

## MINUTES OF THE EMERGENCY BOARD

**October 4, 2002**

**State Capitol**

**Salem, Oregon**

Members Present: Representative Simmons, Presiding Chair  
 Representatives Butler, Johnson, Minnis, Morgan, Schrader, Westlund  
 and Winters  
 Senators Beyer, Clarno, Derfler, Hannon, Messerle, Metsger and Yih

Members Excused: Representative Wilson  
 Senator Carter

Pursuant to the provisions of ORS 291.328 and acting under the authority of ORS 291.326(1)(a), (b), (c), and (d), ORS 291.371, and ORS 291.375, we hereby certify that the Emergency Board, meeting on October 4, 2002, took the following actions:

The meeting was called to order by Representative Simmons at 8:35 a.m. in Hearing Room 50 of the State Capitol.

**Minutes**

Representative Simmons moved that the Emergency Board approve the minutes of the June 30, 2002 meeting, and upon hearing no objections the minutes were approved.

**Agency Reports**

Representative Simmons requested unanimous consent that the rules be suspended so that the Emergency Board may acknowledge, en bloc, agency reports, and upon hearing no objections the rules were suspended.

Senator Yih moved that the Emergency Board acknowledge, en bloc, receipt of the following reports: Item 14, Department of Administrative Services; Item 19, Department of Revenue; Item 26, Commission on Children and Families; Item 31, Oregon Youth Authority and Department of Human Services; Item 35, Department of Human Services; Item 36, Department of Human Services; and Item 65, Department of Forestry.

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

Seven reports were submitted by agencies in response to statutory requirements, budget notes, or Emergency Board direction.

Item #	Agency	Report
14	Department of Administrative Services	Compensation plan changes
19	Department of Revenue	Property tax appeals
26	Commission on Children and Families	Allocation of Child Care and Development Fund money to counties

31	Oregon Youth Authority and Department of Human Services	Shelter Services Partnership
35	Department of Human Services	Availability of certain services under the Oregon Children's Plan in rural eastern Oregon
36	Department of Human Services	Status of agency reorganization
65	Department of Forestry	Public Share Fire Funding budget

The Subcommittee recommended acknowledging receipt of all seven reports.

Senator Yih's motion carried with no objections voiced. (Representative Wilson and Senator Carter excused)

### Grant Requests

Representative Simmons requested unanimous consent that the rules be suspended so that the Emergency Board may approve, en bloc, agency requests to apply for federal grants, and upon hearing no objections the rules were suspended.

Representative Schrader moved that the Emergency Board approve, en bloc, the following requests for approval to apply for federal grants: Item 2, Department of Education; Item 6, Judicial Department; Item 8, Department of Transportation; Item 27, Commission on Children and Families; Item 29, Department of Human Services; Item 46, Department of State Police; Item 50, Economic and Community Development Department; Item 56, Department of Agriculture; Item 59, Department of Environmental Quality; Items 63 and 64, Department of Fish and Wildlife; Items 69 and 70, Department of Land Conservation and Development; and Item 71, Division of State Lands, with the understanding that any agency receiving a grant award will return to the Emergency Board or Legislative Assembly for expenditure limitation and position authority.

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

Fourteen requests for approval to apply for federal grants were submitted by agencies.

Item #	Agency	Grant Application
2	Department of Education	To the U.S. Department of Defense in the amount of \$268,000 for a three-year Troops to Teachers grant to help address teacher shortages, quality, recruitment, and retention in Oregon.
6	Judicial Department	To the U.S. Department of Justice, Bureau of Justice Assistance, for mental health court demonstration projects.
8	Department of Transportation	To the Federal Highway Administration in the amount of \$1 million to participate in a field operational test relating to integrating Traffic management Center systems with public safety Computer Aided Dispatch systems. (Retroactive)
27	Commission on Children and Families	To the Department of Health and Human Services in the amount of \$450,000 for implementing early childhood partnerships and best practices in Oregon. (Retroactive)
29	Department of Human Services	Three to the Centers for Disease Control and Prevention, two to the Substance Abuse and Mental Health Services Administration, and one to the U.S. Environmental Protection Agency. (Retroactive)
46	Department of State Police	To the U.S. Department of Justice to assist with anti-terrorism efforts. (Retroactive)

50	Economic and Community Development Department	To the U.S. Small Business Administration to promote and help small companies apply for Small Business Technology Transfer grants.
56	Department of Agriculture	Three to the U.S. Department of Agriculture, one to the U.S. Forest Service, and one to the Bureau of Land Management, for a total amount of \$1,062,000.
59	Department of Environmental Quality	Three to the U.S. Environmental Protection Agency under the Enforcement and Compliance Assurance Multi-Media Assistance Agreements program, for a total amount of \$241,706. (Retroactive)
63	Department of Fish and Wildlife	To the National Marine Fisheries Service in the amount of \$300,000, for groundfish research. (Retroactive)
64	Department of Fish and Wildlife	Two to the U.S. Fish and Wildlife Service for stocking Diamond Lake with spring Chinook in the amount of \$108,783, and for technical assistance for improvements to dams of the Federal Columbia River Power System to enhance conditions and habitat for native fish species in the amount of \$81,833.
69	Department of Land Conservation and Development	To the Federal Emergency Management Agency in an amount from \$1 million to \$5 million for updating local flood maps.
70	Department of Land Conservation and Development	To the National Oceanic and Atmospheric Administration in the amount of \$75,000 to make coastal data, products, and information available online using standard documentation formats and search technologies.
71	Division of State Lands	To the U.S. Environmental Protection Agency in the amount of \$200,000 to track, evaluate, and improve wetland mitigation success as well as permit compliance, and to refine the permit decision-making process based on analysis of project and mitigation data. (Retroactive)

Due to the delay between receiving the Department of Land Conservation and Development request (Item 70) and the Emergency Board meeting, the Subcommittee modified the request to approve, retroactively, the submission of the federal grant application. The Subcommittee also heard that the Judicial Department will not be submitting an application as requested (Item 6), and that some agencies have already learned that some or all of their grant applications were not successful.

The Subcommittee recommended approval of all 14 requests, but directed any agency receiving a grant award to return to the Emergency Board or Legislative Assembly with a request for the required expenditure limitation and position authority.

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

#### **4. Judicial Department**

Senator Hannon moved that the Emergency Board establish a reservation of \$178,239 in the Emergency Fund established by section 1(1), chapter 878, Oregon Laws 2001, for allocation upon receipt of a permanent plan for the allocation of staff and resources funded as part of the staffing package for new judicial positions, as required by budget note.

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

The 2001 Legislature established six new Circuit Court judicial positions that were to be effective January 1, 2003. The Legislature provided a special purpose appropriation to the Emergency Board of \$369,842 for support staff for the new judgeships. The Legislature also directed, by budget note, that the Judicial Department develop a permanent plan for the allocation of all staff and resources allocated as part of these new judgeships. In the 2002 second special session, three of the judicial

positions were deferred until June 30, 2003. The special purpose appropriation was reduced to \$184,921 to reflect the deferral of staff support for these positions to June 30, 2003. The special purpose appropriation was further reduced by \$6,682 in the 2002 fifth special session.

The required plan was not presented with the September Emergency Board request, and will be provided to the November meeting of the Emergency Board.

The Subcommittee recommended that allocation of the special purpose appropriation be deferred pending submission of the plan and that the Emergency Board establish a reservation of \$178,239 in the general purpose Emergency Fund since the existing special purpose appropriation will expire on November 1, 2002. This reservation includes the reduction taken in the fifth special session.

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

## **5. Judicial Department**

Senator Hannon moved that the Emergency Board establish a reservation of \$121,520 in the Emergency Fund established by section 1(1), chapter 878, Oregon Laws 2001, for allocation upon receipt of a report on judicial benefits, as required by budget note.

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

The 2001 Legislature provided a special purpose appropriation to the Emergency Board of \$275,000 for health plan benefits for retired "Plan B" judges who are actively fulfilling their pro tem service requirements. The Legislature also directed, by budget note, that the Judicial Department convene a work group to review judicial benefits and report to the Emergency Board prior to the allocation of the reservation.

The required report was not presented with the September Emergency Board request, and will be provided at the November 2002 meeting of the Emergency Board.

The special purpose appropriation for "Plan B" judge benefits was reduced by \$9,936 in the fifth special session. The Department requested allocation of \$126,488 from this appropriation. The Subcommittee recommended that allocation of the special purpose appropriation be deferred until the report is submitted, and that a reservation of \$121,520 be made in the general purpose Emergency Fund, since the existing special purpose appropriation will expire on November 1, 2002. This reservation includes a pro-rata share of the reduction taken in the fifth special legislative session.

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

## **7. Department of Justice and Department of Administrative Services**

Senator Messerle moved that the Emergency Board acknowledge receipt of a report on actions taken to reduce receivables from state agencies over 30 days old.

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

The 2001 Legislature directed the Department of Justice (DOJ), the Department of Administrative Services (DAS), and the Treasurer of the State, by budget note, to work together to develop and implement a plan to eliminate receivables over 30 days old. This was primarily done in response to discussions in the Joint Committee on Ways and Means surrounding the Attorney General's request that the hourly billing rate for attorneys include a \$5 increase to get the Department's working capital out of a negative position. DAS and DOJ were also directed to jointly provide a progress report to the Emergency Board by September 2002 that included an evaluation of the costs, benefits, and barriers to implementation of a system under which payments are immediately transferred to the DOJ operating account upon submission of an invoice.

The report confirms that the collective actions of agencies have significantly improved DOJ's cash flow by reducing receivables. The actions include implementation of an advance payment program for agencies that incur more than \$100,000 in annual charges; improved communication, billing, and dispute resolution processes; and development of statewide policies and procedures for receivables. DOJ's unpaid balances over 30 days old have decreased from 45% of fiscal year 2000 billings to 25% of fiscal year 2002 billings and unpaid balances over 90 days old have decreased from 20% to 8% over the same period. The amounts involved in delinquent receivables (over 60 days old) decreased from \$967,437 to \$91,507 when records for June 30, 2000 are compared to June 30, 2002.

DOJ and DAS have evaluated the costs, benefits, and barriers to implementation of an immediate payment system (to eliminate all DOJ receivables over 30 days old) and concluded that it is not feasible. The primary reasons cited for this conclusion were detailed in the analysis presented to the Emergency Board.

The Legislative Fiscal Office reviewed the report and the supporting documentation and concluded that significant progress has been made in addressing cash flow concerns noted during the 2001 regular session and that implementation of an immediate payment system would be problematic and does not appear necessary at this time.

The Subcommittee recommended acknowledging receipt of the report.

Senator Messerle's motion carried with no objections voiced. (Representative Wilson and Senator Carter excused)

## **9. Department of Transportation**

Representative Johnson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Transportation by section 2(15), chapter 643, Oregon Laws 2001, by \$4,330,681 for reimbursement of costs incurred for the Rail Program's track, signal and grade crossing improvement projects.

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

The Department of Transportation (ODOT) requires an expenditure limitation increase to accommodate contract payments on railroad track and signal improvements in northeast Portland and accelerated contractor payments for railroad crossing improvement projects. The railroad track and signal improvement project, estimated to cost \$14.2 million, is a joint venture with Amtrak and Union Pacific Railroad. The Department requires an increase in expenditure limitation to accommodate an agreement to pass the \$1.4 million provided by Amtrak through ODOT.

ODOT budgeted \$3.2 million in rail crossing improvement projects for the 2001-03 biennium. Due to accelerated delivery on several of these safety projects, the Division now requires an increase of \$3.7million to complete \$6.9 million in projects this biennium. The projects are funded with federal funds and dedicated state highway funds. The total expenditure limitation increase required is offset by anticipated savings of \$479,649 for a net request of \$4.3 million.

The Subcommittee recommended approval of the request.

Representative Johnson's motion carried with no objections voiced. (Representative Wilson and Senator Carter excused)

## **11. Occupational Therapy Licensing Board**

Senator Clarno moved that the Emergency Board increase the Other Funds expenditure limitation established for the Occupational Therapy Licensing Board by section 8, chapter 105, Oregon Laws 2001, by \$11,500 for Attorney General charges and the replacement of a computer.

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

The Board has experienced unprecedented expenditures for Attorney General costs thus far in the 2001-03 biennium. These costs are associated with three major investigations of licensees and the resultant enforcement activities. The subcommittee discussed the process leading to resolution of these cases and the unbudgeted legal expenses.

The 2001-03 legislatively adopted budget for the Board included \$7,088 for Attorney General charges. The Board has expended \$13,176 on legal expenses in the first year of this biennium.

The request also includes increasing the expenditure limitation for a new computer. Several Health Related Licensing Boards share office space in the Portland State Office Building and also share computer support. The Boards are upgrading their operating system to Windows 2000. The Occupational Therapy Licensing Board's current computer is over five years old and will not support the new operating software.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Derfler requested clarification of the Board's revenue source. Representative Butler asked if this increase would cause an increase in those fees. Staff responded that licensing fees are the primary source of revenue and no fee increase is expected as a result of this action.

Senator Clarno's motion carried with no objections voiced. (Representative Wilson and Senator Carter excused)

## 12. Board of Radiologic Technology

Representative Schrader moved that the Emergency Board increase the Other Funds expenditure limitation established for the Board of Radiologic Technology by section 10, chapter 105, Oregon Laws 2001, by \$7,274 for expenses associated with an office move, with the understanding the Department of Administrative Services will unschedule the funds until a final location is agreed upon.

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

The office for the Oregon Board of Radiologic Technology is housed, along with several other Health Related Licensing Boards, in Suite 407 of the Portland State Office Building. Many of these Boards are experiencing additional workload as the number of licensees they regulate increases. This workload has also created the need for additional work space.

The Board of Radiologic Technology has located suitable office space to relocate outside of the Portland State Office Building. This space is currently occupied by the Secretary of State, Audits Division. The Secretary of State has found they no longer need this space, but are obligated by the current lease through June 30, 2004. The Board would assume the lease for the remainder of the term, with the Secretary of State agreeing to subsidize the Board's rent in the amount of \$7,841.

The expenditure limitation increase of \$7,274 is the net of the rent increase less the rent subsidy, plus additional costs associated with telecommunications.

The Board just learned that space within the Portland State Office Building may be available. If it meets the Board's needs, it would be a better alternative than space outside the building.

The Subcommittee recommended approval of the request with the understanding the funds will be unscheduled until the Board determines which location it will lease.

The following Committee discussion occurred:

Representative Butler requested clarification of whether this move would result in an increase in licensing fees. Staff responded that it would not.

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

## 13. Department of Administrative Services

Senator Messerle moved that the Emergency Board acknowledge receipt of a report from the Department of Administrative Services on actions taken to carry out the Governor's hiring freeze, with instructions.

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

During the third special session, the Legislature distributed \$77.3 million of a \$100 million special purpose appropriation to the Emergency Board that was necessary to fully fund 2001-03 employee salary and benefits compensation adjustments. As a result, agencies are required to manage within the lower amount. The report was prepared and submitted in response to a legislative directive that the Department of Administrative Services (DAS) work with agencies to maintain vacancies under

the Governor's hiring freeze to realize additional 2001-03 cost savings; develop a list identifying, by agency, the positions that remain vacant under the hiring freeze; provide reports to the Emergency Board at each of its remaining meetings; and provide a report to the next Legislative Assembly.

The Department of Administrative Services (DAS) provided a report to the Legislative Fiscal Office (LFO) on Thursday, September 5, 2002 describing agency actions taken to carry out the Governor's hiring freeze. The report identified six exception criteria that agencies are to use when filling positions during the freeze. DAS provided a list to LFO identifying, by agency (excluding the Oregon University System), the number of positions that remain vacant under the hiring freeze. The list confirms that over 90% of the vacancies are in 14 agencies, with over 50% occurring in three agencies. The three agencies with the most vacancies are the Department of Human Services – 30% (1,130); the Department of Corrections – 11% (426); and the Department of Fish and Wildlife – 11% (422). The report confirmed that the number of vacancies increased significantly (23%) between June and September 2002. As of August 31, 2002, the Oregon University System (OUS) had 285 additional subject positions vacant under the freeze. It is not known whether the number of OUS vacancies has changed significantly since June 1, 2002. The report also confirmed that nearly 95% of the hiring exceptions occurred in the top five agencies. The primary justification for 572 of the 633 (90%) was linked to public safety, health, and welfare. The OUS reported that it had filled an additional 57 positions as exceptions to the hiring freeze. LFO recommended acknowledging receipt of the report.

The Subcommittee discussed the need for additional information from the Department of Higher Education; instructed the Department of Higher Education to provide additional vacancy information to the Legislative Fiscal Office when subsequent reports are submitted; and recommended acknowledging receipt of the report.

Senator Messerle's motion carried with no objections voiced. (Representatives Schrader and Wilson and Senator Carter excused)

## **15. Department of Administrative Services and Department of Human Services**

Representative Morgan moved that the Emergency Board allocate \$435,401 from the Emergency Fund established by section 1 (1), chapter 878, Oregon Laws 2001, to supplement the appropriation made to the Department of Human Services, Senior and Disabled Services, by section 1 (3)(a), chapter 892, Oregon Laws 2001, for Oregon Project Independence; allocate \$95,833 from the Emergency Fund established by section 1(1), chapter 878, Oregon Laws 2001, to supplement the appropriation made to the Department of Human Services, Vocational Rehabilitation Programs, by section 1 (1)(d), chapter 892, Oregon Laws 2001, for Independent Living Centers; and acknowledge receipt of a report from the Department of Administrative Services on state agency reduction plans developed in response to partial funding of compensation plan changes.

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

During the 2002 third special session, the Legislature distributed \$77.3 million of a \$100 million special purpose appropriation that was necessary to fully fund 2001-03 employee salary and benefits compensation adjustments. As a result, agencies are required to manage within the lower amount. This report was prepared and submitted in response to a legislative directive that the Department of Administrative Services (DAS) work with agencies and develop a plan for managing the funding reduction and provide a report at the September 2002 meeting of the Emergency Board.

The legislative expectations as to how agencies would manage to the salary/benefit plan funding shortfall were expressed through budget notes contained in the budget report for HB 5091. In general, the expectations were that agencies realize savings by maintaining vacancies under the Governor's hiring freeze; by eliminating the second-year cost-of-living salary adjustment for all management and unrepresented employees in all three branches of government, excluding Judicial Branch unrepresented employees; and by distributing the shortfall in the General Fund distribution for employee compensation adjustments as equitably as possible within each appropriation category. Based on legislative concerns as to how the shortfall would impact certain General Fund programs within agency appropriation categories, the HB 5091 budget report provided specific direction to agencies responsible for 11 identified programs and services.

The Governor considered the Legislature's expectation that management/unrepresented employees not receive their second cost-of-living adjustment and decided to grant the salary increases to all Executive Branch management/unrepresented employees in salary ranges below range 38. As a result of this decision, only agency heads and other top level managers will not receive the 3% salary increase on February 1, 2003. The estimated 2001-03 General Fund savings from the Governor's methodology are \$200,000 versus \$5 million from the Legislature's approach.

DAS provided additional information to the Legislative Fiscal Office (LFO) on Friday, August 30, 2002 describing how state agencies planned to address salary/benefit funding reductions. LFO categorized the agency actions by program and type of action planned. The analysis showed that over 90% of the plan relies on program reductions and vacancy/hiring freeze savings and that the most significant program reductions (\$13.9 million or 97.3%) will occur in three program areas (Human Services, Higher Education, and Public Safety). The details of these reductions were outlined in the LFO analysis. The analysis also confirmed that most agencies equitably distributed the under funding amounts. The analysis also showed that no reduction is planned for eight of the eleven programs identified in the HB 5091 budget note, where the Legislature expressed its expectation that no disproportionate impact be applied. The eight programs with no planned reductions are as follows: Babies First!, Oregon Pre-Kindergarten, Together for Children, Family Resource Centers, Crisis/Relief Nurseries, and JOBS. The three programs with planned reductions are Oregon Project Independence, JOBS Plus, and Centers for Independent Living. In each of these programs, planned reductions exceed proportionate amounts.

The analysis included a table that showed the salary under funding amounts by appropriation category that were approved in the third special session; the proportionate and planned reduction percentages and amounts; the three programs referenced in the HB 5091 budget note that are involved in the reduction plan; and the difference between the proportionate and planned reduction amounts for each of the involved Department of Human Services (DHS) program areas. The analysis showed, for example, the DHS plan to reduce Senior and Disabled Services by \$1,959,303 was \$1,427,856 more than the program's proportionate share. Moreover, all of the reduction came from Oregon Project Independence (OPI). Vocational Rehabilitation Programs was going to be reduced by \$178,893 more than its proportionate share and the entire \$431,250 reduction would be taken from Centers for Independent Living, a small part of the program's General Fund. Adult and Family Services would be reduced \$73,385 more than its proportionate share. The plan did not make reductions to Mental Health Services or to Developmental Disability Services.

The Subcommittee discussed, at length, its concerns with agency plans to reduce certain program-related expenditures in order to manage to the partial funding of compensation plan changes. Testimony was received from Senate President Derfler concerning the need for program reductions in light of current and future revenue shortfalls. Senator Yih also provided testimony concerning various program reductions and recommended that the Subcommittee reject the report and request that DAS be

directed to resubmit another report, identifying other reductions that could be made by operating programs more efficiently. The Department of Administrative Services representatives described the process agencies used to identify various reduction plans and offered to provide Senator Yih with additional information. Representative Butler indicated that if any future reductions required closure of Oregon Youth Authority facilities, he would like the Oregon Youth Authority to work with LFO to see if it is possible to form partnerships with local communities that could allow facilities to continue to operate.

The Subcommittee recommended that the Emergency Board acknowledge receipt of the report and allocate \$531,234 General Fund to the Department of Human Services as follows: \$435,401 to the Senior and Disabled Services Programs, for Oregon Project Independence; and \$95,833 to the Vocational Rehabilitation Programs, for Independent Living Centers. It was explained that this allocation would provide bridge funding through November so that existing clients of these two programs would not receive reduced services. The Subcommittee further recommended that the Department of Human Services be directed to: 1) Notify Area Agencies on Aging (AAAs) that the Emergency Board expects them to utilize General Fund dollars to provide services to existing clients and not to admit new clients to the program until further direction can be provided by the Emergency Board in November 2002; 2) Search for ways to fund services in these two programs beyond November and to incorporate such actions in its November 2002 rebalance plan to the extent possible; such actions are to include, but not be limited to, the use of any client fees collected and implementation of additional screening steps to determine if the needs of any current clients can be met through other personal, community, or Older American Act resources; and 3) Work with AAAs to identify recommendations for statewide policy and standards that would ensure the most efficient and effective use of limited Oregon Project Independence General Fund dollars. The Subcommittee unanimously adopted this recommendation.

The following Committee discussion occurred:

Senator Derfler indicated that he intended to oppose the motion to allocate funds since he believed more cuts would be necessary in the future; that avoiding reductions now would increase the need for cuts next session; and that it is time to take a stand. He indicated his hope that DHS could find funds for these two programs within their own organization.

Senator Hannon asked if the Subcommittee discussed why DHS planned to take cuts out of programs rather than out of agency salaries and why the agency was not following legislative intent. He expressed his concern that positions appeared to be protected at the expense of programs.

Representative Morgan confirmed that there was considerable discussion about the process agencies went through to prioritize reductions and that Senator Yih had also raised this issue.

Representative Winters commented that budget notes asked that certain programs not be cut and that appeared the legislative wishes were ignored.

Senator Hannon indicated that he believed that DHS had slapped the Legislature by cutting programs and not staffing levels. He indicated that he did not want the agency to get off the hook and that he wanted action and not just words.

Senator Yih expressed her concern that DHS was not responsive to legislative concerns when it took disproportionate cuts. She also expressed her belief that the plan called for core services to be cut, citing reductions to the Department of Revenue, the Department of Higher Education, the Department of Environmental Quality, and the Oregon State Police.

Senator Yih moved that the Emergency Board send the report back to the Department of Administrative Services and request the agency put together another cut list that cuts non-essential services and uses more efficiency measures, so as to not reward the agency for making certain program cuts.

Sen. Yih indicated that cutting core services defeats the purpose for their existence.

LFO staff clarified that this was a report item; that the budget notes are not law; that there is no assurance that DAS would produce another cut list; the impact of Senator Yih's motion was that agencies would make the reductions identified in the report, since no funds would be provided as stated in the original motion; that the original direction came from a budget note adopted by the Legislative Assembly asking for reductions to be made proportionally; and that it may be prudent for DAS to respond to an Emergency Board request for another cut list, but DAS is not required to produce one.

Representative Simmons expressed his belief that more could be accomplished by acknowledging receipt of the report, allocating the funds, and directing a follow-up report by DHS at the November Emergency Board meeting.

Senator Metsger expressed his belief that Representative Morgan's motion should be supported and that the Emergency Board can address the reductions through a subsequent rebalance plan request.

Senator Beyer expressed his desire to have DHS come back to advise how they would protect programs and that he could see benefits from adoption of either Senator Yih or Representative Morgan's motion.

Representative Winters confirmed that DHS issues will be addressed in the context of the November rebalance plan, but that other issues with other agencies would not be addressed in November.

Senator Hannon asked if Senator Yih would accept an amendment to her motion to allow Representative Morgan's motion be approved with the instructions that DAS come back in November with specific recommendations on rebalancing programs in other agencies.

Speaker Simmons further explained the intent and impact of Senator Hannon's inquiry about Senator's Yih's willingness to modify her motion.

Senator Yih indicated she would not support providing additional funding to the two DHS programs since she did not want to reward the agency for cutting these two programs.

Representative Winters asked for further explanation of Representative Morgan's motion.

Representative Morgan summarized her motion and the intent of the Subcommittee to allow more time for the Department of Human Services to address legislative concerns and allow other issues to be addressed during the next legislative session.

Representative Westlund indicated that he believed the issue had been adequately discussed and moved the previous question.

Sen. Yih's motion failed with Representatives Westlund, Schrader, Butler, Winters, Minnis, Morgan, Johnson and Simmons and Senators Hannon, Clarno, Messerle and Metsger voting "no". (Representative Wilson and Senator Carter excused)

Senator Hannon moved that Representative Morgan's motion be amended to add specific instructions for the Department of Administrative Services to report to the Emergency Board at its November 2002 meeting on other reductions planned by other agencies.

Senator Derfler expressed his hope that the Department of Human Services would provide funds for these two programs and his reluctance to approve use of Emergency Funds.

Senator Beyer agreed that the Emergency Board should send this report back to DAS, with the direction that they come up with a more appropriate report. He expressed his disappointment with how DHS planned to manage to the salary under funding. He expressed his concern that by allocating funds, the Emergency Board would be rewarding DHS for bad behavior and that he could not support the motion.

Representative Butler expressed his desire that the funds added back not be used to hire additional staff.

Representative Morgan and LFO staff confirmed that the funds would be used specifically to support the two identified programs.

Senator Hannon's motion to amend Representative Morgan's motion carried with Representative Schrader and Senators Yih, Beyer and Derfler and voting "no". (Representative Wilson and Senator Carter excused)

Representative Butler expressed his disappointment with the Department of Human Services and wanted some assurance that the Department would not use the funds to hire new employees.

LFO staff confirmed that the motion was to provide funds for the specific purpose of providing support to the Oregon Project Independence and Centers for Independent Living programs.

Representative Morgan's amended motion carried with Senators Yih, Beyer and Derfler voting "no". (Representative Wilson and Senator Carter excused)

## **16. Department of Administrative Services**

Senator Messerle moved that the Emergency Board deny the request for allocation of \$395,426 from the Emergency Fund and additional FTE for the Information Resources Management Division's Statewide Health Insurance Portability and Accountability Act Project.

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

The Health Insurance Portability and Accountability Act (HIPAA) established national standards and privacy guidelines for electronic health care transactions. It applies to all public and private healthcare providers, all payers, and all other holders of individually identifiable health information. HIPAA also has been categorized as the largest human services unfunded mandate in history.

The Department of Human Services (DHS) began work on modifying its information systems to comply with the Act and came to the Joint Legislative Committee on Information Management and Technology (JLCIMT) in January 2002 seeking approval for the project. Because the Act would also affect the operations of other state agencies, the JLCIMT directed the Department of Administrative Services (DAS) to conduct a survey of other state agencies and report on efforts being taken statewide to address the requirements of HIPAA. The Information Resource Management Division (IRMD) has taken the lead in this effort because the principal costs were expected to be in the information technology/systems area.

HIPAA impacts health care delivery business practices as well as information technology practices. The JLCIMT wanted to ensure that all affected state agencies were aware of and able to address issues created by HIPAA. It was to this end that the JLCIMT directed DAS to survey state agencies. DAS requested an allocation of \$395,426 from the Emergency Fund and authority to establish two additional positions to coordinate state HIPAA activities. The request included \$28,000 for Attorney General fees for review of approximately 1,000 pages of federal rules, \$263,000 for professional services for project management and training for state agencies, \$86,000 for the two permanent positions, and \$18,000 for services and supplies for project staff. DAS reported that it had:

- employed project administration, management and coordination;
- engaged in cooperative efforts with DHS and Department of Justice;
- developed a project plan detailing the schedule, phases, training, and budget;
- formed an executive steering committee to lead and sponsor an enterprise wide approach;
- administered an agency self-assessment process;
- launched a HIPAA Academy for training of impacted state agencies;
- developed and maintained a website; and
- communicated regularly to agencies.

The JLCIMT reviewed the request in September and felt that DAS' efforts went far beyond what the JLCIMT had expected. Because of that and the current budget environment, the JLCIMT recommended denial of the request. The Subcommittee also recommended denial of the request.

Senator Messerle's motion carried with no objections voiced. (Representative Wilson and Senators Carter and Metsger excused)

## **17. Department of Administrative Services**

Representative Winters moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Administrative Services by section 2(1), chapter 80, Oregon Laws 2001, by \$825,000 for the Office for Oregon Health Policy and Research relating to a privately funded grant from the Robert Wood Johnson Foundation.

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

The Robert Wood Johnson Foundation has provided the Department's Office for Oregon Health Policy and Research (OHPR) a three-year, \$1.5 million grant, principally for the preparation and implementation of waivers for the Oregon Health Plan mandated by HB 2519. OHPR has previously received expenditure limitation for \$700,000 of the grant. OHPR plans to request an additional \$525,000 of the grant and has been informed it can expect to receive the funds before the next meeting of the Emergency Board. OHPR plans to use \$150,000 to make a special payment to OMAP to obtain federal matching funds. When OMAP receives the match, it will transmit \$300,000

to OHP, which will use the funds to pay for consulting and actuarial services to conduct a review of reimbursement and access issues, as directed by the Legislature.

The \$375,000 balance of the grant will be used for a special payment to the Family Health Insurance Assistance Program (FHIAP). Like OMAP, FHIAP will use the money to obtain federal matching funds for actuarial and consulting work mainly on social marketing strategies. The grand total of additional Other Funds expenditure limitation needed is \$825,000 – \$525,000 for the Robert Wood Johnson Foundation grant (\$150,000 payment to OMAP and \$375,000 payment to FHIAP) and \$300,000 to expend the matching funds OHP will receive from OMAP.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Senator Hannon asked why the expenditure limitation was requested before the federal waivers to the Oregon Health Plan were received. Staff explained that the funds and waivers were expected to be received before the next meeting of the Emergency Board.

Representative Winters' motion carried with no objections voiced. (Representative Wilson and Senators Carter and Metsger excused)

## **18. Public Employees Retirement System**

Representative Westlund moved that the Emergency Board increase the Other Funds expenditure limitation established for the Public Employees Retirement System by section 1(4), chapter 277, Oregon Laws 2001, Other Administrative Expenses, by \$3,217,972 for information technology needs, with the understanding that the Department of Administrative Services will unschedule the funds until funds are recommended to be rescheduled by the Information Resources Management Division.

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

PERS requested funding from the Emergency Board in April 2002. On the recommendation of the Joint Legislative Committee on Information Management and Technology (JLCIMT), the Emergency Board approved additional expenditure limitation of \$1 million (of \$4.9 million requested) and established three limited duration positions (three permanent positions were requested). In June, PERS requested the balance of the limitation it requested in April (\$3.9 million). Because of time pressures of the special session, the JLCIMT did not meet to review the request. Following the special session, the Emergency Board provided \$745,000 additional Other Funds expenditure limitation to allow PERS to continue its information technology initiatives until the next opportunity for the JLCIMT and the Emergency Board to more fully review the PERS request. PERS is now requesting the balance of funds it had requested in April.

In its April meeting, the JLCIMT expressed concerns about PERS and project management. The Committee was concerned that the PERS Board had only that morning received a report from the Department of Administrative Services (DAS) on management of the prior Oregon Pension Administration System (OPAS) project. The JLCIMT expressed concerns about information technology management and cost control issues and recommended PERS return with an update.

The JLCIMT reviewed the request in September and recommended approval of the request, with the understanding that DAS would unschedule the funds and have them rescheduled upon the recommendation of the Information Resources Management Division (IRMD). The JLCIMT wanted to ensure that IRMD was comfortable with the need for, and planned use, of the funds.

The Subcommittee also recommended approval of the request with the understanding that the funds would be unscheduled as discussed.

The following Committee discussion occurred:

Senator Clarno asked Representative Butler if he was comfortable with this approach given concerns that existed during the 2001 regular session review of the PERS operating budget.

Representative Butler responded that he was comfortable with actions taken by PERS and the additional controls being put in place prior to rescheduling of the funds.

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

## **20. Department of Revenue**

Representative Westlund moved that the Emergency Board acknowledge receipt of a status report from the Department of Revenue on the Tobacco Compliance Task Force.

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

The Tobacco Compliance Task Force was legislatively established during the 2001 regular session with the intent to reverse the loss of cigarette tax revenues from retailers buying and then selling cigarettes on which Oregon taxes had not been paid. The task force consists of personnel from the Departments of Revenue and Justice and the Oregon State Police. This report was submitted in accordance with a budget note in the Department of Revenue's budget report.

The task force has finished hiring and training, set up in separate office space, and established a separate phone line for tips. The task force has initiated a number of activities and works closely with the U.S. Customs Service, Bureau of Alcohol Tobacco and Firearms, Internal Revenue Service, and U.S. Attorney's Office, as well as law enforcement and revenue departments from neighboring states. Stepped-up inspection and audit efforts have resulted in over 600 seizures and increased tax collections. Inspections also have produced leads identifying numerous retailers purchasing untaxed other tobacco products.

The Department of Revenue believes that task force activities have resulted in improved tobacco tax collections and the state is on track to achieve the forecasted close-of-session tobacco tax revenues. Law enforcement activities have resulted in 45 new lawsuits and more are expected as the task force gains experience and knowledge about tobacco tax-evasion activities.

The Subcommittee recommended acknowledging receipt of the report.

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

## **21. Department of Community Colleges and Workforce Development**

Senator Beyer moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Community Colleges and Workforce Development by section 4, chapter 880, Oregon Laws 2001, by \$2,315,028; increase the Other Funds expenditure limitation established for the Department of Community Colleges and Workforce Development by section 5, chapter 880, Oregon Laws 2001, Oregon Youth Conservation Corps, by \$266,777; and increase the Federal Funds expenditure limitation established for the Department of Community Colleges and Workforce Development by section 8, chapter 880, Oregon Laws 2001, by \$29,002,175, to allow for expenditure of Other and Federal Funds being received by the Department for various programs, with the understanding that the Department of Administrative Services will unschedule \$11,695,524 of the Federal Funds expenditure limitation increase pending receipt of National Emergency Grants.

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

The Department of Community Colleges and Workforce Development receives Federal Funds from a number of programs, including the Workforce Investment Act for workforce training and adult basic education, and the Even Start Family Literacy Program. This biennium, the Department has also successfully applied for a number of National Emergency Grants from the U.S. Department of Labor. Revenues received under these programs are exceeding what was anticipated in the budget, and the Department requested a Federal Funds expenditure limitation increase to allow the available revenues to be spent on program services. In dollar terms, the principal source of the increase has been for National Emergency Grants, which are awarded to help communities address mass layoffs.

The Department also receives funds under the federal Carl Perkins Act program, but these are received as Other Funds because they are passed through the Oregon Department of Education's budget. Because these revenues are also above budget, however, the Department requested an Other Funds expenditure limitation increase for this program as well. A separate expenditure limitation increase for the Oregon Youth Conservation Corps was requested to allow that program to use available Amusement Device Tax revenue to serve more participants.

The limitation increases will allow the agency to spend Federal and Other Funds that are already available to support services in the affected programs. There are no concurrent or future financial obligations on the General Fund, and the agency will not require additional personnel.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation, which was to approve the request but to increase the Federal Funds expenditure limitation sufficiently to accommodate National Emergency Grants that had not yet been awarded but that were expected in the near future.

Senator Beyer's motion carried with no objections voiced. (Representatives Butler and Wilson and Senator Carter excused)

## **22. Department of Higher Education**

Senator Beyer moved that the Emergency Board acknowledge receipt of a report on tuition rate increases.

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

A budget note approved with the Department of Higher Education budget included a requirement for an Emergency Board report if any Oregon University System campus increased tuition rates by more than 3% for the 2002-03 academic year. In the third special session, this was modified to allow tuition increases above 3% for everyone other than resident undergraduates, as long as these rate increases were kept at a level to just offset the third special session funding reductions.

Two campuses – the University of Oregon and Oregon State University – exceeded these rate increases and reported to the Subcommittee. The tuition rate increases approved for the current year have generally been moderate, however, especially for resident undergraduate students. Most resident undergraduates faced a 3% tuition increase. When you add together other mandatory enrollment fees with tuition, the total increase varied from 0.7% at Oregon State University to 4.4% at Portland State University. The University of Oregon adopted a new tuition structure that provides a 15% discount for courses taken in the late afternoon. A typical full-time student there will see a 3.5% increase in total tuition and fees, although students who do not take any discounted classes will see a 7.1% increase.

The Subcommittee did note that certain resource fees were increased substantially, but nonetheless overall fee increases remained moderate, particularly in light of General Fund cuts that have been necessitated by the state's budget shortfall. The report did not address potential tuition increases that may be imposed if the income tax measure on the January 2003 special election ballot fails.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Schrader expressed concern about the high rate of tuition increase at the University of Oregon.

Senator Beyer noted that the University of Oregon has instituted a discount for afternoon classes that reduces the average tuition increase for full-time resident undergraduates to 3.7%, and that part-time students face even smaller increases or actual decreases in tuition rates.

Representative Schrader expressed understanding of the need for rate increases, but suggested that Oregon University System campuses work more collaboratively on tuition rates so that some institutions do not impose large increases while others are working to keep rate increases down.

Senator Beyer's motion carried with Senator Yih voting "no". (Representatives Minnis and Wilson and Senators Carter and Derfler excused)

### **23. Oregon Student Assistance Commission**

Senator Hannon moved that the Emergency Board increase the Other Funds expenditure limitation established for the Oregon Student Assistance Commission by section 2, chapter 470, Oregon Laws 2001, by \$1,979,000, to accommodate expenditures in the student loan guarantee, private award, ASPIRE, and Office of Degree Authorization programs; and increase the Federal Funds expenditure limitation established for the Oregon Student Assistance Commission by section 3, chapter 470, Oregon Laws 2001, by \$350,000, to permit expenditure of federal moneys received in support of the Oregon Opportunity Grant program.

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

The Oregon Student Assistance Commission has requested authorization to spend additional funds on a number of programs. Federal Funds for the Oregon Opportunity Grant program are \$350,000 higher than anticipated in the budget. The Commission requested a Federal Funds expenditure limitation increase of this amount to allow these funds to be used for student scholarships.

The agency also requested an Other Funds expenditure limitation increase to finance the conversion to a new software system that coordinates the agency's loan activities, to spend funds federal law authorizes for default aversion programs, and to spend funds donors provide to administer private scholarship awards. In addition, the agency's Other Funds request covered expenditures under a grant received from the ASPIRE program to train volunteer financial aid counselors, and expenditures of fee revenues by the Office of Degree Authorization to review a significantly increasing number of applications for degree programs.

Except for the Opportunity Grant, none of these programs receive General Fund or lottery dollars. There are no concurrent or future financial obligations on the General Fund, and the agency will not require additional personnel.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation. The recommendation eliminated an unnecessary increase that had been requested for the Nursing Services Program, reduced the increase for default aversion activities by \$260,000, and reduced the increase for Private Awards Program administrative costs by \$29,000.

Senator Hannon's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Carter and Derfler excused)

#### **24. Oregon Student Assistance Commission**

Representative Schrader moved that the Emergency Board acknowledge receipt of a report entitled *College Access and Persistence in Oregon: The Effects of Financial Aid on College Participation*.

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

The Oregon Student Assistance Commission presented this report as the Legislature directed in a budget note. The report shows that financial aid programs in general – and the state's Opportunity Grant program in particular – increase college attendance and persistence rates for lower-income students. Fifty-seven percent of students who were awarded an Opportunity Grant attended college, compared to only 46% for students at the same income levels who did not receive the grant. The study also found that 39% of Opportunity Grant recipients graduated, compared to 30% for those who did not receive the grant.

Although the report did not identify the level of financial aid that is sufficient to affect access to and persistence in post-secondary education, it did conclude that grants equal to 20% of cost could essentially equalize levels of unmet financial need among students in the lowest three quartiles of the income distribution. This would presumably eliminate much of the difference in attendance rates that now exists between students of differing income levels.

The report also discussed a number of issues regarding merit-based financial aid programs, and recommended that state funds not be used for a merit-based financial aid program until funding for the Opportunity Grant is expanded to allow all eligible students to receive grants equal to at least 15% of the college cost. If a merit-based program were established, the report recommends that awards be renewable for a total of two years and that they be available to students with either a cumulative high school grade point average of 3.0 or higher, or with an equivalent GED score. The award should also be limited to recent high school graduates for maximum effectiveness.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Schrader thanked the Commission for the report and noted that this was the first time the Legislature had actual targets for student aid funding. He noted that even though the targets could not be implemented immediately, they remain goals that the state should strive for as the economy improves. He also stated that, while still a strong supporter of merit-based financial aid, the report convinced him of the need to increase Opportunity Grant funding before funding of a merit-based program is begun.

Senator Yih commented on how the expenditure of money from the Education Endowment Fund will reduce funds for the Opportunity Grant.

Representative Schrader's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

## **25. Commission for the Blind**

Senator Clarno moved that the Emergency Board approve, retroactively, the submission of a federal grant application to the U.S. Department of Education, Community Technology Center Program, in the amount of \$202,385, to sustain the Medford Technology Center and other community technology sites in Southern Oregon.

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

The Medford Technology Project is part of a larger one-stop center developed cooperatively by several non-profit organizations. The Technology Project has expanded availability and improved access to rehabilitation technology services to individuals residing in Southern Oregon who are blind and visually impaired.

The Commission received a similar grant in June 2001. These funds have been used to develop accessible work stations in the one-stop centers as well as provide training to consumers, agencies, and community leaders on the benefits of the centers and the equipment available to individuals with disabilities.

The Commission will use in-kind services and funds from stakeholders to meet the grant's 50% match requirement. No General Fund will be used.

The grant was announced on June 3, 2002 with the application deadline of July 18, 2002. The Commission was unaware of the policy requiring notification to the Co-Chairs of the intent to submit a

federal grant application prior to the next Emergency Board meeting. Staff of the Commission has assured the Legislative Fiscal Office of their intent to comply with this policy in the future.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Simmons commented that it is very important for agencies to provide notification before applying for a federal grant.

Senator Clarno's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

## **28. Commission on Children and Families**

Representative Winters moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Commission on Children and Families by section 4, chapter 882, Oregon Laws 2001, by \$40,000 for Positive Youth Development Grant activities, and increase the Other Funds expenditure limitation established for the Commission on Children and Families by section 3, chapter 882, Oregon Laws 2001, by \$2,500,000 for the Healthy Start home visitation program.

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

The Commission originally expected about \$230,000 in Positive Youth Development Grant revenues for 2001-03. The grant pays for a staff position and related costs to develop and support strategies that focus on positive outcomes for young people. The federal Department of Health and Human Services has now awarded an additional \$40,000 for the grant. This will support activities targeted to 9-14 year old girls in rural communities and pay for consultant services for the statewide grant evaluation. There is no match requirement, but the Commission needs additional expenditure limitation to spend the funds.

The adjusted budget for the Healthy Start home visitation program budget includes \$2.6 million Other Funds expenditure limitation. This is based on matching General Fund for local staffing costs with federal Medicaid funding through the Department of Human Services (DHS). DHS transfers the original funding and the matched funds back to the Commission as Other Funds. The Commission now projects the net match earnings will be \$1.25 million more than previously estimated, requiring \$2.5 million more Other Funds expenditure limitation to effect the match through DHS. The net increase will help counties cover their costs to serve 65% of first-birth families as anticipated by the Legislature.

The Subcommittee recommended approval of the request.

Representative Winter's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

### 30. Department of Human Services

Representative Winters moved that the Emergency Board acknowledge receipt of a report on Oregon Project Independence fees, and direct the Department to update the 2003 Legislative Assembly on efforts to improve the program during the Department's budget hearings.

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

Oregon Project Independence (OPI) is a General Fund program designed to provide in-home services to seniors 60 years or older and those at any age with Alzheimer's Disease who are not eligible for Medicaid long-term care services. The legislatively adopted budget for the program was \$13.7 million General Fund for the 2001-03 biennium.

The Department of Human Services' (DHS) administrative rules require the establishment of OPI service fees in consultation with the Governor's Commission on Senior Services. Area Agencies on Aging (AAAs) administer the OPI program and are required to collect the fees. Because of concerns about the collection of OPI fees, the 2001 Joint Committee on Ways and Means directed DHS to work with the AAAs to implement a standard system of collecting and reporting on OPI fees and to report to the Emergency Board.

The report outlines actions that the Department and AAAs have already taken to enhance program accountability and includes recommendations for future work. DHS recommendations involve clarifying and strengthening OPI rules and policy; providing training and technical assistance to AAAs staff; auditing accounting procedures; and conducting ongoing field reviews.

The Subcommittee recommended acknowledging receipt of the report and directing the Department to update the 2003 Legislative Assembly during the agency's budget hearings. The update should discuss the use of OPI collected fees, OPI performance measures, and the prospects for obtaining federal matching funds for the OPI program.

The following Committee discussion occurred:

Representative Winters stated that during the Subcommittee hearing there had been an extensive discussion of improving the accountability of the OPI program. She added that the Department and the AAAs had taken some positive steps to improve the program and to find out how much fee revenue had been generated and how it was expended.

Representative Johnson voiced her gratitude that the discussion concerning accountability had taken place.

Senator Yih noted that the Subcommittee had asked several questions of DHS representatives concerning the OPI program. These included how much revenue had been collected and could the revenue be used to cushion program reductions. DHS was uncertain about the amount of revenue. She added that a Secretary of State audit of the collected fees and their use would be good to do.

Representative Winters clarified that current statutes required using fee revenue to enhance the program rather than offsetting or adjusting the budget. She pointed out that the Assembly might want to look at this statute in the future. She concluded by saying that she was pleased the Department was working with the AAAs to improve the program's accountability.

Representative Winters' motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

### **32. Department of Human Services**

Senator Yih moved that the Emergency Board acknowledge receipt of a report on Mental Health Organizations' fiscal reporting, and direct the Department of Human Services to update the 2003 Legislative Assembly on implementing the report recommendations and actions by February 15, 2003.

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

The Department of Human Services (DHS) contracts with ten Mental Health Organizations (MHOs) to provide mental health benefits to those eligible for the Oregon Health Plan. The MHOs are county governmental and non-profit agencies. DHS pays these organizations capitated rates and the MHOs assume the financial risk of the costs to provide mental health services. To hedge these risks, MHOs establish financial reserves to pay for unusual costs that exceed the capitated rates.

During the spring of 2002, the Senate President's staff asked DHS to begin assessing the financial reserves of MHOs. Concerns had been voiced about the apparent high reserve levels of one MHO subcontractor and the low reserve levels of other MHO subcontractors. Subsequently, a budget note was adopted during the 2002 third special session that directed DHS to do a formal review of MHO reserve levels and to report to the Emergency Board.

The DHS report recommends improving MHO financial reporting, clarifying reserve requirements, refining (if necessary) capitation rates, and monitoring service quality and the financial status of MHOs. The Subcommittee believed these actions to be reasonable, but further believed that they would require significant effort on the part of the Department.

The Subcommittee recommended acknowledging receipt of the report and directing DHS to update the 2003 Legislative Assembly by February 15, 2003 on its efforts to implement the report recommendations. The update should include an assessment of the current MHO service delivery model and other alternatives such as a fee-for-service payment system. In addition, it should discuss appropriate reserve levels and service outcomes.

The following Committee discussion occurred:

Senator Messerle expressed his appreciation to the Subcommittee and to Department staff for their work on the issues of MHO reserves and service delivery. However, he acknowledged his concern about the program. Although he is supportive of mental health services, Senator Messerle, noted that major questions about the program needed to be answered. Specifically, he noted, that the functioning of the MHOs and the amount of funds that are used to help clients needed further investigation. He added that the level of reserves was of concern to him and concluded that, although he was pleased with the efforts so far, much more work needed to be done during the 2003 regular session of the Assembly.

Senator Yih's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

### **34. Department of Human Services**

Representative Schrader moved that the Emergency Board acknowledge receipt of a report on the Staley Settlement Agreement.

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

The Department of Human Services (DHS) provided a report to the Emergency Board in April 2002 concerning its progress in implementing the Staley Settlement Agreement. This settlement resolved a lawsuit concerning entitlement to Medicaid services for developmentally disabled persons. The 2001 Legislative Assembly established a \$19.2 million special purpose appropriation to the Emergency Fund for estimated Staley Settlement costs during the second year of the biennium. Last April, after hearing the Department's report, the Emergency Board allocated the special purpose appropriation to DHS. However, the Subcommittee also had significant reservations about the information systems used to manage the developmental disability services program and the Emergency Board directed the Department to report on its efforts to improve these systems. In addition, the Board directed the Department to report on program administrative costs and the quality of care of clients.

The Department reports that work to enhance its current information and payment system for developmental disability services has been delayed because of hiring difficulties. The hiring difficulties have since been resolved. DHS notes that it is attempting to compensate for shortcomings in the existing system by obtaining data from local service providers. With respect to administrative costs, DHS reports that its own administrative costs comprise about 2% of the program's budget. Local provider administrative costs are capped at about 1.9 percent. The Subcommittee discussed the fact that the level of administrative costs differ depending upon the definition that is used.

The report also outlined local, county, and state efforts to provide service quality oversight.

The Subcommittee recommended acknowledging receipt of the report and directing the Department to verify that the financial and client service data it is currently receiving from local service providers is accurate and can be reliably used to project 2001-03 expenditures.

The following Committee discussion occurred:

Senator Yih stated she was very concerned about the administrative costs of the programs for developmentally disabled persons. She pointed out that prior to the Staley Settlement Agreement, county mental health staff had provided the necessary services for persons requiring 24 hour care. After the Agreement, a new bureaucracy had been established—brokerages that are used for persons requiring less than 24 hour care. She questioned why this new bureaucracy was needed when county mental health staff could have been used. She stated that she had requested an actual brokerage budget from DHS, but hadn't received a complete response to her request. She noted that she was still attempting to gather more information to see whether the \$19.2 million special purpose appropriation was being used to serve clients rather than to increase administrative costs.

Representative Schrader stated he shared Senator Yih's concerns about administrative costs. He hoped that the Emergency Board would receive the information so it could follow-up on the issue of using county staff or brokerage staff. With respect to Staley Agreement enrollment and the waiting list, he added that the Department stated it was on-track.

Representative Winters reminded Emergency Board members that they had asked the Department of Administrative Services to provide clarification concerning the comparison of administrative costs and programmatic costs.

Representative Schrader noted that DHS considers program licensing a programmatic rather than an administrative cost. He stated he was not sure this was appropriate and welcomed further guidance.

Representative Schrader's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

### **37. Department of Human Services and Insurance Pool Governing Board**

Representative Winters moved that the Emergency Board authorize transfers of General Fund appropriations, increase Other Funds and Federal Funds expenditure limitations, and approve the establishment of 79 positions (36.73 FTE) per the schedules below for the Department of Human Services and Insurance Pool Governing Board to implement the Oregon Health Plan 2 waiver, with the understanding that the Department of Administrative Services will unschedule the limitation changes until the waiver is approved by the Centers for Medicare and Medicaid Services.

Adult and Family Services	Section 1(1)(a), Chapter 892, Oregon Laws 2001	\$598,342 GF
Adult and Family Services	Section 4(1)(a), Chapter 892, Oregon Laws 2001	\$598,342 FF
Mental Health Services	Section 1(2)(b), Chapter 892, Oregon Laws 2001	\$48,803 GF
Mental Health Services	Section 4(2)(b), Chapter 892, Oregon Laws 2001	\$48,803 FF
Medical Assistance Programs	Section 1(2)(c), Chapter 892, Oregon Laws 2001	– \$908,576 GF
Medical Assistance Programs	Section 3(2)(c), Chapter 892, Oregon Laws 2001	\$6,398,677 OF
Medical Assistance Programs	Section 4(2)(c), Chapter 892, Oregon Laws 2001	\$9,361,982 FF
Senior and Disabled Services	Section 1(3)(a), Chapter 892, Oregon Laws 2001	\$29,533 GF
Senior and Disabled Services	Section 4(3)(a), Chapter 892, Oregon Laws 2001	\$29,533 FF
Director's Office	Section 1(4), Chapter 892, Oregon Laws 2001	\$231,898 GF
Director's Office, Department-wide Support Services	Section 4(4), Chapter 892, Oregon Laws 2001	\$372,849 FF
Insurance Pool Governing Board	Section 2, Chapter 893, Oregon Laws 2001	\$310,000 OF
Insurance Pool Governing Board	Established by the Emergency Board at its May 2002 meeting	\$10,411,509 OF

Adult and Family Services	43 positions	9.48 FTE
Mental Health Services	1 position	.67 FTE
Senior and Disabled Services	3 positions	.50 FTE
Director's Office	4 positions	4.77 FTE
Medical Assistance Programs	11 positions	6.93 FTE
Insurance Pool Governing Board	17 positions	14.38 FTE

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

At its May 2002 meeting, the Emergency Board approved the submission of an Oregon Health Plan 2 waiver to the federal Centers for Medicare and Medicaid Services (CMS). The Board granted the Insurance Pool Governing Board (IPGB) additional expenditure limitation through the end of September to begin implementation of the waiver, and directed the Department of Human Services

(DHS) to report to the Emergency Board in September about the progress of waiver negotiations. In June, the Emergency Board approved the transfer of General Fund and Federal Funds expenditure limitation changes within the DHS to allow the Department to begin its work to implement the waiver. Like the expenditure limitation approved for the IPGB, the General Fund transfers and associated limitation changes for DHS allowed the agency to conduct its waiver work through the end of September. This provided the Emergency Board with some leverage in the event the negotiated waiver terms and conditions were not acceptable to the Legislative Assembly.

The Subcommittee believed the waiver negotiations had led to terms and conditions that would allow Oregon greater budget flexibility with respect to the Health Plan than under its existing waiver, and recommended approval of the request as summarized in the table above. The FTE amounts in the table reflect both FTE associated with the newly established positions as well as FTE from continuing those positions which were approved by the Emergency Board in May (for the IPGB) and in June (for DHS).

The Subcommittee recommended approval of the request as modified by the Legislative Fiscal Office, with the understanding that the Department of Administrative Services will unreschedule the limitation changes until the waiver is approved.

The following Committee discussion occurred:

Senator Beyer asked for clarification of the motion—whether the motion recommended approval of all the positions (62 positions for DHS and 17 positions for the IPGB) or some subset of the total positions.

Representative Winters responded that the motion recommended approval of all the positions.

Representative Winters' motion carried with Senator Beyer voting "no". (Representatives Minnis and Wilson and Senators Carter and Messerle excused)

### **38. Department of Human Services**

Representative Schrader moved that the Emergency Board acknowledge receipt of a report on implementing outcome-based contracts for drug and alcohol abuse treatment programs.

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

In a budget note, the 2001 Joint Committee on Ways and Means directed the Department of Human Services (DHS) to implement outcome-based contracts for its alcohol and drug abuse treatment systems. This report provided an update on the Department's efforts to fulfill that directive.

The Department's report included three documents. The first provided information about the overall substance abuse treatment system in Oregon as well as a plan for implementing outcome-based contracts at the county level. The report included minimum performance standards. The second document included a set of recommendations from the Oregon Health Sciences University (OHSU) for assessing substance abuse treatment outcomes. DHS contracted with the Substance Abuse Policy Center of OHSU for assistance in developing a plan to implement outcome-based contracts with substance abuse treatment centers. The third document was an example of a treatment outcome improvement report.

DHS is proposing to implement outcome-based contracts on a pilot basis during the 2003-05 biennium. During the pilot period, DHS will evaluate and finalize county outcome measures and develop and pilot outcome measures for direct provider contracts. By the end of the 2003-05 biennium, DHS will have completed the pilot stage and the 2005 Legislative Assembly will be able to assess program outcomes.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Schrader pointed out that during the 2001 regular session, DHS had been unable to show clear program outcomes and that there was a general lack of accountability. Since then, a new program director had been hired and she had made huge strides to improve program performance. Representative Schrader wanted to make clear that his expectation was that DHS would return during the 2003 session with a timeline for implementing outcome-based contracts and that the agency would have completed the pilot stage during the 2003-05 biennium and would be able to show the 2005 Legislative Assembly the outcomes it was achieving.

Representative Schrader's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

### **39. Department of Human Services**

Senator Clarno moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Human Services by section 3(2)(c), chapter 892, Oregon Laws 2001, Medical Assistance Programs, by \$1,304,101; approve the establishment of 28 permanent positions and 3 limited duration positions (5.90 FTE), to implement a senior prescription drug assistance program; and direct the Department to report on the program during its 2003 Legislative Assembly budget hearings.

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

Senate Bill 9, passed by the 2001 Legislative Assembly, established a program to assist low-income seniors to pay for prescription drugs. Seniors participating in the program will be able to purchase drugs from voluntarily participating pharmacies at the Medicaid prescription price. Eligible seniors are persons 65 and over, have incomes up to 185% of the Federal Poverty Level, have been uninsured for drugs for at least six months, and have less than \$2,000 in liquid assets. To participate, an eligible senior must pay a \$50 enrollment fee each year.

The Department of Human Services (DHS) will administer the program and requested position authority and expenditure limitation. DHS believes that enrollment fees will provide sufficient revenue to cover the program costs. The Department estimates that 100,000 persons could be eligible for the program. Given the estimated program costs, about 26,000 will need to sign up during the current biennium for the program to breakeven. If fewer persons enroll and costs remain as projected, the program would need to be subsidized with General Fund.

The Subcommittee encouraged the Department to manage program costs and to monitor enrollment revenue carefully. The Subcommittee recommended approval of the agency's request and, further, that the Emergency Board direct DHS to report on the program during its 2003 Legislative Assembly's budget hearings.

The following Committee discussion occurred:

Senator Beyer indicated he would vote “no” on the motion. He maintained that DHS was the same agency that could not find position savings or efficiencies. Adding positions and thereby rewarding DHS during a budget crisis was the wrong message to send.

Senator Derfler asked whether the \$1.3 million Other Funds expenditure limitation increase would be supported by revenue from the \$50 enrollment fee. He questioned the need for 28 additional permanent positions to conduct the program and asked if the Subcommittee had any discussion about the number of positions being requested and the amount of workload the program would generate.

Senator Clarno replied that there had been no discussion concerning the positions in the Subcommittee. She asked staff to clarify.

Legislative Fiscal Office staff stated that the \$1.3 million of Other Funds limitation would be supported with the fee revenue. The positions, staff pointed out, were primarily for eligibility determination.

Senator Derfler stated that he still had doubts about the need for the positions.

Legislative Fiscal Office staff reiterated that the positions were mainly needed for eligibility determination—to verify asset and income amounts.

Senator Derfler said he hoped that participant savings would be greater than the \$50 enrollment fee.

Legislative Fiscal Office staff pointed out that the Department estimated the average senior might save between \$250 and \$300 annually.

Representative Butler noted that in the Subcommittee there had been a number of similar requests for positions and that the Subcommittee had decided to recommend the additional expenditure limitation but not the positions. He stated that the positions were not needed and that DHS could find efficiencies that would allow it to operate the program without adding more positions. He added that he would vote “no” on the motion.

Senator Metsger stated that he thought the program was valuable and that he had spoken to Legislative Fiscal Office staff some weeks earlier about the positions. It was his understanding that the positions would be phased in as workload grew with the number of eligibles, rather than filling all the positions at once. He asked staff if his understanding was correct.

Legislative Fiscal Office staff indicated that Senator Metsger’s understanding was accurate.

Senator Yih voiced her concern about the 28 positions and stated that a cost-effective formulary would save more for everyone.

Representative Winters, noting the value in the proposed program, offered an amendment to the motion—that the Emergency Board approve the \$1.3 million expenditure limitation without the positions. She asked staff if 10 positions could be found within existing Departmental resources.

Legislative Fiscal Office staff stated that he did not know whether 10 positions could be found. He added that he had been concerned about the financial risk related to the program and encouraged the agency to manage its costs carefully. He reiterated that the Department's intention was not to fill all the positions on the first day, but to phase them in as Senator Metsger had described. He noted that if 100,000 persons did sign-up for the program, that the workload would be significant.

Representative Winters asked whether the positions could be held in abeyance until needed.

Legislative Fiscal Office staff responded that the Department of Administrative Services has position authority and could create limited duration positions as the need arose.

Senator Derfler stated that he would like to see some kind of restriction—perhaps for the Department only to hire persons as needed.

Representative Schrader stated his support of Representative Winters' proposed amendment to the motion; that is, to create 10 temporary positions. He asked if legislative leadership could direct the Department of Administrative Services to provide during the next legislative session a display of DHS caseload-related positions including the ratios of line staff to supervisors and caseload numbers per each line staff person.

Representative Butler stated that Representative Winters' proposed amendment to the motion still concerned him. The amendment increased positions within an agency that could not find efficiencies. He observed that much of this kind of work is subcontracted to the private sector to use excess capacity within computer systems. He stated his support to add the limitation, but to work with the private sector to operate the program more efficiently.

Representative Simmons asked Representative Winters to clearly state her proposed amendment to Sen. Clarno's motion.

Representative Winters stated that her amendment was to allow the expenditure limitation increase and add positions as necessary.

Senator Beyer pointed out that much had been said earlier about the DHS rebalance that would be presented to the Emergency Board in November and wondered if the Department could provide a better accounting of the positions it needed at that time.

Senator Derfler added that he would like to see a plan to privatize the program in November from DHS.

Representative Simmons asked staff to clarify Representative Winters' proposed amendment to Senator Clarno's motion.

Legislative Fiscal Office staff stated that that the proposed amendment was to approve the \$1.3 million Other Funds expenditure limitation increase, approve the establishment of 10 limited duration positions, and to direct DHS to return to the Emergency Board in November with a plan to privatize the program.

Rep. Winters' moved that Sen. Clarno's motion be amended to approve the establishment of 10 limited duration positions and to direct DHS to return to the Emergency Board in November with a plan to privatize the program.

Representative Winters' motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

Representative Schrader stated his belief that the program was valuable and asked whether the program had to be privatized for it to move forward.

Representative Simmons responded that the directive for DHS to return with a plan for privatization did not mean that the program must be privatized for it to begin.

Senator Clarno's amended motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

#### **40. Department of Human Services**

Senator Clarno moved that the Emergency Board allocate \$300,000 from the amount reserved in the Emergency Fund established by section 1(1), chapter 878, Oregon Laws 2001, to supplement the appropriation made to the Department of Human Services by section 1(2)(c), chapter 892, Oregon Laws 2001, Medical Assistance Programs, for Medicaid institutional pharmacy reimbursement; acknowledge receipt of a report on institutional pharmacy reimbursement; and direct the Department to report on durable medical equipment reimbursement at the November 2002 meeting of the Emergency Board.

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

During its second special session, the Legislative Assembly directed the Department of Human Services (DHS) to report at the April 2002 Emergency Board meeting on institutional and non-institutional pharmacy reimbursement rates. DHS made the report but was directed by the Emergency Board to return with a report that included information from a Secretary of State audit of institutional pharmacy reimbursement rates. The Secretary of State had been asked by the Senate President and Governor to provide information on institutional pharmacy costs. Institutional pharmacies are those which provide pharmaceuticals and related services to Medicaid clients in nursing facilities, assisted living facilities, adult foster homes, and residential care facilities. Non-institutional pharmacies are those which provide pharmaceuticals to all other Oregon Health Plan clients.

The brief DHS report outlines actions that have been implemented by the Department to address Medicaid pharmacy costs. The Secretary of State audit report was released on June 13, 2002 and the Department's comments on the draft audit are included in that report. The audit investigated the two main pharmacy cost components: the ingredient cost and the dispensing cost. Briefly, the audit found that the ingredient or "acquisition" cost was Average Wholesale Price (AWP) less 26.7 percent. The audit found that dispensing costs were \$10.97 per prescription after several adjustments were made by the Secretary of State. This total cost included \$2.20 for delivery costs and \$1.98 for consulting pharmacist costs. The Department noted that neither of these costs is covered in the current DHS Medicaid pharmacy reimbursement rates.

The Subcommittee recommended that the Emergency Board acknowledge receipt of a report on Medicaid institutional and non-institutional pharmacy reimbursement, allocate \$300,000 of an Emergency Fund reservation established for the Department of Human Services to restore reimbursement rates for institutional pharmacies for the remainder of the 2001-03 biennium to the average wholesale price minus 11%, plus a \$3.91 dispensing fee. The Subcommittee further recommended that if there are funds left after increasing the institutional pharmacy reimbursement,

they should be used to increase the reimbursement for ingredient costs for retail pharmacies. In addition, the Subcommittee recommended that the Emergency Board direct the Department to report on durable medical equipment reimbursement at the November 2002 Emergency Board meeting.

The following Committee discussion occurred:

Senator Derfler noted that the 2001 Assembly had established a \$900,000 reservation for institutional pharmacies within the Emergency Fund that was to be used if institutional pharmacy reimbursement proved too low to induce pharmacies to participate in the state's Medicaid program. The Assembly received conflicting information between pharmacies and DHS. As a consequence, the Secretary of State was asked to audit institutional pharmacy cost data to see if the reimbursement was adequate. Regrettably, he observed, the audit was hard to understand and the results were not clear. He reasoned that because there was about one-third of the biennium left, one-third of the reservation (or \$300,000) should be allocated to increase institutional pharmacy reimbursement.

Representative Schrader indicated he thought the audit was very clear. In sum, he stated, the audit showed that the State was underpaying with respect to dispensing costs and overpaying with respect to the ingredient cost. He was under the impression that the \$300,000 was to be allocated because of an obligation made to institutional pharmacies. But he reiterated that the report was very clear and that during the next session he hoped the Assembly would fine-tune its approach to institutional pharmacy reimbursement. He asked staff if his reading of the report was accurate.

Legislative Fiscal Office staff indicated that Representative Schrader's interpretation of the report was consistent with staff's understanding.

Representative Winters noted that part of the recommendation was that DHS return to the Emergency Board in November with a report on durable medical equipment reimbursement as part of its rebalance plan. She observed that some pharmacies also provide durable medical equipment and the reductions to both pharmaceutical and durable medical equipment reimbursement hit them twice. She reiterated her recommendation that DHS would return to the Emergency Board in November and address the durable medical equipment reimbursement issue in its rebalance plan.

Senator Clarno's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

#### **41. Long Term Care Ombudsman**

Senator Clarno moved that the Emergency Board increase the Other Funds expenditure limitation established for the Long Term Care Ombudsman by section 2, chapter 60, Oregon Laws 2001, by \$45,933, to enhance current program services.

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

The Federal Older Americans' Act funding allocation to Oregon's Long-Term Care Ombudsman program for Federal Fiscal Year 2002 was increased above the level assumed in the agency's 2001-03 biennial budget by \$27,561. In order to use the funds, the agency needs additional matching funds of \$9,186 as well as additional expenditure limitation. The agency proposes to use \$9,186 of its currently projected \$30,000 ending balance for the required match. The match along with the additional Older Americans' Act funding would increase the agency's operating budget by \$36,747.

In order to acquire the federal funds, the Ombudsman transfers its matching funds to the Department of Human Services. To make the transfer, the Ombudsman agency requires \$9,186 of additional expenditure limitation above the operating budget increase—or a total expenditure limitation increase of \$45,933.

The Subcommittee discussed travel reimbursement for Long Term Care Ombudsman volunteers as well as the feasibility of using teleconferencing technology to reduce costs.

The Subcommittee recommended approval of the request.

Senator Clarno's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

#### **42. Department of Corrections**

Representative Johnson moved that the Emergency Board establish a Federal Funds expenditure limitation of \$752,980 for the Department of Corrections, so the Department may use available grant funds to develop and implement a program to enhance the successful reentry of violent youthful offenders into local communities.

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

The Department of Corrections (DOC) requested a \$752,980 Federal Funds expenditure limitation be established so it can utilize the first year's grant award during this biennium. DOC plans to include expenditure limitation for the remaining grant funds in its 2003-05 budget request.

In April 2002, DOC requested and received approval from the Emergency Board to submit a grant application for federal funds to the U.S. Department of Justice, Office of Justice Programs, under a "Going Home – Serious and Violent Offender Reentry Initiative." The goals of the initiative are to apply innovative ideas that reduce the recidivism of offenders and reduce the overall amount of violent and other serious crimes. In July 2002, DOC received notification of a three year grant award for \$2 million. There is no state or local match requirement.

The funds are to be used to design, implement, and evaluate reentry programs for offenders age 14 to 35. The first year grant funds will be distributed to Marion and Multnomah Counties for local project costs and to the Oregon Youth Authority and DOC for security, training, and other costs. Once developed, programs will be offered at four reentry facilities. The Research and Evaluation Unit of DOC will assess the effectiveness of the programs utilizing existing budgeted resources and data collected from comparative groups, contributing communities, a criminal risk factor assessment tool, and surveys that assess criminal attitudes.

The Subcommittee recommended approval of the request.

Representative Johnson's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Yih and Carter excused)

#### **43. Department of Corrections**

Representative Johnson moved that the Emergency Board acknowledge receipt of a report from the Department of Corrections on the effectiveness of community corrections programs, and direct that a second progress report be provided to the Joint Committee on Ways and Means during the next regular session.

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

The 2001 Legislature directed the Department of Corrections (DOC), by budget note, to take additional steps to evaluate, monitor, and report on the effectiveness of community corrections programs. This report was submitted in partial response to that budget note.

The report indicates that DOC has completed a county-by-county review of alternative sanctions and an analysis of such programs within Oregon and nationally. Details on the results of these activities are outlined in the Emergency Board analysis and the DOC report. DOC plans to distribute its report to county community corrections programs. The Department is also planning to take additional steps to fully respond to the legislative directives.

The report summarized the results of a review of Oregon recidivism data after one year. The report also provided a brief county-by-county summary of interviews with local agencies on approaches to uses of sanctions and statistically summarizes the sanctions found in each county's community correction plans as of July 1, 2001. The report confirmed that as of July 1, 2001, plans varied significantly in their reliance upon jails and alternative sanctions.

DOC concluded that to reduce recidivism the response to violations of supervision should include sanctions other than jail in order to be effective and cost-effective and should include services aimed at changing offender behavior over the long term. Based on the review findings, DOC recommended that community corrections agencies have and use a range of sanctions, including jail; increase the use community service and/or work crews; adjust jail stays to gain greater efficiency; and link rehabilitation treatment with sanctions.

The Subcommittee recommended that the Emergency Board acknowledge receipt of the progress report and request that a second progress report be provided to the Joint Committee on Ways and Means during the next regular session.

Representative Johnson's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Yih, Clarno and Carter excused)

#### **44. Military Department**

Senator Messerle moved that the Emergency Board increase the Other Funds expenditure limitation established for the Military Department by section 2, chapter 61, Oregon Laws 2001, by \$5,008,004, for reimbursement of costs incurred for forest fire protection by the Oregon National Guard.

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

The Oregon National Guard was called to active duty to assist the Department of Forestry's fire suppression efforts during the months of August 2001 and July and August 2002. The rapid response

greatly contributed to the control of several large fires. The Department does not have sufficient expenditure limitation for the additional payroll and administrative costs associated with the forest fire fighting effort. The Department requested an Other Funds expenditure limitation increase to accept reimbursement of costs from the Department of Forestry.

The Subcommittee recommended approval of the request.

Senator Messerle's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Yih, Clarno and Carter excused)

#### 45. Department of State Police

Senator Metsger moved that the Emergency Board authorize the transfer of General Fund appropriations made to the Department of State Police per the schedule below.

Patrol Services activities and operations	Section 1(1), Chapter 776, Oregon Laws 2001	– \$516,394
Fish and Wildlife activities and operations	Section 1(2), Chapter 776, Oregon Laws 2001	– \$156,590
Criminal Investigations and Gaming activities and operations	Section 1(3), Chapter 776, Oregon Laws 2001	– \$788,141
Forensic Services and Medical Examiner Services	Section 1(4), Chapter 776, Oregon Laws 2001	– \$1,427,726
Human Resources, Training, Criminal Justice Services, Information Communications and Management, Law Enforcement Data System activities and operations, and Emergency Management activities and operations	Section 1(5), Chapter 776, Oregon Laws 2001	+ \$2,888,851

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

The Department of State Police (OSP) submitted a rebalance plan to address differences between the amounts budgeted for 2001-03 and newly projected needs. The rebalance plan was based on a department-wide review of all program area expenditures and identification of problems as of June 2002. The plan also identifies management strategies for creating offsetting savings. The rebalance plan did not require allocation of any funds from the general purpose Emergency Fund and did not reverse legislative actions to date.

In the first three special session actions, the Department's budget was reduced by \$9.3 million General Fund and the salary/benefits plan was underfunded by another \$1.3 million, for a total of \$10.6 million in General Fund reductions. Based on these actions, the Department has adjusted its operations as directed but still has a projected deficit in General Fund needs beyond budgeted amounts. OSP plans to utilize management reserves that were established early in the biennium and a freeze of additional capital outlay purchases to avoid layoffs that would otherwise be necessary based on reductions made in the special sessions. The management actions will address all but the \$0.5 million shortfall due to 2001 fire season costs incurred by the State Fire Marshal. Additional fire costs have yet to be determined for the 2002 fire season. The Department plans to request funds from the Emergency Board in January 2003 for both the 2001 and 2002 fire seasons.

The problems identified in this rebalance plan are essentially the same as those identified in the business plan presented at the November 2001 meeting of the Emergency Board. An additional

problem has been identified requiring \$498,460 of state funds to be used as match for a federal grant for the Law Enforcement Data System (LEDS). Other problems identified in the earlier business plan presentation that are addressed in this rebalance include: 1) unbudgeted vehicle operations and other costs (\$951,251 GF); 2) increased labor costs due to a labor settlement (\$389,950 GF); 3) unbudgeted Attorney General costs (\$311,903 GF); 4) unbudgeted medical examiner toxicology contracts with OHSU and Lane County (\$221,379 GF); and 5) a revenue shortfall in the Boxing and Wrestling program resulting from a court decision (\$222,287 GF). Management actions and savings used to offset these problems include: 1) use of reserve identified earlier in the biennium based on a 10% reduction in out-of-state travel (\$47,956 GF); 2) delayed replacement of patrol vehicles and information systems computer equipment (\$1,333,623 GF); and 3) position related savings from use of a holiday pay reserve, deferred hiring, and other vacancy savings (\$1,022,648 GF). A detailed description of the various problems and the management actions was included in the analysis.

To implement the rebalance plan, approximately \$2.9 million General Fund needs to be transferred between the various units within the Department. To address the above described problems that are in the budget appropriation for Human Resources, Information Services, Criminal Justice Services, the Office of Emergency Management, and L.E.D.S, \$2,888,851 in General Fund appropriations need to be transferred from projected ending balances in several divisions. Specifically, the transfers are as follows: \$516,394 from Patrol; \$156,590 from Fish and Wildlife; \$788,141 from Criminal/Gaming, and \$1,427,726 from Forensics/Medical Examiner.

The Subcommittee recommended approval of the rebalance plan.

Senator Metsger's motion carried with no objections voiced. (Representatives Winters, Minnis and Wilson and Senators Yih, Clarno and Carter excused)

#### **47. Department of Public Safety Standards and Training**

Representative Westlund moved that the Emergency Board increase the Other Funds Capital Construction expenditure limitation established for the Department of Public Safety Standards and Training by section 2(2), chapter 864, Oregon Laws 2001, as amended by the Emergency Board at its February 2002 and April 2002 meetings, by \$73,240,000, and increase the Other Funds expenditure limitation established by section 1(1), chapter 167, Oregon Laws 2001, by \$575,000, to fund construction of a new public safety training facility and pay financing costs, with instructions.

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

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. This is the seventh report and/or request on the training facility submitted to the Emergency Board since that time. This request is for the authority to increase its capital construction expenditure limitation by \$72.5 million and its operating budget expenditure authority by \$1 million so it can begin construction on a DPSST public safety training facility and pay financing costs. The option of including training facilities for the Department of State Police (OSP) was reported to add another \$4.6 million to the capital construction request, and approximately \$45,000 to financing costs.

When DPSST reported to the Emergency Board in April 2002, it was instructed to: 1) Develop a full cost proposal and two incremental phasing alternatives that could reduce the initial phase costs by 10% and 20% from an estimated cost of \$72 million, while still working to refine the OSP add-on

option; and 2) Conduct further environmental analysis on the placement of the emergency vehicle operations course. The instructions were given so that Executive and Legislative Branch policy makers would be provided with affordable options to consider when more was known about 2003-05 Criminal Fines and Assessment Account revenues and to respond to concerns expressed by landowners adjacent to the proposed hillside location of the Emergency Vehicles Operations Course (EVOC).

Since the April 2002 Emergency Board meeting, the actions have been taken to relocate the EVOC, complete specialty studies, meet with City of Salem officials, complete design development, meet with advisory boards and commissions, and comply with legislative directives relating to development of phasing alternatives and refinement of OSP add-on option. Details on these activities and options were in the analysis presented to the Emergency Board.

The Legislative Fiscal Office (LFO) reviewed the request and supporting documents and concluded that additional project cost reductions were achievable. Specifically, LFO considered it highly likely that additional efficiencies could be gained through further schedule reviews, further exploration of multiple use capacities, potential expanded use of outside covered areas for overflow, value engineering, simplification of building cladding, completion of design development, and development of actual construction documents. To the extent that this occurs, project savings could be realized without full reliance on the previously discussed phasing alternative components that DPSST identified. In the unlikely circumstance where 5% in overall project savings cannot be achieved with existing planned buildings, LFO recommended that DPSST adapt the facility plan to avoid costs to construct graduation space before reduction of training or housing spaces. This would be a possible alternative based on the site's proximity to Salem-area government owned facilities (Military and State Fair) and other private conference spaces.

The Legislative Fiscal Office recommended that the Emergency Board:

- 1) Approve the project with a \$73.24 million increase in Other Funds capital construction authority and a \$575,000 increase in Other Funds expenditure limitation for financing costs, with the understanding that DAS will unschedule the use of funds in excess of the first Certificate of Participation (COP) sale until a subsequent report is provided to the Joint Committee on Ways and Means early in the 2003 regular session. This will allow the project to continue in a timely manner with necessary legislative oversight. This capital construction amount represents a \$3.86 million (5%) reduction to the DPSST and OSP full cost requests. LFO believes this reduction amount should be achievable, without reducing DPSST student housing.
- 2) Approve inclusion of the OSP add-on with the requirement that its components be proportionally down-sized so that it accommodates approximately 60 barracks beds for trainees at any one time.
- 3) Direct that the COPs be sold in at least two separate sales to avoid creating debt in an amount exceeding actual need. The first sale is to be for up to 50% based on a draw schedule that will be approved by DAS. The actual amounts involved in subsequent sales will not be known until after bids or a guaranteed maximum price (GMP) is established.
- 4) Direct DPSST to work with DAS through a value engineering process to identify additional design, space, material, equipment, and systems efficiencies and savings and refine the scope of the project to fit within the approved funding level.
- 5) Direct that DPSST and DAS jointly provide a progress report to the 2003 Legislature once the value engineering process is completed and decisions are made relative to the construction method to be used (design-bid-build or construction management – general contractor) and either project bids are available or a GMP is developed. Based on the outcome of the legislative review, the amount of the second COP sale will be established.

The Subcommittee discussed the potential impacts of deferring its decision on the request and unanimously adopted the LFO recommendation.

The following Committee discussion occurred:

Representative Johnson indicated that she was going to vote “no” on the motion due to her diminished confidence in the agency and some technical concerns with the proposal.

Representative Westlund’s motion carried with Representative Johnson and Senator Yih voting “no”. (Representatives Minnis and Wilson and Senators Clarno and Carter excused)

#### **48. Department of Public Safety Standards and Training**

Representative Butler moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Public Safety Standards and Training by section 2, chapter 167, Oregon Laws 2001, by \$64,000 so it can utilize available federal grant funds to provide anti-terrorism and fire service training.

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

The Department of Public Safety Standards and Training (DPSST) requested a \$64,000 Federal Funds expenditure limitation increase to expend additional grant funds available from the Federal Emergency Management Agency (FEMA). In total, DPSST will receive an additional \$105,000. A portion of the funds are for anti-terrorism training (\$80,000) of local emergency service personnel and a portion (\$25,000) are for delivery of U.S. Fire Administration National Fire Academy training courses to fire service personnel statewide. No matching funds are required.

In October 1999, the Emergency Board initially provided DPSST with authority to apply for FEMA grant funds to train first responders to terrorist incidents and, in September 2000, the Emergency Board also provided DPSST with authority to apply for FEMA grant funds to train fire service professionals.

DPSST needs the additional expenditure limitation for this grant since it has used more of its existing limitation to expend grant funds carried over from the 1999-01 biennium.

The Subcommittee recommended approval of the request.

Representative Butler’s motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Clarno and Carter excused)

#### **49. Economic and Community Development Department**

Senator Beyer moved that the Emergency Board acknowledge receipt of a report on the purchase of the Joseph Branch Rail Line, and request the Department of Administrative Services to administratively increase the Nonlimited Other Funds expenditure authority by \$2,000,000.

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

The 2001 Legislature authorized the sale of \$2 million in lottery bonds to help with the purchase of the Joseph Branch Rail Line in Union and Wallowa Counties. A budget note directed the

Economic and Community Development Department and the Department of Transportation to coordinate purchase activities and report to the Emergency Board on the results.

The agencies report that a feasibility study was completed, and that the purchase agreement was signed in May. The \$2 million in lottery bond proceeds will assist the counties with the \$6.5 million cost of the purchase. The counties are responsible for funding the balance of the cost and for the operation of the rail line.

Sale of the bonds was approved by legislative leadership in early September, because of the deferred Emergency Board meeting.

The Subcommittee discussed findings that the rail line would be marginally profitable, and the value of short line railroads to rural communities. The rail line will be used to transport lumber from mills in Wallowa and Union Counties, which will help the mills to remain economically viable. There are also plans to use the rail line for excursion tours, which will help to promote tourism. Should the rail line cease to be economically viable, the counties can sell the assets for the \$6.5 million cost of the line and equipment.

The Subcommittee recommended approval of the request.

Senator Beyer's motion carried with no objections voiced. (Representatives Schrader, Winters, Minnis and Wilson and Senators Clarno and Carter excused)

## **51. Employment Department**

Representative Johnson moved that the Emergency Board acknowledge receipt of a report from the Employment Department concerning upgrading the agency's kiosks, and request the Department of Administrative Services to reschedule \$400,000 Other Funds expenditure limitation.

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

The Employment Department kiosks were developed and installed almost a decade ago to provide public access to job information. The kiosks, placed throughout Oregon in public malls, libraries, grocery stores, and one-stop service centers, continue to give those Oregonians lacking an Internet connection access to job search information.

The kiosks represented leading edge technology ten years ago but are now obsolete with rapidly escalating maintenance costs. The Department developed a longer-range plan using only existing state resources to develop the "Millennium Kiosk". This plan was presented to the Joint Legislative Committee on Information Management and Technology.

The upgraded kiosks will enhance Employment Department services to a large number of customers throughout Oregon, particularly to those citizens with barriers such as language, disability, geographic location, and access to the Internet.

The Subcommittee recommended approval of the request.

Representative Johnson's motion carried with no objections voiced. (Representatives Schrader, Winters, Minnis and Wilson and Senators Clarno and Carter)

## **52. Employment Department**

Representative Johnson moved that the Emergency Board approve, retroactively, the submission of a federal grant application to the National Marine Fisheries Service, and increase the Federal Funds expenditure limitation established for the Employment Department by section 3 (1), chapter 692, Oregon Laws 2001, by \$1,200,000, for aid to Oregon citizens negatively affected by the groundfish commercial fishery failure.

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

The Employment Department requested approval, retroactively, to submit a grant application to the National Marine Fisheries Service in the amount of \$1,200,000 and increase the Federal Funds expenditure limitation by \$1,200,000 for aid to Oregon citizens negatively affected by the groundfish commercial fishery failure.

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 worked together to develop the Groundfish Disaster Outreach Program.

In response to the fishery failure, Congress initially appropriated \$5 million in grant funds to the states of California, Oregon, and Washington. Using a formula based on the disaster's impact to the states, Oregon received \$1,750,000. The Department received a second grant in April 2002 for \$1,000,000, which was used primarily for income payments to individuals affected by the commercial fishery failure.

The Subcommittee recommended approval of the request.

Representative Johnson's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Clarno and Carter excused)

## **53. Housing and Community Services Department**

Senator Beyer moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Housing and Community Services Department by section 3, chapter 846, Oregon Laws 2001, by \$28,325,000 for additional federal revenues for four different programs.

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

The Housing and Community Services Department (OHCS) requested an increase the Federal Funds expenditure limitation of \$28,325,000 for additional federal revenues for four different programs.

The 2001-03 legislatively adopted budget for OHCS includes Federal Funds expenditure limitation based on available information at the time the budget was prepared. Resources available for federally funded programs fluctuate from one federal fiscal year to another. OHCS has received, or has been informed it will receive, additional funding for certain existing programs.

The Low Income Energy Assistance Program provides financial assistance to low income households for home heating costs. Increases in home heating costs have led to the allocation of additional federal funds for the program.

The Community Services Block Grant provides funding for employment, education, case management, housing, and other services for low-income Oregonians. Federal funding levels have also been increased for these services.

The Low Income Weatherization Program provides low-income owners and renters with weatherization services. OHCS has received notification that the amount of available funds will increase \$1 million per year for federal fiscal years 2002 and 2003.

The Continuum of Care Grant was anticipated to be phased out during the 2001-03 biennium. However, the federal government has continued funding the grant.

None of these federal funds require state matching funds.

The Subcommittee recommended approval of the request.

Senator Beyer's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Clarno and Carter excused)

#### **54. Department of Agriculture**

Senator Metsger moved that the Emergency Board allocate \$167,882 from the special purpose appropriation made to the Emergency Board by section 5, chapter 769, Oregon Laws 2001, to supplement the appropriation made to the Department of Agriculture by section 1(a), chapter 769, Oregon Laws 2001, for development of a Pesticide Use Reporting System.

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

The Department of Agriculture (ODA) is required by Chapter 1059, Oregon Laws 1999, to begin "operation of the statewide required data reporting program" on pesticide use by January 1, 2002. The Department is to issue its first annual report on pesticide use on July 1, 2003. To fulfill these statutory requirements, ODA began developing a Pesticide Use Reporting System (PURS). PURS is being designed to collect, retain, and report pesticide use data in Oregon.

The 2001 Legislature approved a funding package for the development of PURS that totaled \$1,974,125, including \$296,845 General Fund and \$193,052 Other Funds from pesticide registration fees that were appropriated directly to ODA for startup costs. Another \$1,484,228 General Fund was provided as a special purpose appropriation to the Emergency Board to complete system development. At the April 2002 Emergency Board meeting, \$200,000 from the special purpose appropriation was allocated to the Department to continue systems development. During the third special session, \$167,882 was allocated to the Department from the special purpose appropriation and \$1,116,346 was disappropriated for use toward the statewide rebalance effort, leaving \$167,882 in the appropriation. In addition, a \$200,000 reservation was established within the general purpose Emergency Fund for additional costs associated with enhancements and change notice costs to address development complexities identified during Phase II of the project.

The 2001 Legislature directed the Department to provide regular progress reports on PURS development to the Joint Legislative Committee on Information Management and Technology (JLCIMT). JLCIMT reviewed the Department's most recent progress report at its September meeting.

The Department's request to the Emergency Board was for allocation of \$295,764 General Fund, which is the amount currently required to complete system development. This request assumed a development budget that does not include any expenditure of the \$193,052 Other Funds revenue from pesticide registration fees earmarked for system development during the 2001 regular session.

The Subcommittee denied allocation of the additional \$127,882 that the Department requested and directed the Department to use the pesticide registration fee revenue as originally intended to complete PURS development. The Department was also commended for completing development of PURS significantly under budget.

The following Committee discussion occurred:

Representative Morgan stated she would be voting "no" because this is a new program that commits General Fund dollars into the future and this is not the time to begin a new program that will compete for General Fund with education and programs serving vulnerable persons in the next biennium.

Senator Messerle thanked the Department for its work on the program, but stated that given the funding challenges facing the coming Legislature this is not the time to begin a new program.

Senator Derfler expressed concern that the program simply adds another layer of bureaucracy and is not needed.

Senator Beyer stated opposition due not only to this being a new program, but also because the Department continues to require a lower level of location reporting than people want.

Senator Clarno indicated that while she felt it was important to look at pesticide use, it should not be directed solely at agriculture and, given the funding constraints, especially in Human Services, a new program should not be started at this time.

Representative Schrader expressed sympathy on the reporting level issue, but pointed out that the Legislature had already provided monies from the Emergency Fund to continue the program and the Legislature should honor its commitment to finish the system. He also commended the Department on bringing the project in under budget.

Representative Butler noted that denial of the request would be very frustrating to the Department as well as to the users who have already begun making reports. He also noted that the law requiring reporting will still exist and pointed out that the law should be honored.

Senator Metsger reiterated that the statute will still exist even if funding is not provided. Therefore, pesticide users will still be required to report, so there should be a system ready to receive these reports.

Senator Metsger's motion failed with Representatives Morgan and Simmons and Senators Hannon, Clarno, Messerle, Beyer and Derfler voting "no". (Representatives Minnis and Wilson and Senator Carter excused)

## 57. Office of Energy

Senator Hannon moved that the Emergency Board allocate \$376,872 from the special purpose appropriation made to the Emergency Board by section 4(1), chapter 86, Oregon Laws 2001, to supplement the appropriation established for the Office of Energy at the April 2002 meeting of the Emergency Board, to assist the Oregon Museum of Science and Industry with payments on its energy efficiency construction loan.

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

In 1992, the Office of Energy loaned \$15.5 million to OMSI to help finance construction costs and energy innovations of its new museum. For a variety of reasons, OMSI was unable to make regular payments on the loan between December 1995 and November 1998. In 1997 and 1999, the Legislative Assembly appropriated \$1.5 million and \$1.425 million, respectively, to the Emergency Board to assist OMSI with payment of the debt. Based on the organization's financial progress, the Emergency Board allocated these funds. Continuing this support, the 2001 Legislative Assembly approved a \$900,000 special purpose appropriation to the Emergency Board for payments on the loan: \$500,000 for 2001-02 and \$400,000 for 2002-03. The special purpose appropriation was reduced to \$867,872 during the 2002 special legislative sessions to rebalance the statewide General Fund budget. This left \$491,000 for 2001-02 and \$376,872 for 2002-03. The Emergency Board allocated \$491,000 in April 2002.

OMSI's past activities to improve its financial position include renegotiation and retirement of a \$4.8 million bank loan; completion of the sale of the Washington Park facility; and increased efforts to obtain grants, contributions, and donations, the results of which include a \$3.3 million matching grant from the Swigert Fund that is administered by the Oregon Community Foundation. OMSI has met its goal to raise \$1.65 million as a required match to the Swigert endowment. During FY 2002, OMSI won an \$870,000 grant from the National Institutes of Health to develop a traveling exhibit on aging and a three-year National Science Foundation grant of \$1.8 million for an exhibit on money. It also received a \$1.35 million bequest, which has been restricted for capital needs. These and other activities have resulted in significant improvement in OMSI's balance sheet.

The Office of Energy reported that for the three fiscal years prior to FY 2002, OMSI's actual net revenues exceeded budgeted. However, for FY 2002 OMSI had to re-evaluate its budget in light of the downturn in the economy as well as the effects of September 11, 2001 events and make significant reductions to bring its budget into balance. It revised its anticipated net revenues from \$357,000 to \$118,000. Actual net operating revenues were \$52,000. This figure does not include full loan payments or capital improvements.

The Office of Energy recently renegotiated its forbearance agreement with OMSI. Over the next two years, OMSI will make quarterly loan payments averaging \$56,250. This represents only 20% of the required loan payment. Without aid from the state, OMSI will fall farther behind in paying off the debt owed to the Office of Energy. The Subcommittee recommended approving allocation of \$376,872 from the special purpose appropriation for payment of OMSI's debt.

Senator Hannon's motion carried with no objections voiced. (Representatives Schrader, Butler, Minnis and Wilson and Senators Carter and Metsger excused)

**60. Department of Environmental Quality**

Representative Morgan moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Environmental Quality by section 2(2), chapter 774, Oregon Laws 2001, Water Quality, by \$85,717, for implementation of new federal storm water regulations.

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

New federal storm water regulations under the National Pollutant Discharge Elimination System will take effect in December 2002. The new regulations require the Department of Environmental Quality (DEQ) to issue permits for the control of storm water discharges from certain municipalities and construction projects that had previously been exempt. As a result, the number of permits issued by DEQ under its wastewater management program will increase.

DEQ is unable to predict the exact number of additional permits, but expects the number to at least double from the current 400 per year. The Department is certain that at least 25 new municipal permits will be required since the new regulations apply to smaller municipalities than were covered under the Phase I regulations.

The Department requested expenditure limitation for the full amount of projected additional revenue from permit fees based on a doubling of permits. The Department also requested authority to hire three additional limited duration positions to deal with the expected workload increase.

The Subcommittee recommended that the expenditure limitation be increased in the amount necessary to finance the expense of meeting the new workload instead of the total amount of projected revenue. Any necessary adjustments to the limitation need can be made at a subsequent Emergency Board meeting or during the 2003 regular session. The Subcommittee denied the request for additional position authority.

Representative Morgan's motion carried with no objections voiced. (Representatives Schrader, Minnis, Wilson and Johnson and Senators Carter and Metsger excused)

**61. Department of Environmental Quality**

Representative Westlund moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Environmental Quality by section 2(4), chapter 774, Oregon Laws 2001, Cross Media, by \$70,452, for the pollution control tax credit program.

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

The Department of Environmental Quality (DEQ) is required to review applications for pollution control tax credits and make recommendations to the Environmental Quality Commission for approval or denial of the applications. The review process is entirely funded by fee revenue collected through a charge equivalent to 1% of the claimed facility cost. DEQ and the EQC are required to take action on a pollution control tax credit application within 120 days of the application being filed.

The passage of Senate Bill 764 by the 2001 Legislature revised the pollution control tax credit program by extending the sunset date for the program from December 31, 2001 to December 31, 2008

and by providing for a phase down of the 50% credit for pollution control facilities that are installed to comply with the law. SB 764 also provided for a Green Permit as a means to improve the environmental management of a facility's pollutants. As anticipated during session, the changes to the program implemented under SB 764 increased the number of tax credit applications received by the Department, mostly from small businesses and individuals.

DEQ reported that the number of pollution control tax credit applications has increased from an average of 193 per year during the 1991 to 2000 period to 309 in 2001. During the first half of 2002, DEQ reviewed 211 applications and an additional 236 applications are currently in the review process, with more anticipated during the last four months of the year. The expansion in the number of applications is largely due to an increase in utilization of the tax credit program by small businesses and individuals.

The program is currently staffed by one FTE. The Department requested an additional position to help provide technical assistance to potential applicants, especially small businesses and individuals, and analyze the increased number of applications. Due to the volume of applications, no increase in the assessment is anticipated. The Department will include a program option package in its 2003-05 budget request to establish an additional position on a permanent basis.

The Subcommittee recommended an increase of \$70,452 in the Department's Other Funds expenditure limitation. The Subcommittee denied the request for a limited duration position and instead directed the Department to examine alternatives to process applications more efficiently.

Representative Westlund's motion carried with no objections voiced. (Representatives Schrader, Minnis and Wilson and Senator Carter excused)

## **62. Department of Environmental Quality**

Senator Messerle moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Environmental Quality by section 6(1), chapter 774, Oregon Laws 2001, Air Quality, by \$115,000, for the improvement of public access to Air Quality data collected from the existing statewide pollution monitoring network, with the understanding that the Department of Administrative Services will unschedule all of the limitation increase until the funding is received.

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

The Department of Environmental Quality (DEQ) operates a statewide network of air quality monitors required under the federal Clean Air Act that continuously sample the air to measure Oregon's compliance with the national air quality standards. The agency's Laboratory Division collects the information gathered from the 45 fixed monitoring sites and uses the data to gauge the effectiveness of pollution control measures, to assist in the development of pollution prevention activities, and to provide air-related health information to the public.

The Environmental Protection Agency is providing additional funding for state air quality protection activities to help states upgrade and enhance air quality data information systems. DEQ expects to receive \$115,000 from EPA in November 2002 to be used only for enhancement of the agency's data acquisition system to provide more timely data from monitoring sites in the I-5 corridor. The data would be accessed on an hourly basis using cellular digital packet data technology and would

then be made available to the public through the existing Air Quality Index information system on the agency's website.

The funds would be used to purchase a central host system and software (\$15,000), and to purchase cellular modems and datalogger upgrades at each of the 16 affected sites (\$6,300 per site, or \$100,800 total). The funds require no state match and no additional staffing is required. Staff operating the current data acquisition system would be trained in the maintenance and support of the new software and equipment.

The Joint Legislative Committee on Information Management and Technology (JLCIMT) reviewed the technology component of the request at its September 2002 meeting. JLCIMT recommended approval with the understanding that DEQ would solicit input on the project from the Medford-Ashland Air Quality Advisory Committee, which the Department plans to do in detail at the Committee's next meeting in October 2002.

The Subcommittee recommended approval of the request.

Senator Messerle's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

## **66. Department of Forestry**

Representative Butler moved that the Emergency Board allocate \$3,641,013 from the Emergency Fund established by section 1(1), chapter 878, Oregon laws 2001, to supplement the appropriation made to the Department of Forestry by section 1(2) chapter 768, Oregon Laws 2001, for the Protection from Fire program; and increase the Other Funds expenditure limitation established by section 2(2), chapter 768, Oregon Laws 2001, by \$55,014,327, for emergency fire costs in the Protection from Fire program.

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

The majority of the extra fire costs this season have been incurred in fighting lightning caused fires primarily in Eastern and Southern Oregon areas. The Department reported that the severity of the 2002 fire season has exceeded the ten-year average for the number of acres burned on state protected lands by nearly seven times the annual average.

The Department of Forestry estimates the 2002 fire season costs to be \$59 million and requests \$55 million Other Funds limitation increase to accommodate fire suppression and preparedness expenditures. The total estimated cost is offset by \$5 million already approved for 2002 emergency fire costs. The requested allocation of \$3,345,305 on from the Emergency Fund replaces resources from the Oregon Forest Land Protection Fund used to pay the insurance premium earlier in the year. The replacement funding is required to meet the \$10 million deductible limits of the insurance premium. The Department estimates the insurance policy will pay \$19 million of the \$43 million policy limit. In addition to these costs the Department incurred costs in training the National Guard in fire fighting tactics due to the shortage of privately trained fire crews. The costs are 75% reimbursable by the Federal Emergency Management Act through the Fire Management Assistance Grant program. The remaining training costs of \$268,750 requested from the Emergency Fund are required to match the federal funds.

The Subcommittee discussed the Department's proposal to provide additional resources for additional initial attack such as helicopters, engines, crews and increased fire prevention efforts in high risk areas to cover the remaining months of the fire season. The potential cost of \$426,958 is offset by \$400,000 in the Department's current budget. An allocation of \$26,958 from the Emergency Fund will allow the Department to fully implement the plan.

The Subcommittee recommended approval of the request.

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

## **67. Department of Geology and Mineral Industries**

Representative Morgan moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Geology and Mineral Industries by section 2, chapter 15, Oregon Laws 2001, by \$300,200, with the understanding that the Department of Administrative Services will unschedule \$67,000 of the expenditure limitation increase until the Department has signed contracts with the Oregon Department of Transportation for the Mahoni Bar project and the Oregon Watershed Enhancement Board for the Rogue River project.

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

The Department of Geology and Mineral Resources (DOGAMI) has identified the need for an increase in its Other Funds expenditure limitation to accommodate expenditures related to work the Department is to provide on three contracts that have either been signed or are near completion and an increase in revenue dedicated to the purchase of seismic equipment.

The first contract is with the Oregon Department of Transportation (ODOT) in which the DOGAMI is to provide expertise designed to further understanding of the geological causes of a large coastal landside that threatens a section of US Highway 101. The total amount of the contract is \$198,200 and an interagency agreement between ODOT and the Department has already been signed.

The second is an intergovernmental agreement with ODOT in which DOGAMI is to provide work related to watershed restoration of aggregate sites at "Mahoni Bar" and "Independence Plug". The total amount of the contract is \$50,000. The Department expects this agreement to be finalized in the near future.

The Department has also received a grant from the Oregon Watershed Enhancement Board (OWEB) for work associated with a river bank and dike renovation project involving old gravel pits adjacent to the Rogue River. This project is needed to prevent the river from breaching the old sand pit walls and recapturing the areas. DOGAMI would act as the fiscal agent for the grant. The OWEB Board is set to act on the grant request at an emergency meeting August 23.

Finally, the Department has received increased revenue from the Building Codes Division of the Department of Consumer and Business Services for the purchase and installation of strong motion seismographs. The Building Codes Divisions collects fees dedicated to installation of seismic equipment in selected buildings in areas prone to earthquakes. DOGAMI assists in identifying sites appropriate for placement of equipment and passes money through to federal agencies to purchase and install the equipment.

The Subcommittee recommended an Other Funds expenditure limitation increase of \$300,200, with instructions to the Department of Administrative Services to unschedule a portion of the increase until contracts are signed.

Representative Morgan's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

#### **68. Department of Land Conservation and Development**

Representative Morgan moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Land Conservation and Development by section 3(2), chapter 790, Oregon Laws 2001, by \$735,790, for distribution of local coastal grants; acknowledge receipt of a report on the allocation plan for local coastal grants in the agency's Ocean and Coastal Management Program; deny the request to establish one limited duration position (0.38 FTE) for a Natural Resource Specialist 2 to coordinate public involvement, outreach, and contract activities; and direct the Department to administer program requirements without adding additional FTE, with the understanding the Department of Administrative Services will unschedule \$85,131 Federal Funds expenditure limitation in the agency's Operations program.

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

The Department of Land Conservation and Development receives federal funding from the National Oceanic and Atmospheric Administration (NOAA) to implement the state's Ocean and Coastal Management Program under the federal Coastal Zone Management Act (CZMA). As part of the approved program, the Department allocates federal grant funds to local coastal governments to implement statewide land use planning goals.

The 2001 Legislative Assembly adopted two budget notes in an effort to direct more of the federal funding to local governments on the coast of Oregon. The first budget note addresses grant funds for 2001-02. It specifies that at least \$340,000 of the \$395,000 increase in federal funds for the 2001 federal fiscal year be allocated to coastal cities and counties, in addition to a base amount of \$185,000. It also directs the Department to submit an allocation plan to the Legislative Fiscal Office prior to October 1, 2001. The Department met the requirements of this budget note. For 2001-02, the Ocean and Coastal Management Program distributed a total of \$578,800 in grants to local governments, thus exceeding the target of \$525,000 set by the 2001 Legislative Assembly. Additionally, in January 2002, NOAA approved the allocation plan submitted to the Legislative Fiscal Office in October 2001.

The second budget note requires the Department's submission of an allocation plan following notification of 2002 federal funding allotments under the CZMA. The Department reported that it plans to increase funding for local governments to \$867,000 in 2002-03. This brings total funding to over \$1.4 million for the 2001-03 biennium. The Department requested additional Federal Funds expenditure limitation to distribute the planned level of grants in 2002-03.

In addition to providing increased funding for local governments, NOAA has indicated that it expects to see a significant portion of the additional funds used by the Department as follows: 1) to improve public involvement and communications regarding coastal and ocean resource management and planning; 2) to develop a system for program performance measurement and monitoring; and 3) to remove the backlog of program changes to be submitted to NOAA for incorporation into the state program. The Department reported that it will prioritize work within existing resources to address

some of these issues but requested a limited duration position (0.38 FTE) to help meet the requirement to improve public involvement and communications.

The Subcommittee heard that, at an August 14, 2002 meeting, the Joint Legislative Audit Committee (JLAC) reviewed a report on the Department's Ocean and Coastal Management Program. The JLAC expressed its support for the limitation increase for distribution of additional grant funds to local coastal governments. However, some members of the JLAC questioned the need for the limited duration position, the work the position would be accomplishing, and whether this work represents the priorities of the local coastal governments. The agency was asked to review its request to see if alternatives, such as contracting out the work, would be viable. It also was asked to survey local communities' priorities regarding activities identified by NOAA as needing improvement. Agency staff reported to the Subcommittee that the survey indicated a preference by local communities to have the Department provide training and improve public involvement and communications in conjunction with staff of other state agencies.

The Subcommittee did not recommend approval of the request for a limited duration position. Instead, the Subcommittee recommended directing the Department to carry out program requirements without adding FTE. The Subcommittee did recommend: 1) approving an increase of \$735,790 Federal Funds expenditure limitation in the Grants program; 2) acknowledging receipt of the Department's allocation plan for local coastal grants; and 3) requesting the Department of Administrative Services to unschedule excess Federal Funds expenditure limitation of \$85,131 in the Operations program.

Representative Morgan's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

## **72. Marine Board**

Senator Hannon moved that the Emergency Board acknowledge receipt of a report on boat registration fees from the Oregon State Marine Board.

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

The 2001 Legislature directed the Marine Board to convene a work group of boating constituents to develop a report assessing boat registration fees and report to the Emergency Board. The agency has submitted a report that discusses:

- Anticipated flat revenues for boat registration and titling fees.
- No clear trend or reason for decline in boat registration during the 1990's.
- Uncertainty regarding future gas tax revenues; new survey due in fall of 2002.
- Current boat registration fee structure, which uses a graduated fee based on length.
- Oregon's low registration cost in comparison to neighboring states.
- Projected revenues are unable to support agency's 2003-05 Current Service Level budget.
- Amount of revenue needed and options for supporting or enhancing current programs.
- Stakeholder views on agency's program and fee levels.

The work group recommended raising the boat title fee from \$7 to \$30 and the duplicate title fee from \$7 to \$15. Members also suggested changing the current registration fee structure to a flat fee of \$3 per foot per year and increasing the duplicate certificate/registration fee from \$3 to \$10. The agency reports that it is seeking legislation to implement the recommendations of the work group and has included them in its 2003-05 Agency Request Budget.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Senator Beyer pointed out that acknowledging receipt of the report did not constitute approval of a fee increase.

Senator Hannon's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senators Carter and Derfler excused)

### **73. Marine Board**

Representative Johnson moved that the Emergency Board increase the Other Funds expenditure limitation established for the Marine Board by section 1(1), chapter 209, Oregon Laws 2001, by \$16,610; approve the reclassification of a Management Analyst 3 to principal Contributor 2 and a Natural Resource Specialist 2 to Natural Resource Specialist 3; and acknowledge receipt of a report on the Marine Board's organization.

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

The 2001 Legislature denied the reclassification of the Director and Deputy Director positions as proposed by the Oregon State Marine Board for the 2001-03 budget. The agency was directed to review the organizational structure to address the overlap of duties and responsibilities between the Director, Deputy Director and Executive Assistant and recommend to the Emergency Board a structure that improves operational functions and increases efficiency with appropriate positions classifications. The agency's report described recommended organizational improvements and actions taken. There were no organizational structure changes recommended, however, one position was moved and five position classification reviews have been completed and reviewed by the Department of Administrative Services. The reclassification for two managers in the Registration and Education Section will be financed from savings of other positions within the agency in a permanent financing package approved in January 2002.

The report also identified an adjustment to a classification change for the position formerly identified as a Deputy Director. The position currently functions as a Policy and Planning Analyst in a Management Analyst 2 classification. The agency requested approval of a reclassification of the Management Analyst 2 position to a Principal Contributor 2 position. Approval of this reclassification requires an increase of \$13,510 in the Other Funds expenditure limitation to finance the reclassification through the remainder of the biennium. The report concluded that the duties and functions of the Director, Policy and Planning Analyst and Executive Assistant positions are complementary and do not overlap.

The report mentions a review and approval by DAS of classification of the Natural Resource Specialist position but the agency did not request approval of the reclassification because the position was not specifically identified for review in the budget note. Instead, the agency proposed to include a request for reclassification in the 2003-05 budget proposal. The Subcommittee recommended that the reclassification of the NRS 2 to a NRS 3 also be approved since the position was reviewed and determined to be at a higher level and reported in the review of the organizational structure and because the management positions are being recommended for approval. The cost of reclassifying this position is \$3,100 for increased salary through the end of the biennium.

The Subcommittee discussed that the issues raised by the Legislature were not fully addressed in the process or method of review by DAS. HRSD did not review or make any determinations of potential overlap of duties of the Director, Executive Assistant, and Policy and Planning Analyst position proposed for the Deputy Director position. The determination was made by the Director. HRSD did not perform a desk audit or interview the employee or the employee's supervisors to determine if the job duties in the written position description were actually being performed. The Legislature assumed that a "review" of position classifications would include more than a "paper review". The Executive Branch Policy on Position Management (#30.000.01) states that "agencies shall manage work assignments within the budgeted position classification levels." The Legislature denied the policy package to reclassify the Director and Deputy Director; however, the personnel action form authorizing an "overfill" of the Director's position was not reversed. Furthermore, the personnel action form processed by the Department of Administrative Services uses the term "overfill" as an explanation for authorizing the salary at a higher level than approved by the Legislature. The term "overfill" does not exist in Administrative Rule 105-40-070, Alternate Methods of Filling Positions, or in the Department of Administrative Services Human Resource Services Division policy (#10.000.01) definitions. The Subcommittee recommended that the issue of position management be referred to the Joint Legislative Audit Committee for closer examination.

The Subcommittee recommended approving the reclassification of a management analyst 3 to principal contributor 2 and the reclassification of the NRS 2 position classification to NRS 3 classification retroactive to July 1, 2002; increasing the requested Other Funds expenditure limitation by \$3,100; and acknowledging receipt of the report.

Representative Johnson's motion carried with Representatives Schrader and Winters voting "no". (Representatives Minnis and Wilson and Senator Carter excused)

#### **74. Parks and Recreation Department**

Senator Hannon moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Parks and Recreation Department by section 3(2), chapter 210, Oregon Laws 2001, by \$757,791, to accommodate increased revenues from the federal Land and Water Conservation Fund.

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

The Parks and Recreation Department was notified by the Secretary of the Interior that the additional appropriations by Congress will result in increased allocation to states for Federal Fiscal Year 2002. The budget includes \$2.6 million expenditure limitation and the actual awards will total \$3.3 million, \$757,791 more than the existing limitation. Grants for acquisition and development of outdoor recreation facilities through the Land and Water Conservation Fund Act are subject to a 50% match. The Department plans to use the additional funds to increase grants for acquisition or development. Of the \$757,791, 40% will go to state acquisitions or development and the remaining 60% will go to local governments.

The Subcommittee recommended approval of the request.

Senator Hannon's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

**75. Parks and Recreation Department**

Representative Johnson moved that the Emergency Board increase the Lottery Funds expenditure limitation established for the Parks and Recreation Department by section 2(1), chapter 210, Oregon Laws 2001, by \$2,533,825, to accommodate utilization of current revenues for Phase 1 of the Financial Management System, with the understanding that the Department of Administrative Services will unschedule \$3,970,000 Other Funds expenditure limitation.

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

The Legislature approved the issuance of certificates of participation to finance a portion of the Oregon Parks and Recreation Department technology initiative to convert their financial systems from the Oregon Department of Transportation's Transportation Environment Accounting Management System (TEAMS). The Parks and Recreation Department requested that the Lottery Funds expenditure limitation be increased by \$2.5 million to take advantage of increases in current revenues and avoid the cost of financing the project with certificates of participation. The Department also requested that \$3.9 million Other Funds expenditure limitation be unscheduled based on current project costs and progress.

The Subcommittee recommended approval of the request.

Representative Johnson's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

**76. Parks and Recreation Department**

Senator Beyer moved that the Emergency Board increase the Lottery Funds expenditure limitation established for the Parks and Recreation Department by section 2(3), chapter 210, Oregon Laws 2001, by \$1,869,045, for the local grant program.

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

The 1999 Legislature approved a \$5 million expenditure limitation out of the Measure 66 Lottery Funds resources for providing local park grants. It was the Legislature's intent that this level of funding be continued in future biennia. Due to the time required to establish the new program and administrative rules, the first grants were awarded in the second year of the 1999-01 biennium. At the time the Department developed its 2001-03 budget, it believed the expenditure pattern experienced in the 1999-01 biennium would continue into the future.

The first cycle of grants to be awarded in the current biennium occurred in July 2001. The Department decided to award all of the grants for the biennium at the beginning to insure that project expenditures could be made within the same biennium that they were obligated. The Department expects to expend the entire \$4.5 million before the end of the biennium and is requesting a Lottery Funds expenditure limitation increase of \$1,869,045.

The Subcommittee recommended approval to bring the current grant cycle into conformance with accounting requirements and legislative intent.

Representative Johnson's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

**77. Parks and Recreation Department**

Representative Johnson moved that the Emergency Board acknowledge receipt of a study of Park User Fees.

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

The 2001 Legislature directed the Department to undertake a study of park user fees to determine a more equitable fee structure for all state parks and report to the Emergency Board. The Department has submitted the report that discusses changes to the day use and overnight camping fees. The Department reported to the Subcommittee that it is implementing changes to make fees more equitable between park sites.

Overnight camping fees will now be categorized as “destination, value, or primitive,” allowing for differences in rates based on the amenities offered. All parks will have streamlined camping prices. These changes are estimated to increase revenues by \$200,000 to \$400,000 per biennium. Day use fees are currently charged at 26 of its 171 day use areas. The report recommends charging day use fees at other heavily used areas. Addition of the sites could generate \$800,000 to \$1.5 million in fee revenue. The Department is currently exploring the inequities in the day use program and conducting further analysis. The Department also reported to the Subcommittee that the one-year pass for day use is now being offered for two years and discounts will be offered on the one and two year passes twice a year. In addition, the Department is exploring reciprocal park passes with the federal park system.

The Subcommittee recommended acknowledging receipt of the report.

Representative Johnson’s motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

**78. Oregon Watershed Enhancement Board**

Representative Morgan moved that the Emergency Board increase the Lottery Funds expenditure limitation established for the Oregon Watershed Enhancement Board by section 8, chapter 814, Oregon Laws 2001, Restoration and Protection Research, by \$251,000, for a grant to the Department of Forestry to fund capital expenditures of the Hinkle Creek Paired Watershed Study, with the understanding that the Department of Administrative Services will unschedule the funds until the Oregon Watershed Enhancement Board finds that conditions for releasing the funding to the Department of Forestry have been met.

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

The Restoration and Protection Research Fund was created to receive interest paid on lottery funds deposited in the Watershed Improvement Operating Fund and the Watershed Improvement Grant Fund. Monies accrued in the Restoration and Protection Research Fund are to be used to fund research and other activities related to restoration and protection of salmon and watersheds.

The Oregon Watershed Enhancement Board (OWEB) approved a grant to the Department of Forestry for the Hinkle Creek Pair Watershed Study at its May 2002 meeting. The study, scheduled to run 10 years, would investigate the effectiveness of Oregon’s Forest Practice regulations. The OWEB grant would fund one-time capital expenditures of the research project, which would be an allowable use under the Department of Justice interpretation of the Restoration and Protection Research Fund. A

request for additional limitation was originally submitted for consideration at the June 2002 Emergency Board meeting, however, due to conflicts with the third special session, consideration of the request was postponed until the September 2002 meeting.

When approving funding for the project, the OWEB Board imposed certain conditions be met before any funding is released. Under these conditions the Department of Forestry must ensure that an independent scientific review of the proposed study design is conducted and that this peer review supports the study design.

The Subcommittee recommended approval of the Lottery Funds expenditure increase of \$251,000, with the understanding that the Department of Administrative Services will unschedule the funds until OWEB finds that conditions for releasing the grant funding have been met.

Representative Morgan's motion carried with no objections voiced. (Representatives Minnis and Wilson and Senator Carter excused)

## **81. Oregon Watershed Enhancement Board**

Representative Westlund moved that the Emergency Board approve, retroactively, submission of a federal grant application to the National Marine Fisheries Service for \$17,000,000, and increase the Federal Funds expenditure limitation established for the Oregon Watershed Enhancement Board by section 9, chapter 814, Oregon Laws 2001, by \$5,000,000, for grant funds from the Pacific Coastal Salmon Recovery Program, with the understanding that the Oregon Watershed Enhancement Board would not commit any of the grant monies beyond the approved \$5,000,000 limitation increase without first seeking approval and additional expenditure limitation from the 72<sup>nd</sup> Legislative Assembly.

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

The Pacific Coastal Salmon Recovery Program (PCSRP) was initiated by Congress in Federal Fiscal Year 2000 with the intention of assisting the four Pacific States and Northwest Tribal governments with efforts to recover native salmonids listed under the federal Endangered Species Act. Oregon's share of Federal Fiscal Year 2002 PCSRP funding is \$17 million. The Memorandum of Understanding implementing the grant program between National Marine Fisheries Service and the Oregon Watershed Enhancement Board (OWEB) provides considerable flexibility in state use of the funds for salmon and habitat restoration activities.

Of the \$17 million FFY 2002 appropriation, OWEB voted to set aside \$7.5 million for use next biennium. OWEB anticipates it will be able to expend \$5 million in PCSRP funds the last nine months of 2001-03. This \$5 million includes \$2 million for two congressionally earmarked projects in Clackamas and Klamath counties. The remaining \$3 million would be used to fund grants for technical assistance, watershed assessments, sub basin planning, development of monitoring data, state agency Oregon Plan products, and initiation of research projects. None of these funds will be used for land acquisition.

The Subcommittee recommended approval of the request, with the understanding that OWEB will not commit any of the PCSRF monies beyond the \$5,000,000 limitation increase without first seeking approval from the Legislative Assembly.

Representative Westlund's motion carried with Senator Hannon voting "no". (Representatives Minnis and Wilson and Senator Carter excused)

The meeting was adjourned at 12:00 p.m.

EMERGENCY BOARD:

/s/ Mark Simmons  
Representative Mark Simmons, Chair

/s/ Ben Westlund  
Representative Ben Westlund, Secretary

ATTEST:

/s/ Ken Rocco  
Ken Rocco, Legislative Fiscal Officer