Zone, led by the Bureau of Land Management (BLM) moved quickly to contain and suppress the fire. The Division has received a bill for these fire suppression services, but is currently challenging various costs involved. The Division has had meetings with BLM and will be continuing to work with regional officials to review the legitimate costs that should be reimbursed by the State for the Big Gulch Fire.

The second fire was the result of backyard burning by a private citizen in the Tamarack area of Wheeler County. The Department of Forestry explained that the state is in the early phases of recovering State dollars spent on this fire.

While fires are experienced every year on state lands, there is no budget within the Division specifically dedicated for fire suppression. Generally, this is not a problem as the associated costs from fires are small. This past summer, however, the fire-related costs were significantly higher and Division cannot absorb the costs within their existing budget.

The Subcommittee recommended increasing the Division's Other Funds Limitation by \$250,000, with the understanding that DAS would unschedule \$232,000 of this total, until the final fire costs have been determined.

Senator Ferrioli noted that the Tamarack fire was the result of backyard burning by a private citizen and asked if the state should recover these costs. A representative from Forestry explained that the state is in the early phases of trying to recover roughly \$3 million spent on this fire.

The Legislative Fiscal Office recommended additional limitation of \$250,000 Other Funds to cover these costs, with the understanding that \$232,000 would be unscheduled by the Department of Administrative Services until the State's share of the Big Gulch fire costs were determined.

The Subcommittee recommended approval of the request.

Senator Ferrioli's motion carried with no objections voiced. (Representative Westlund excused)

36. Division of State Lands

Representative Montgomery moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Division of State Lands by chapter 635, Section 2(3), Oregon Laws 1999, by \$125,000 for a technical consultant to advise the Division regarding the removal of the New Carissa from state-owned submerged and submersible land in the Pacific Ocean at Coos Bay.

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

The Division is requesting limitation to hire consultants to analyze alternatives presented by the responsible party, as the Division does not have the technical expertise in-house to adequately assess marine salvage operations. The Division plans to secure consultants through an RFP process and evaluate the proposed options as quickly as possible, as the continual deterioration of the wreckage by the surf and salt water has left a window of opportunity for implementing removal efforts. The Department, however, assured the Subcommittee that they would be pursuing compensation from the responsible party for costs incurred by the State.

In the Subcommittee, Representative Montgomery asked about the source of the Other Funds. The Division replied that the funding source was the Common School Fund. Representative Montgomery asked why funds should be taken away from the Common School Fund for wreckage removal. The Division assured the Subcommittee that they would be actively pursuing recovery of costs from the responsible party and that there was a good chance costs could be recovered through litigation.

The following Committee discussion occurred:

Representative Schrader asked why the Responsible Party should not be paying for these costs.

Representative Montgomery noted that Subcommittee reviewed that question and that the Department strongly committed to recover these costs. Representative Montgomery added that it was not right that school funds should be used for removal of boat wreckage.

Representative Montgomery's motion failed with Representatives Lewis, Westlund, Montgomery, Schrader, Winters, Butler and Snodgrass, and Senators Hannon, Yih and Qutub voting 'no'. (Representative Minnis and Senators Bryant and Ferrioli excused)

37. State Parks and Recreation Department

Representative Montgomery moved that the Emergency Board acknowledge receipt of a report from the Oregon Parks and Recreation Department concerning the agency's Facility Investment Program and the Parks and Prison Program.

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

The State Parks and Recreation Department reported on the status of facility improvements, maintenance projects and the inmate labor program as directed by budget note. Projects are progressing as planned. As of December 5, 2000, payments totaling over \$9 million were made. The balance of all funding sources has been obligated and will be paid out by the end of the accounting period for fiscal year 2001. The Department of Corrections continues to supply seven full-time and one-half time work crews; and a specialized construction crew at Silver Falls State Park. County work crews also continue to work around the state.

The Subcommittee recommended acknowledging receipt of the report.

Representative Montgomery's motion carried with no objections voiced. (Representative Minnis and Senator Ferrioli excused)

38. Oregon Department of Aviation

Representative Butler moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the Oregon Department of Aviation by section 2(14), chapter 907, Oregon Laws 1999, and by section 9, chapter 935, Oregon Laws 1999, by \$882,000 to receive Federal Funds for airport improvement projects.

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

The Department of Aviation reported that Congress adopted the Aviation Investment and Reform Act for the 21st Century. The Act, a three-year bill beginning in federal fiscal year 2001, will increase the national aviation investment by \$10 billion over current levels. There are 47 airports in Oregon eligible for these funds. Oregon expects the increase in grant funds to be more than \$5 million annually under this entitlement program.

Federal Aviation Administrative regional staff approached the Department to assist in administering the increase in grant activity by being the grant sponsor for ten to twelve smaller Oregon airports for several FAA selected aviation maintenance and improvement projects throughout the state under the partnership. Under the partnership, the Department assists airports in developing projects, applying for and administering the federal grants and coordinating project management and oversight. Costs for administering the program are 100% federally funded. The program is 90% federally funded with the balance coming from state and local resources.

The Subcommittee recommended approval of the request.

Representative Butler's motion carried with no objections voiced. (Representative Minnis and Senator Ferrioli excused)

39. Department of Consumer and Business Services

Representative Hansen moved that the Emergency Board acknowledge receipt of a report on fee increases in the Building Codes Division.

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

Permit fees support boiler and pressure vessel inspections. ORS 480.607 provides that the Board of Boiler Rules may increase permit fees, including inspection fees, by an amount not greater than 10 percent, subject to approval by the Department of Consumer and Business Services and the Department of Administrative Services. The Board is required to report to the Emergency Board prior to adoption of fee increases.

In 1996, at the direction of the Legislature, the Department established a policy that limited program ending fund balances to six months of operating expense. In response, the Board of Boiler Rules reduced the hourly permit fees and established a Public Education Program for the operation and maintenance of boiler systems in schools and industrial facilities. The Board also received approval to deviate from departmental policy and maintain a one-year cash balance reserve.

The Board has experienced increased operating costs, primarily as a result of increased costs for personnel services. The Board will restore the hourly re-inspection permit fee to the statutory level, an increase from the current hourly re-inspection rate of \$50 to the statutory rate of \$60. In addition, the Board plans to increase all fees by 10 percent. The fee increases will generate an additional \$126,000 per year for program operations. The Board will also eliminate the Public Education Program. These actions ensure that program costs will be supported through the 2001-03 biennium and will ensure a cash balance equivalent to two to four months of operating expenses. These adjustments are assumed in the Governor's budget for the program.

The Subcommittee recommended approval of the request.

Representative Hansen's motion carried with Representatives Lewis, Winters and Butler, and Senators Yih, Qutub and Adams voting 'no'. (Representative Minnis and Senator Ferrioli excused)

40. Department of Consumer and Business Services

Senator Ferrioli moved that the Emergency Board acknowledge receipt of a report on the progress made with expanded information technology support.

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

The Emergency Board, at its October 1999 meeting, approved two additional information technology (IT) staff for the Department of Consumer and Business Services (DCBS). These two positions were to provide expanded IT support and assist DCBS take advantage of new technology, with the aim of becoming more efficient and productive. The Emergency Board directed the Department to report back, after a year, on the progress made with expanded IT support. The report was also to include any estimated savings resulting from new technology.

The two additional positions have allowed the Department to significantly reduce a backlog of systems projects as well as move forward on new projects. These projects include Electronic Data Interchange (EDI), electronic print to post, on-line license application, customer e-mail notification lists, and several Internet databases for information access and research. Customers benefit from these projects as information and services are provided to them more readily, quickly, and accurately. DCBS sees reduced overhead and staff costs, increased compliance, and improved data quality.

The Subcommittee recommended acknowledging receipt of the report.

Senator Ferrioli's motion carried with no objections voiced. (Representative Westlund excused)

41. Health Licensing Office—Board of Direct Entry Midwifery

Senator Hannon moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), acknowledge receipt of a report on the financial status of the Board of Direct Entry Midwifery, and increase the Other Funds expenditure limitation established for the Health Licensing Office by section 14(5), chapter 885, Oregon Laws 1999, by \$10,000 to address projected Attorney General expenses for the remainder of the 1999-01 biennium, with the understanding that the Department of Administrative Services will unschedule the limitation until actual expenditures are incurred.

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

HB 2465, adopted by the 1999 Legislative Assembly, created the Health Licensing Office to coordinate administrative functions of certain health related licensing boards. This legislation included the Board of Direct Entry Midwifery.

SB 611, also adopted by the 1999 Legislative Assembly, extended the sunset date for the Board of Direct Entry Midwifery until December 31, 2001 and established Other Funds expenditure limitation for the Board for the 1999-2001 biennium. In order for revenues to be sufficient to meet budgeted expenditures, annual licensure renewal fees were raised from \$500 to \$2,000. There was concern expressed that there may not be enough direct entry midwives willing to pay the increased fees to allow the Board to continue to be financially viable and not be subsidized by other boards. A budget note required the Board to report on its financial status to the Emergency Board. At the April meeting, the Health Licensing Office reported that 32 direct entry midwives had paid the \$2,000 annual renewal fee, providing sufficient revenue to continue Board operations.

The Emergency Board requested a follow-up report at the January 2001 meeting to again review the financial viability of the Board. The Health Licensing Office reported that there have been 27 direct entry midwives that have applied for renewal by the December 31, 2000 renewal deadline. With this number, sufficient revenues will be generated to continue operation of the Board. Further review and analysis will be conducted during budget hearings for the Health Licensing Office in the 2001 Legislative session.

The agency also requested an increase in its Other Funds expenditure limitation to reflect revised estimates of Attorney General charges. The agency is currently involved in five investigations that are likely to result in disciplinary action and possible administrative hearings.

The Subcommittee recommended acknowledging receipt of the report and approval of the request with the understanding that the Department of Administrative Services unschedule the funds until actual expenditures are incurred.

Senator Hannon's motion carried with no objections voiced. (Representative Minnis and Senator Ferrioli excused)

42. State Board of Clinical Social Workers

Senator Hannon moved that the Emergency Board, acting under the authority of ORS 291.326(1)(b), increase the Other Funds expenditure limitation established for the State Board of Clinical Social Workers by section 2, chapter 228, Oregon Laws 1999, by \$12,000 for Attorney General fees, with the understanding that the Department of Administrative Services will unschedule the Federal Funds expenditure limitation until the Attorney General expenses are incurred.

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

The State Board of Clinical Social Workers has experienced an increase in Attorney General costs due to being assigned a new assistant attorney general in February 2000. The new lawyer spent considerable hours learning Board business and reviewing four contested case hearings, considerably more hours than had been planned or budgeted for. At the end of October 2000, the Board had \$1,229 left in its 1999-01 Attorney General budget. The Board requests an increase of \$12,000 Other Funds limitation expenditure for the remainder of the biennium. This figure is based on the Board's more typical legal fees, averaging around \$1,500 per month, and assumes the learning curve for the new assistant attorney general has tapered off.

An increase in expenses associated with sending contested case hearings to the Hearing Officer Panel drives the Board's request for \$8,498 Other Funds expenditure limitation. The Board also needs to replace a broken chair and printer, costing \$1,436.

The Subcommittee expressed concern with the costs of chairs and printers obtained from Oregon Corrections Enterprises and through DAS price agreement. It was also discussed that it seemed wrong for agencies to assume the financial burden of paying for AG training. Based on these concerns, the Subcommittee unanimously recommended approval of a modified request, increasing the Board's Other Fund expenditure limitation by \$12,000 for Attorney General expenses only, and asking the Department of Administrative Services to unschedule the expenditure limitation until the expenses are incurred.

The following Committee discussion occurred:

Senator Winters pointed out that the Attorney General is charging full rates for inexperience staff.

Representative Schrader expressed concern about the costs associated with the Central Hearing Panel and stated the panel should be carefully looked at during the upcoming legislative session.

Senator Hannon's motion carried with no objections voiced. (Representative Minnis and Senator Ferrioli excused)

The meeting was adjourned at 11:55 a.m.

EMERGENCY BOARD:

Representative Lynn Snodgrass, Chair

Senator Eugene Timms, Secretary

ATTEST:

Michael J. Stinson, Legislative Fiscal Officer