

## MINUTES OF THE EMERGENCY BOARD

**October 28, 2005**

**State Capitol**

**Salem, Oregon**

Members Present: Representative Minnis, Presiding Chair  
 Representatives Barker, Boone, Hanna, Kropf, Morgan, Richardson, Scott,  
 and G. Smith  
 Senators Courtney, Devlin, Gordly, Morse, Schrader, Westlund, Winters

Member Excused: 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 28, 2005, took the following actions:

The meeting was called to order by Representative Minnis at 8:45 a.m. in Hearing Room F of the State Capitol.

### Minutes

Senator Schrader moved that the Emergency Board approve the minutes of the August 5, 2005 meeting, as mailed, and upon hearing no objections the minutes were approved. Senator Carter excused.

### Agency Reports

Senator Winters moved that the Emergency Board acknowledge, en bloc, receipt of the following reports: Item 4, Department of Transportation; Item 18, Military Department; Item 24, Department of Land Conservation and Development and Department of Administrative Services; and Item 27, Department of Forestry.

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

Item #	Agency	Report
4	Department of Transportation	Real-time access to driving records
18	Military Department	Oregon National Guard response to Hurricanes Katrina and Rita
24	Department of Land Conservation and Development and the Department of Administrative Services	Implementation of Ballot Measure 37
27	Department of Forestry	2005 fire season and the use of severity resources

The Subcommittee recommended acknowledging receipt of all the reports.

The motion carried with no objections voiced. Senator Carter excused.

## Federal Grants

Representative Hanna moved that the Emergency Board approve, en bloc, the following requests for approval to apply for federal grants: Item 22, Economic and Community Development Department; Item 26, Department of Forestry; and Item 30, Department of State Lands, with the understanding that any agency receiving a grant award will return to the Emergency Board or Legislative Assembly for any necessary additional expenditure limitation and position authority.

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

Item #	Agency	Granting Agency/Grant Application
22	Economic and Community Development Department	To the U.S. Environmental Protection Agency for brownfields assessment for Oregon's port facilities.
26	Department of Forestry	To the U.S. Department of Homeland Security for fire prevention and safety. (retroactive)
30	Department of State Lands	To the National Oceanic and Atmospheric Administration for restoration of Olympic oysters in the South Slough estuary. (retroactive)

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

The motion carried with no objections voiced. Senator Carter excused.

### 1. Department of Education

Senator Devlin moved that the Emergency Board allocate \$4,893,114 from the special purpose appropriation made to the Emergency Board by section 11(1), chapter 789, Oregon Laws 2005, to supplement the appropriation made to the Department of Education by section 2(1), chapter 789, Oregon Laws 2005, Early intervention services and early childhood special education programs, for caseload growth in the Early Intervention/Early Childhood Special Education program.

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

The Early Intervention/Early Childhood Special Education program (EI/ECSE), created in 1992, serves children with disabilities and their families. Program objectives include improving the developmental status and increasing the school readiness of each child. The EI component serves children from birth through age 2 whereas the ECSE component serves children from age 3 until the age at which schooling begins (usually age 4 or 5). The ECSE component is federally mandated; the EI component is state-mandated. The Department contracts with providers, mostly education service districts, to deliver the services.

Since the program's inception, growth had been fairly steady at about 5-6% per year until 2002-03. In that year, caseload growth was down to 2% and caseload actually declined by about 0.3% in 2003-04. During 2003-05, the Department did not request allocation of a \$6.5 million special purpose appropriation because of this latter decline and greater-than-expected federal funds for the program.

During the 2005 legislative session, caseload growth for 2005-07 was expected to be about 2% per year. In keeping with past legislative practice, the 2005 Legislative Assembly established a special

purpose appropriation – in the amount of \$4.9 million – for increases in caseload. It also approved a budget note that directs the agency to report to the Emergency Board with updates on caseload data and federal funding available for the program.

Recent data indicate that the rate of caseload growth began to pick up in the last school year. Currently, annual caseload increases for 2005-07 are expected to return to the historical rate of about 5% per year. The increase over previous projections is attributed to, at least in part, greater efforts to identify eligible children and the Department's work with program providers due to the decline in caseload growth in 2002-03 and 2003-04.

The Department reported that federal funding for the program under the Individuals with Disabilities Education Act is projected to increase by \$3.6 million over the level expected when the Legislature approved the 2005-07 budget or from \$29.8 million to \$33.4 million. However, even assuming the increased level of federal resources and allocation of the special purpose appropriation, the per-child funding (federal and state) is expected to drop from approximately \$7,000 in 2003-05 to approximately \$6,800 in 2005-07. Moreover, the Department reported concerns that increased federal funding may not materialize because of other federal priorities such as hurricane relief.

The Subcommittee heard that, based upon caseload growth remains at 5% per year, the additional General Fund needed for 2005-07 is approximately \$12 million. Allocation of the special purpose appropriation will address a portion of this need. The Department expects to appear before the Emergency Board at a later date with updates on caseload increases and available federal funding, at which time it might request additional General Fund resources for the program.

The Subcommittee recommended approval of the request.

The motion carried. Representative Kropf voted no; Senator Carter excused.

## **2. Department of Education**

Senator Schrader moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of Education by section 3(1), chapter 789, Oregon Laws 2005, Operations, by \$2,000,000, and approve the establishment of one full-time permanent position and one half-time permanent position (1.13 FTE) for implementation of Senate Bill 1071, with the understanding that the Department of Administrative Services will unschedule \$1,000,000 in limitation until a more detailed budget for the second year of the Oregon Virtual School District project is provided to both the Legislative Fiscal Office and the Department of Administrative Services.

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

Senate Bill 1071, passed by the 2005 Legislative Assembly and signed into law by the Governor, creates the Oregon Virtual School District within the Department of Education. This bill was intended to address the lack of statutory and administrative guidance for school districts that offer online courses. The purpose of the district is to provide online courses that meet statutory academic content standards and State Board of Education criteria to public school students in grades K-12. The Department expects to contract with other public entities such as school and education service districts, public charter schools, and state institutions of higher education to provide these courses.

Section 4 of the bill provides for \$2 million to be transferred in 2005-07 from the State School Fund to the Oregon Virtual School District Fund, which also is established in the bill. The agency

plans to spend about \$1 million each year of the biennium. Much of this will be for one-time expenditures to implement the program. First-year activities include establishing a framework that addresses connectivity, delivery options, access, content coordination, outreach, quality assurance standards, and evaluation. The Department expects that a start-up version of the Oregon Virtual School District will be ready to launch in September 2006. The second year of implementation will focus more on the continued development of content and partnerships as well as administration of the program. It is expected that the infrastructure by that point will be primarily in need of maintenance and upgrade rather than development.

During the 2005 legislative session, the Department indicated that additional staffing would be necessary to implement the program. These staff would be involved with developing content standards, working with the State Board on rulemaking, managing contracts, conducting information outreach, coordinating course adoption, writing and distributing progress reports, and providing program oversight. The Department estimated a need for two permanent positions - a full-time Education Specialist 2 and a half-time Office Specialist 2.

The 2005-07 legislatively adopted budget for the Department did not include the necessary limitation or positions to implement the bill. Therefore, the Subcommittee recommended approval of the Department's request for a \$2 million Other Funds expenditure limitation increase, with the understanding that the Department of Administrative Services will unschedule \$1 million in limitation until a more detailed budget for the second year of the project is provided to both the Legislative Fiscal Office and the Department of Administrative Services. The Subcommittee also recommended approving the establishment of two permanent positions but with a corresponding 1.13 FTE, rather than 1.5 FTE as requested by the Department, based upon the Department's expected hiring date for the positions.

The motion carried with no objections voiced. Senator Carter excused.

### **3. Department of Aviation**

Representative Boone moved that the Emergency Board increase the Other Funds Capital Construction expenditure limitation established for the Department of Aviation by section 1(2)(b), chapter 623, Oregon Laws 2003, Salem office building construction, by \$1,899,999, establish a 2005-07 Other Funds expenditure limitation for debt service of \$112,050, and transfer \$112,050 from the Other Funds expenditure limitation established for the Department of Aviation by section 1(1), chapter 578, Oregon Laws 2005, Operations, to the newly established expenditure category for the Aviation Salem Office Building debt service.

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

In 2003, the Department of Aviation requested a \$2 million capital construction expenditure limitation to replace the Aviation Salem Office Building. The 50-year-old office building's systems and structures are failing. The Legislature approved a \$1 Other Funds Capital Construction expenditure limitation with the understanding that the details of the project would need further review by the Legislature.

The Department proposes to co-locate with the Oregon Military Department's Salem Army Aviation Facility and Weapons of Mass Destruction/Civil Support Team facility occupying 5,300 square feet in a 49,000 square foot one-story facility with a separate 4,800 square foot industrial building constructed for equipment, shop, and parts storage.

The Department proposes to finance the construction with Certificates of Participation. Total debt service over the life of the debt is estimated at \$3.8 million. Debt service costs for 2005-07 are estimated at \$112,050 with a payment due on May 1, 2007. Aviation has sufficient Other Funds expenditure limitation to absorb the cost of issuance of the COPs.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objections voiced. Senator Carter excused.

## 5. Board of Pharmacy

Senator Schrader moved that the Emergency Board establish a Federal Funds expenditure limitation of \$50,000 for the Board of Pharmacy to develop a revised prescription drug monitoring program proposal; request the Department of Administrative Services unschedule \$30,000, with instructions; and direct the Board of Pharmacy to report, with instructions.

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

At its January 2004 meeting, the Emergency Board approved the Board of Pharmacy to apply for a \$350,000 U.S. Department of Justice grant to develop a prescription drug monitoring program. The grant was awarded in July 2004.

To be eligible for the grant funds, states must enact legislation requiring the submission of controlled substance prescription data to a central database administered by an authorized state agency. To satisfy this requirement, the Board of Pharmacy proposed Senate Bill 180 during the 2005 session. The bill received two public hearings and was in committee upon adjournment.

The original grant period ended July 31, 2005. The agency has worked closely with the Bureau of Justice Assistance (BJA) to obtain a one-year extension. Additional extensions will be required and BJA has indicated that future extensions would be approved provided the agency could demonstrate progress in moving the project forward.

Without the enabling legislation, only the planning portion of the grant (up to \$50,000) can be spent. Access to the planning funds will allow the agency to develop a revised program proposal for the 2007 session. The revised proposal is expected to address concerns regarding data security, privacy, and ongoing program funding and include program enhancements targeting treatment and referral options. There is no obligation to repay expended planning funds if the enabling legislation is not passed in 2007.

The Subcommittee recommended that Department of Administrative Services unschedule \$30,000 until the agency demonstrates a need for the expenditure limitation. The Subcommittee also recommended that the agency provide a report to the Emergency Board describing the current problem in Oregon and how the proposed program will address the problem.

The motion carried with no objections voiced. Senator Carter excused.

## 6. Department of Administrative Services

Representative Smith moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of Administrative Services by section 5, chapter 601, Oregon Laws 2005, by \$397,467 for the Office for Oregon Health Policy and Research to conduct work under a federal grant received from the Health Research Services Administration.

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

The Department of Administrative Services Office for Oregon Health Policy and Research (OHPR) received legislative approval to apply for a federal grant during the 2005 session. The Office has now been awarded a grant of \$397,467 and requested expenditure limitation for grant activities. The grant funds will be used to conduct analysis and help develop plans to reduce the number of Oregonians without health insurance. Specifically, the grant dollars will be used for the following purposes: to provide economic and actuarial analysis to develop additional options for covering adults and children in the Oregon Health Plan and in the Family Health Insurance Assistance Program (FHIAP); to provide planning and technical assistance to communities to assist them in developing local models for providing access to health care; to provide technical support to improve the collection of health insurance coverage information within the Oregon Population Survey regarding regional, racial, and ethnic community data; and to provide a strategic plan for outreach and enrollment of those children already eligible but not enrolled in Medicaid, State Children's Health Insurance Program (SCHIP), or FHIAP.

OHPR plans to use \$61,872 of the grant dollars to fund a limited duration Research Analyst 3 position which will be administratively established. Most of the balance of the funds will be used for consulting and actuarial services. The grant does not require any state matching funds.

The Subcommittee recommended approval of the request.

The motion carried with no objections voiced. Senators Carter and Devlin excused.

## 7. Department of Administrative Services

Senator Westlund moved that the Emergency Board acknowledge receipt of the compensation plan report.

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

The Department of Administrative Services (DAS) is required under ORS 291.371 to report state salary plan changes to the legislative review agency (the Joint Committee on Ways and Means during session and the Emergency Board during the interim). The report provided by DAS is divided into 13 sections describing compensation and benefit changes negotiated with various bargaining units and established for non-represented and management employees.

The major components of the base agreement include the following:

- Effective July 1, 2005, generally increase salary rates by 2%, but not less than \$50 per month and resume normal salary step progression.
- Effective January 1, 2006, increase the state-paid subsidy to meet increases in insurance premium costs for Public Employees Benefit Board (PEBB) medical, dental, and basic life benefit plans for eligible employees for plan year 2006.

- Effective July 1, 2006, add one step to the top of all salary ranges.
- Effective December 1, 2006, generally increase salary rates by 2%, but not less than \$50 per month.
- Effective January 1, 2007, increase monthly insurance contributions by up to 12% of the actual monthly composite resulting from plan year 2006.
- Effective February 1, 2007, an additional one step increase will be granted to employees whose salary eligibility date is between July 1, 2006 and January 31, 2007, are on step 1 through 6 and have continuous service from July 1, 2003 (employees with salary eligibility dates between February 1, 2007 and June 30, 2007, will receive an additional step increase on their salary eligibility date).

Variations to this basic agreement and additional details specific to each bargaining unit (such as wage differentials, new and revised job classifications, and selective salary range increases) are described in detail in the report.

The Legislature directed that the General Fund costs of the compensation plan changes identified in this report would be covered by a \$130 million special purpose appropriation to the Emergency Board. Allocation of this special purpose appropriation will be requested by the Department at a future Emergency Board meeting during this interim. The request will also include the associated expenditure limitation increases for Lottery Funds, Other Funds, and Federal Funds necessary to implement the compensation plan changes.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Kropf explained that he was voting “no” not because state employees would eventually receive salary and benefit increases due to the actions described in the report, which he believes they deserve and was proper to include in the biennial budget, but because of the provision that added an extra step to the top of each salary range. He explained that he believes this additional cost is not appropriate at this time.

The motion carried with no objections voiced. Senators Carter and Devlin excused.

## **8. Department of Administrative Services**

Senator Devlin moved that the Emergency Board acknowledge receipt of a status report on the Computing and Networking Infrastructure Consolidation project.

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

The Legislature previously approved the consolidation of data center operations and the construction of a new State Data Center. The budget report for the bill that funded the data center consolidation and operation included a budget note that requires the Department of Administrative Services to report on progress of the consolidation effort to each meeting of the Emergency Board.

The project is on schedule. The newly constructed State Data Center has been certified as a Tier III facility (99.982 percent system availability, or uptime) specifically designed to provide secure, reliable operations. The next steps are to connect the existing state network to the State Data Center and begin moving agency data center operations to the Center.

The State Data Center is expected to assume network management responsibilities November 1, 2005. The transfer of the three largest data centers (Departments of Administrative Services, Human Services, and Transportation) will take place during the following months and are targeted for completion June 30, 2006. Following the consolidation of those three, operations of the remaining nine agencies will be transferred to the State Data Center.

The implementation plan has changed slightly since the budget was approved. The changes were: (a) to install the network infrastructure up front instead of developing and connecting it as agencies came on board, and (b) to wait to hire all the full time data center staff until further into the implementation. The Subcommittee was satisfied that the changes are for the good and have not impacted the overall implementation and completion date.

The Subcommittee recommended acknowledging receipt of the report.

The following Committee discussion occurred:

Representative Kropf stated that kudos should be given to the agency for a project that is on target and on budget and when state agencies do good work, they should be acknowledged.

The motion carried with no objections voiced. Senator Carter excused.

#### **10. Department of Human Services and Department of Justice**

Senator Gordly moved that the Emergency Board allocate \$2,497,924 from the special purpose appropriation made to the Emergency Board by section 7(1), chapter 713, Oregon Laws 2005, to supplement the appropriations made to the Department of Human Services by section 1(1), chapter 713, Oregon Laws 2005, Department-Wide Support Services, by \$298,992, and by section 1(2), chapter 713, Oregon Laws 2005, Children, Adults and Families, by \$2,198,932; increase the Federal Funds expenditure limitation established for the Department of Human Services by section 4(1), chapter 713, Oregon Laws 2005, Department-Wide Support Services, by \$298,992, and by section 4(2), chapter 713, Oregon Laws 2005, Children, Adults and Families, by \$1,857,627; and approve the establishment of 32 permanent full-time positions (24.00 FTE) in the Department of Human Services, Children, Adults and Families; increase the Other Funds expenditure limitation established for the Department of Justice by section 2, chapter 694, Oregon Laws 2005, by \$1,551,389; and approve the establishment of 10 permanent full-time positions (7.50 FTE) in the Department of Justice; to improve legal representation of child welfare caseworkers in juvenile court proceedings involving child protective services.

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

The 2005 Legislature made a \$2.5 million special purpose appropriation to the Emergency Board for child welfare staffing and legal representation because the budget committees had a number of concerns with the Governor's budget request to add funding and staff in the Department of Human Services (DHS) and the Department of Justice (DOJ) to address this issue. Those concerns centered on the proposed shift of some existing DHS staff from child welfare casework to paralegal work; the number of cases the budget proposal would address relative to the total number of cases needing legal representation; and the likelihood of significant long-term costs to expand Attorney General involvement with these cases.

The revised proposal presented by DHS and DOJ addresses the Legislature's concerns. This proposal reduces the scope and cost of the original proposal by targeting services to certain "high priority," legally complex cases. DOJ will provide review and consultation on all of these cases, with settlement and litigation services as needed. DHS may refer other cases to DOJ as resources allow.

DHS will add 32 new paralegal, support staff and supervisor positions as of January 1, 2006. Existing caseworker staffing levels are unchanged. DOJ will add 10 new positions to be stationed in Portland and Eugene, supplementing existing staff in Portland and Salem. Funding for the DOJ positions will be paid by DHS from the General Fund allocation and matching Federal Funds.

An early focus on high priority cases is expected to increase the time DHS caseworkers spend on casework rather than legal issues, improve the quality of services, and resolve cases more quickly. The agencies have defined the factors they will use to evaluate the effectiveness of the new resources, and will report to the 2007 Legislature on this issue.

The Subcommittee discussed the criteria that will be used to establish case priorities, and the ability for DHS caseworkers to refer other cases to DOJ for review and consultation. The geographic placement of the new DOJ staff and the need for staff training were also discussed. Subcommittee members expressed interest in seeing comparative data showing the impact of the new staff, especially data quantifying improvements in DHS caseworker time with children and families.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Representative Richardson noted that the Juvenile Rights Project, an advocacy organization, had raised questions on the revised plan, and that DHS and DOJ had provided a written response which had been distributed to the Emergency Board members.

Committee members discussed that the Willamette Valley location of the new attorneys was chosen because most cases are in that area of the state, that the current proposal will provide support for all of the high priority cases, and that the attorneys and paralegal staff will work closely together but only attorneys will provide specific legal advice.

Senator Schrader asked if the Subcommittee had discussed changing the performance measure targets.

Representative Richardson said there was no specific target discussion in the Subcommittee, but that this had been discussed during the 2005 session, and the goal is clearly to improve the time frame for these cases.

Senator Gordly stated that implementing the new approach will be a work in progress, so the performance measures will also be a work in progress. She noted that implementation will require added training, above the core training provided for new employees, and that there will be a need to follow up on that issue as well.

Representative Hanna noted that the revised proposal did maintain all current caseworker positions, which was an improvement over the original Governor's budget package.

The motion carried. Representative Kropf voted no; Senator Carter excused.

## 11. Department of Human Services

Representative Richardson moved that the Emergency Board authorize transfers of General Fund appropriations, and increase Other Funds expenditure limitations and Federal Funds expenditure limitations, per the attached schedule, for the Department of Human Services close-out plan for the 2003-05 biennium.

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

The Department of Human Services (DHS) submitted its close-out plan to reflect the budget changes needed to match up its 2003-05 budget with updated revenue and spending estimates. The Legislature last rebalanced the DHS budget during the 2005 session, based on estimates submitted in April 2005. This Emergency Board action is expected to be the final adjustment before the financial books are closed at the end of the year.

With the close-out adjustments, DHS expects \$22.8 million will revert to the General Fund. This amount is about \$55 million less than the \$77.7 million reversion expected after the April 2005 rebalance plan approved by the 2005 Legislature in HB 5077. That legislation made a \$77.7 million General Fund appropriation as a short-term fix for cash flow problems in the Health Services (HS) and Senior and People with Disabilities (SPD) budgets. The cash flow problems were caused by using accrued revenues (based on projections, rather than cash) for tobacco taxes and Medicaid provider taxes in the 2003-05 DHS budget. The Legislature expected that DHS would revert most (but not all) of the \$77.7 million appropriation to the General Fund after the cash from the accrued taxes had been received after the end of the 2003-05 biennium. Given the budgetary issues identified in the close-out plan, however, that expectation will not be met.

The close-out plan includes \$6 million in higher General Fund costs due to caseloads, and \$15.9 million General Fund for a final Medicare Upper Payment Limit (MUPL) settlement. Most notably, however, about \$44 million General Fund is needed to replace lower-than-expected Other Funds and Federal Funds revenues. This reflects corrections for empty expenditure limitation not backed by actual revenue, and the impact of cost allocation and time reporting changes that were adopted with the agency's reorganization, as well as normal revenue fluctuations. It was noted that many of the added General Fund costs in this 2003-05 close-out plan, particularly the caseload and revenue issues, will need to be addressed for the 2005-07 budget as well.

Subcommittee members observed that the final MUPL settlement was an expected cost, but expressed concern with the continuing, unexpected adjustments in caseload forecasts and revenue corrections. The Subcommittee discussed the issues associated with the Department's increased reliance over time on tobacco and provider tax revenues, and budgeting practice that relies on forecast revenues rather than cash collections for the biennium. Bryan Johnston, the interim DHS director, noted that the program caseload forecasting was improving and, although small forecast deviations can cause significant budget shifts, he believes the caseload forecasts to be generally within industry standards. He stated that the on-going revenue issues were internal to DHS and do need to be fixed. Vic Todd, Assistant DHS Director for Finance and Policy Analysis, clarified that the estimation of Other and Federal Funds revenues was separate from the caseload forecasting issue, and that they are working very hard to set up revenue tracking, allotment, and expenditure processes to improve the accounting and budgeting issues. The Department is expected to report to the Emergency Board in January 2006 with its first 2005-07 biennial budget rebalance and on its revenue forecast and tracking issues. Senator Winters expressed interest in having DHS identify structural changes that need to be made to address its systemic issues, as well as how much those changes would cost and a timeline for making the changes.

The Subcommittee recommended approval of the request.

The following Committee discussion occurred:

Committee members expressed frustration with the recurring nature of the caseload and revenue problems in the Department.

Representative Morgan said the Legislature needed to look again at whether the caseload projection functions should be in the Department or done externally, and suggested the business operations need to be elevated to be of equal importance with the service delivery operations.

Representative Minnis stated that a House Interim Task Force on DHS Review was being appointed, as well as interim task forces to look at the Oregon Health Plan and child welfare issues.

Senator Schrader indicated he sees the continued problems as a management issue, and the bottom line should be who loses their job as a result.

Legislative Fiscal Office staff clarified that the current request did not include any additional General Fund appropriation for the 2003-05 biennium, but that the agency needed added Other and Federal Funds expenditure limitation to balance its budget to expenditures. The extent of the 2003-05 close-out changes on the 2005-07 budget is not yet quantified. The first 2005-07 rebalance plan in January 2006 will define that impact.

Representative Richardson emphasized the importance of that rebalance plan, because it allows the Department 18 months to make any needed program adjustments.

Senator Winters stated her belief that there was a need for real data and focus in the Department to resolve the problems.

Senator Morse presented an analogy of the Legislature as a lending committee of a commercial bank with DHS as a customer, citing a need to help DHS work collaboratively with others outside state government to help correct these systemic and perpetual problems.

Senator Courtney stated the new DHS director was just confirmed by the Senate yesterday; he felt the Senate discussion and the discussion in the Full Committee put the magnitude of the issues clearly on the record.

Representative Smith suggested that DHS needs to be broken down into simpler, more manageable components before the problems can be resolved.

The motion carried. Senator Schrader and Representative Kropf voted no; Senator Carter excused.

## **12. Department of Human Services**

Senator Gordly moved that the Emergency Board acknowledge receipt of a report on a capital construction project at the Oregon State Hospital's Portland facility, and direct the Department of Human Services to report to the Emergency Board in January 2006 with more information.

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

The Department of Human Services reports that it is analyzing a capital construction project at the Oregon State Hospital's (OSH) Portland facility. This building, which the Department leases from the Legacy Health System, currently houses about 68 patients on floors with psychiatric treatment spaces. The 6th floor of the building, however, is a medical unit that was never converted to psychiatric space. At the same time, an OSH Master Plan Phase I Report indicates that several buildings on the OSH campus in Salem are at risk in the event of an earthquake. Most notable among them is the 122-year old "J" Building complex which houses about 100 forensic patients. DHS is concerned about the safety of the patients in the "J" Building, given the seismic risks, and believes that about 30 patients could be moved to the 6th floor of the Legacy building, if that floor were remodeled. Preliminary estimates for the remodeling project range from \$525,000 to \$950,000 General Fund.

The Subcommittee discussed the report and learned that the 6<sup>th</sup> floor of the Legacy facility had been leased for the past ten years, but not used except for an occasional meeting. Members expressed their concern about the apparent waste. They also discussed other issues that needed to be included in a January report. In the end, the Subcommittee recommended that the Emergency Board acknowledge receipt of the report. Further, the Subcommittee recommended that DHS submit another Emergency Board report in January that would discuss the items listed in the Legislative Fiscal Office analysis, as well as several other issues mentioned by Subcommittee members. These issues include:

- The timeline for placing the other 70 patients who now reside in the "J" building.
- How the Legacy expansion project is consistent with the Master Plan for Oregon's state hospital and mental health system.
- OSH patient and staff safety, with a focus on appropriate staffing levels and workers' compensation costs.

The following Committee discussion occurred:

Representative Richardson expressed his dismay about the waste of money over the last 10 years from leasing 18,000 square feet on the 6<sup>th</sup> floor of the Legacy facility and not using the facility. He argued that the DHS letter had misrepresented the truth about leasing the 6<sup>th</sup> floor of the Legacy facility and stated that this was an embarrassment to the agency. He mentioned that Vic Todd at DHS had requested a review of all the DHS leases.

Representative Hanna stated that leasing the 6<sup>th</sup> floor of the Legacy facility raised questions about who manages the state leases and how familiar are the managers with the commercial leasing process. He urged that a study of facility management be conducted.

Representative Minnis asked the Legislative Fiscal Officer if he knew who managed state facilities.

Legislative Fiscal Office staff replied that usually the facilities are managed by both the Department of Administrative Services and the agency that uses the facilities.

Senator Winters pointed out that this was a statewide issue, not limited to DHS.

Representative Kropf agreed with Senator Winters and observed that the Employment Department has a similar problem. He recommended that the Joint Legislative Audit Committee should conduct an audit of facility leasing and reminded members of the need to "trust, but verify."

Senator Gordly advised members to keep the real issue in mind: namely, that there was a critical need to move 100 patients out of the Oregon State Hospital "J" Building as soon as possible. She stated that the building was unsafe and also the staff to patient ratio was not creating a safe

environment. She said the situation was shameful, but that she believed that Dr. Bruce Goldberg, the new DHS director had heard the urgency of the Subcommittee in correcting the problem. She told the committee that a report about placing the remaining 70 patients in the “J” Building would be coming in January.

Representative Richardson clarified that the Subcommittee was recommending acknowledging receipt of the report, and supported moving ahead with the best alternative to ensure patient safety. Even so, he said, members should not forget the poor leasing decision over the last 10 years.

Senator Courtney stated that he and Representative Minnis were very interested in the review of the Oregon State Hospital. He said that the conditions in the “J” Building were horrific and that the potential liability was tremendous. The OSH Phase 2 report is due, he added, in February and the report on the remaining 70 patients is due in January.

The motion carried. Representative Kropf voted no; Senator Carter excused.

### **13. Department of Human Services**

Representative Hanna moved that the Emergency Board approve the submission of a federal grant application by the Department of Human Services to the Centers for Disease Control, National Institute for Occupational Safety and Health in the amount of up to \$275,000 to determine the feasibility of conducting an epidemiological assessment.

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

Interest in this grant came about because the Plumbers, Steamfitters and Marine Fitters Local Union 290 approached Oregon’s Occupational Safety and Health Division (within the Department of Consumer and Business Services) staff to request assistance in evaluating concerns about member disability and premature death. Staff determined that the union’s questions could not adequately be addressed by Oregon’s OSHA and initiated discussions with DHS’ Public Health program management. The union, DCBS, and DHS, agreed that DHS should pursue the grant because DHS staff have expertise in both grant writing and in epidemiological research.

The application could request up to \$275,000 over a two-year period to determine the feasibility of conducting a more extensive epidemiological assessment of illness, disability, and premature death among union members who perform work such as welding, soldering, and pipe fitting. The grant is due January 6, 2006 and does not require state matching funds.

The motion carried. Representative Kropf voted no; Senator Carter excused.

### **14. Department of Human Services**

Senator Winters moved that the Emergency Board acknowledge receipt of a report on implementing the Medicare Modernization Act.

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

Various members of the 2005 Legislative Assembly asked that the Department of Human Services (DHS) report to the Emergency Board on a regular basis about implementing the Medicare

Modernization Act (MMA). The most important provision of the MMA is the prescription drug benefit that it adds to the Medicare program (“Medicare Part D”) beginning January 1, 2006.

DHS reports that it has made significant progress in preparing for the new Medicare Part D benefit. The Department has met all federal deadlines for submission of data and State Medicaid Plan amendments including the establishment of a procedure to adjudicate eligibility for the Medicare Part D low-income subsidy. The Department has trained over 2,500 staff, providers, and other stakeholders to help inform the public about the MMA and assist persons in their selection of a MMA drug plan. In particular, DHS has focused attention on assisting the estimated 54,000 dual-eligible clients (persons eligible for both Medicare and Medicaid) in their transition from using the Medicaid prescription drug benefit to Medicare Part D. The Department also noted in its report that several legislators had been holding town hall meetings to inform constituents about the new Medicare Part D benefit.

The motion carried. Representative Kropf voted no; Senator Carter excused.

#### **15. Insurance Pool Governing Board (Office of Private Health Partnerships)**

Representative Richardson moved that the Emergency Board acknowledge receipt of a report on negotiations with the Centers for Medicare and Medicaid Services concerning the Family Health Insurance Assistance Program maintenance of effort requirement, and allocate \$2,910,293 from the special purpose appropriation made to the Emergency Board by section 4(1), chapter 581, Oregon Laws 2005, to supplement the appropriation made to the Insurance Pool Governing Board by section 1, chapter 581, Oregon Laws 2005.

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

The 2005 Legislative Assembly established a \$4 million special purpose appropriation (SPA) that could be allocated to either the Insurance Pool Governing Board (IPGB) or to the Department of Human Services (DHS), depending upon negotiations with the federal Centers for Medicare and Medicaid Services (CMS) concerning the Family Health Insurance Assistance Program (FHIAP) maintenance of effort (MOE) requirement. The Legislature wanted the Executive Branch to investigate with CMS whether all or part of the \$4 million SPA could be used to fund Oregon Health Plan (OHP) Standard or Children’s Health Insurance Program (CHIP) enhancements, but still be counted as meeting the FHIAP MOE requirement. DHS and IPGB representatives reported that talks with CMS had begun but that CMS could not yet provide a response. The Executive Branch requested that the Emergency Board acknowledge receipt of the report, but delay allocation of the SPA until January when CMS may have a response. The Legislative Fiscal Office (LFO), however, recommended that the Emergency Board allocate \$2.9 million of the SPA to the IPGB. LFO made this recommendation in order to hedge overall program and financial risk if CMS denies or delays Oregon’s request, and also to maintain FHIAP program credibility.

The Subcommittee discussed this recommendation at length, and although members support efforts to provide health insurance to more children, the Subcommittee agreed with the LFO recommendation. This recommendation allows FHIAP to fund eligible persons from whom applications have already been received as well as providing two additional weeks – until November 15<sup>th</sup> – to those who have received applications, but not yet responded, to do so.

The following Committee discussion occurred:

Representative Richardson opened the discussion by telling members that the Centers for Medicare and Medicaid Services (CMS) had asked Oregon to choose one of the four options it had submitted for consideration. Refinements to the application, he added, are the responsibility of the Department of Human Services and the Governor's Office.

Representative Boone said that she would be voting "no." She indicated that waiting for a positive response from CMS would allow the state to use its resources more efficiently for more kids. She stated that she was opposed to taking funding from one group (Children's Health Insurance Program—CHIP) and giving it to another group (Family Health Insurance Assistance Program—FHIAP). She added that the Legislature had increased FHIAP funding significantly.

Representative Barker said that he would also be casting a "no" vote. He had received information, he said, and no one who currently receives FHIAP premium subsidies would lose coverage if the Emergency Board waited to allocate all or part of the special purpose appropriation.

Representative Richardson stated that the Subcommittee had a thorough discussion of the issues. The Legislature, he said, had told FHIAP managers to actively market the program and they had successfully done so. If the FHIAP were to now stop, he opined, the program credibility would be undermined from the perspective of insurance agents and the public at large. He added that the recommendation would still leave \$1.1 million in the special purpose appropriation so that if CMS did grant its approval, the Emergency Board could allocate the money to DHS.

Senator Schrader stated that the inference that the Emergency Board would be taking money away from CHIP and giving it to FHIAP was a misrepresentation. Oregon had asked for a waiver in order to get federal matching funds for the FHIAP. CMS had granted that request, but, in turn, required Oregon to maintain its funding effort for FHIAP that had previously been a state-funded only program. He stated that he did not want to jeopardize future waiver discussions by causing FHIAP maintenance of effort problems.

Senator Westlund said he was very concerned about this issue. He stated that the Legislative Assembly had made a difficult policy decision to set aside the \$4 million special purpose appropriation and have DHS apply to CMS for a waiver change. He admitted that the amount of funding was not great, but the waiver request had already been submitted, and it would send the wrong message to CMS.

Representative Boone asked staff if funding would be transferred from CHIP to FHIAP.

Legislative Fiscal Office staff replied that the special purpose appropriation had been established by the Legislature and that the Executive Branch had been directed to explore possibilities with CMS about the ways the funding could be used but still meet FHIAP maintenance of effort requirements.

Senator Winters said it was her understanding from testimony provided to the Subcommittee that CMS was hesitant to give its approval because it would precedent-setting. She pointed out that there were children in the FHIAP as well as many women with chronic diseases. She said that the Subcommittee considered all of this in their deliberations. She added that she felt that this was an issue of integrity.

Senator Devlin said this was a tough issue but that it pointed to the larger issue of uninsured persons in Oregon. He stated that Oregon could not cover all uninsured persons given its current resources.

Senator Gordly asked Legislative Fiscal Office staff to summarize its reasons for the recommendation.

Staff reiterated its concern about hedging program financial risk if CMS refused to grant approval to use FHIAP maintenance of effort funding in a different way; that program credibility was at stake; and that none of the four options submitted to CMS had really been discussed by the Legislature.

Senator Schrader stated that this decision was not difficult and that he did not think it was fair for advocates to criticize the Legislature for trying to be creative with the special purpose appropriation. He said that CMS is unsure about changing the maintenance of effort requirement, but in response, the Emergency Board should not be. He said that the Emergency Board needed to follow through with its commitment to the FHIAP.

The motion carried. Senator Westlund and Representative Barker voted no; Senator Carter excused.

## 16. Military Department

Representative Scott moved that the Emergency Board allocate \$248,617 from the Emergency Fund established by section 1, chapter 794, Oregon Laws 2005, to supplement the appropriation made to the Military Department by section 1(1), chapter 673, Oregon Laws 2005, Administration, for administration of reintegration and public information services; and approve the establishment of one half-time limited duration position and two full-time limited duration positions (1.66 FTE), with the understanding that the Military Department will continue to aggressively seek federal funding for the positions, and that if federal funds are secured for the reintegration program, the Department of Administrative Services is requested to unschedule any remaining General Fund.

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

The Military Department established a program in the 2003-05 biennium to assist soldiers and airmen returning from war zone deployments back into civilian life by shifting two federal employees from training and personnel services to support reintegration services. The National Guard Bureau (NGB) recognizes the need for reintegration services but currently has no formal program with funding. The NGB has authorized states to utilize other authorized positions if states can absorb the workload. OMD determined that the need is critical and chose to shift two federal employees from training and personnel services to support reintegration services. Due to the high demand for these services, two positions are not sufficient to cover all the counties in Oregon. The Military Department is attempting to secure additional federal funding for the positions, so far without success but is hopeful that the Department of Defense will include funding in the National Guard budget for reintegration purposes.

The Military Department also requested an additional half-time position to enhance communications with National Guard members and the general public. The Military Department reports that the workload has increased considerably since mobilization of Oregon National Guard soldiers to the Middle East and that it is work that cannot be deferred or absorbed by other staff.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

## 17. Military Department

Senator Devlin moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Military Department by section 3(1), chapter 673, Oregon Laws 2005, Operations, by \$98,186, and establish one permanent, full-time Fiscal Analyst 1 position (0.83 FTE) to support the Civil Engineering Squadron at Kingsley Field in Klamath Falls.

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

The Oregon Military Department was notified in August 2005 of the availability of additional funding to support a position to provide accounting and budgeting services for the Civil Engineering Squadron at the Kingsley Field Air National Guard Base in Klamath Falls. The Civil Engineering Program provides facility operations and maintenance for Kingsley Field. Civil Engineering programs are funded through Federal/State agreements and normally require state matching funds. The National Guard Bureau authorized 100% federal funds for this position.

The Subcommittee recommended approval of the request.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

## 20. Oregon Youth Authority

Senator Morse moved that the Emergency Board allocate \$334,066 from the Emergency Fund established by section 1, chapter 794, Oregon Laws 2005, to supplement the appropriation made to the Oregon Youth Authority by section 1(1), chapter 554, Oregon Laws 2005, Operations, and increase the Federal Funds expenditure limitation established for the Oregon Youth Authority by section 3, chapter 554, Oregon Laws 2005, by \$20,124, and authorize the establishment of one full-time limited duration position (0.75 FTE) in the Oregon Youth Authority, to implement improved hiring practices, better training, and policy review activities.

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

The Oregon Youth Authority (OYA) asked the Emergency Board to allocate \$724,832 from the Emergency Fund, increase Federal Funds expenditure limitation by \$33,667, and establish four permanent positions and one limited duration position (a total of 3.38 FTE) to implement recommendations of the Youth Safety and Abuse Prevention Review Committee. OYA appointed the review committee to make recommendations to improve youth safety after a former youth probation officer (Michael Boyles) was arrested and later convicted of abusing youth in OYA's custody while he was an employee of the agency.

The 2005 Legislature directed OYA by budget note to report to the interim Legislative Judiciary Committee on the review committee's final report and recommendations, and report to the Emergency Board if added resources were needed. At the time of the request, the Judiciary Committees had not yet met or considered the report. However, OYA asked for funding to address the review committee's recommendations to:

- 1) Improve hiring practices, including supplemental testing for all job applicants and psychological examinations for new field staff.
- 2) Expand training for staff and providers.
- 3) Improve written policies and procedures.

- 4) Establish an internal complaint investigation office.
- 5) Establish an external complaint office.

Subcommittee members questioned the agency's personnel actions related to the Boyles case. The agency responded that it has asked the Department of Justice to review those issues. Concerns were expressed with the effectiveness of the requested resources to prevent other, similar cases. The Subcommittee agreed with the Legislative Fiscal Office recommendation to fund only the first three issues – improved hiring practices, expanded training, and improved written policies and procedures – at this time. The costs for those items total \$334,066 General Fund, \$20,124 Federal Funds, and one limited duration position (0.75 FTE). Members agreed that action on the internal and external complaint investigation offices should be deferred until the interim Judiciary Committees have had an opportunity to review the proposals, and there has been more discussion on the structure and scope of these offices and their expected outcomes. The Subcommittee expressed its interest that these issues would be dealt with in a timely manner, and suggested the agency return to the Emergency Board in January 2006.

The Subcommittee recommended approval of the request, as modified.

The following Committee discussion occurred:

Senator Morse concurred that the Judiciary Committees should review the report and recommendations. Further, he asked that OYA work with the Department of Administrative Services to look at the transferability of the improvements in hiring and training to other agencies, and report back to the Emergency Board in January on that work.

Senator Devlin stated that the Emergency Board needed to move ahead with funding these items but also expedite the work of the Judiciary Committees to meet legislative intent that the committees review the report and recommendations. He also supported looking at the transferability issue Senator Morse raised.

Other members supported rapid action on these issues, and reviewing application of OYA's work to other agencies, such as the Department of Human Services, where there are similar issues.

Members discussed the limitations of the review and the report, which focus on one case and the circumstances surrounding it rather than on larger, systemic issues such as employee accountability.

Senator Gordly asked that the Senate President and House Speaker request a formal review by the Department of Justice, for which Senator Courtney and Representative Minnis expressed support.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

## **21. Department of State Police**

Representative Kropf moved that the Emergency Board allocate \$235,035 from the Emergency Fund established by section 1, chapter 794, Oregon Laws 2005, to supplement the appropriation made to the Department of State Police by section 1(5), chapter 718, Oregon Laws 2005, Office of Emergency Management, State Fire Marshal and Criminal Justice Services, and establish three full-time limited duration positions (0.81 FTE) in the Department of State Police for the development of the Public Safety Wireless Infrastructure Replacement Plan; and increase the Federal Funds

expenditure limitation established for the Department of State Police by section 3(5), chapter 718, Oregon Laws 2005, Office of Emergency Management, State Fire Marshal and Criminal Justice Services, by \$2,495,432 for the Integrated Wireless Network project with the U.S. Department of Justice.

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

This request has three components which are discussed separately below.

**Public Safety Wireless Infrastructure Replacement and Interoperability:** The Oregon Office of Emergency Management (OEM), a unit within the Department of State Police (OSP), requested a \$763,090 allocation from the Emergency Fund and five limited duration positions (3.87 FTE) for developing a plan to address emergency communications and interoperability issues facing state agencies and local emergency response agencies. The combination of aging and often unreliable state agency wireless systems, new federal narrow-band requirements for mobile radio systems, and the need to have all state and local first responders able to communicate with each other on a reliable system led the 2005 Legislature to instruct the Office of Emergency Management in House Bill 2101 to develop a Public Safety Wireless Infrastructure Replacement Plan for Oregon. Initial estimates of implementing this plan range from \$300 to \$500 million over the next four biennia.

OSP and other state agencies have already spent considerable time on this project including the development of a Request for Proposal (RFP) for a contract that will provide the business case, implementation strategy, and an engineering conceptual design of the infrastructure necessary to provide a single state-wide system including the buildings, towers, microwave system, and interoperable radio systems. This contract will be funded with federal Homeland Security grants.

OSP originally requested five positions to support and augment the work of this contractor. The positions included: 1) an Emergency Communications Section Director who would work on issues relating to the consolidation of OSP and Department of Transportation wireless staff into a single unit; 2) a senior engineer to provide oversight of the contract consulting engineers and design the digital microwave and communications system; 3) a drafting technician to initially complete drawings and technical specifications of existing sites and equipment, and then prepare the same for the proposed systems; 4) a position to inventory and coordinate the current licenses and land use information held by the State and to update any licensing information required by the FCC; and (5) a support position. Since the time the initial request was made, existing resources have been identified to provide for some of the staff for a portion of the biennium.

As a result, the Subcommittee recommended establishment of three limited duration positions but only for six months (\$235,035). The Subcommittee felt that the size and scope of the project required further review by the Joint Legislative Committee on Information Management and Technology before further resources should be authorized. In addition, there was still uncertainty over alternative sources of funding for the project beyond the Emergency Fund. The agency is expected to return either to the January or April Emergency Board meetings for funding for the remainder of the biennium.

**Public Information Program for OEM:** One position (0.79 FTE) and a \$130,570 allocation from the Emergency Fund was requested to provide a dedicated position for public education, media contact, and overall development of a comprehensive integrated public affairs program for the Office of Emergency Management and the State. The agency asserted the position is needed based on the experience in other states regarding coordinated responses to media and others during disasters.

The Subcommittee did not recommend establishing this position and funding at this time given the unknown demands on the Emergency Fund this early in the biennium.

**Integrated Wireless Network:** The agency requested a \$2,495,432 increase in its Federal Funds expenditure limitation for the State's participation in the Integrated Wireless Network (IWN). OSP and the U.S. Department of Justice have entered into a memorandum of understanding where the federal government will provide funding to modernize part of the State's wireless system on the I-5 corridor for use by federal law enforcement agencies. Improvements will be made to towers, buildings, back-up power sources, and other infrastructure. Both federal and state law enforcement agencies will benefit from this investment, and this new investment will offset costs for the overall state modernization efforts outlined above.

The Subcommittee recommended approval of the requested \$2,495,432 Federal Funds expenditure limitation increase.

The motion carried with no objections voiced. Senators Carter and Westlund and Representative Minnis excused.

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

Representative Morgan moved that the Emergency Board increase the Lottery Funds expenditure limitation established for the Economic and Community Development Department by section 3(6), chapter 783, Oregon Laws 2005, Debt service (pass-through), by \$718,297, with the understanding that the Department may provide interim financing to the North Bend Airport District until the bonds are sold, and request the Department of Administrative Services to unschedule the debt service expenditure limitation pending certification of the project by the Director; and instruct the Department to seek the concurrence of the Legislative Fiscal Office and the Department of Administrative Services before requesting that the funds be rescheduled.

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

The 2005 Legislature authorized \$10 million in lottery bonds for a new passenger terminal at the North Bend Airport, contingent on the District obtaining all necessary permits. The Legislature allocated Lottery Funds for debt service on these bonds, and directed the Economic and Community Development Department (OECDD) to request expenditure limitation when the Director certified that the District had sufficient funding to complete the project.

OECDD reports that not all of the permits have been obtained, and it is unlikely that the bond sale can occur in November 2005 as originally anticipated. OECDD is working with the District, the Economic Revitalization Team, and other agencies on the permitting process, so that the bond sale can occur as soon as possible. OECDD can use its existing loan authority for interim financing to allow the District to proceed with the project until the bond sale requirements are met. However, the debt service funds should be unscheduled pending certification by the Director, and the actual bond sale. OECDD should seek the concurrence of the Legislative Fiscal Office and the Department of Administrative Services' Budget and Management Division before the funds are rescheduled, to ensure oversight of the project.

The Subcommittee recommended approval of the Legislative Fiscal Office recommendation.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

**28. Department of State Lands**

Representative Boone moved that the Emergency Board increase the Other Funds expenditure limitation established for the Department of State Lands by section 2(3), chapter 776, Oregon Laws 2005, Common School Fund programs, by \$60,000 for the cost of changing the Bend office location, with instructions.

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

The Department of State Lands (DSL) rents office and storage space in Bend for staff and equipment that support program activities in central and eastern Oregon. Currently, staff are in one location while the agency rents warehouse space in separate locations throughout Bend to store equipment and other supplies.

The landlord of the existing office location notified DSL earlier this year that, due to the expansion plans of an adjacent tenant, the agency's lease will not be renewed when it expires on December 31, 2005. The agency has identified a new office location, which will provide adequate space not only for staff but also for on-site storage of equipment and supplies. DSL considered location, space adequacy, accessibility, parking, security, and overall cost in selecting the site.

Moving costs, tenant improvements, furniture purchases, and other one-time expenses are estimated to be \$27,708. The additional rent costs are estimated to be \$32,292 for the period January 1, 2006 through June 30, 2007. The rate per square foot in the new office location is lower than the rate at the current location (\$1.44 per square foot compared to \$1.62 per square foot), but the agency needs additional space for personnel. DSL reported that some staff are working in the hallway and the conference room at the current location. Additionally, the agency will be installing a Geographic Information System work station at the Bend location and requires additional space for the related equipment. More space is required for storage of other equipment as well. DSL reported that it has worked with the Facilities Division at the Department of Administrative Services (DAS) to determine the required amount of total square footage.

The Subcommittee recommended an increase of \$60,000 in the agency's Other Funds expenditure limitation, with the understanding that: 1) the Department of Administrative Services will un-schedule the additional limitation until the actual moving costs are incurred and a signed lease agreement as well as updated expenditure reports are provided to DAS and the Legislative Fiscal Office (LFO); and 2) DSL provides information to DAS and LFO on any possible savings to be achieved this biennium (through avoidance of any current costs) as a result of the relocation.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

**29. Department of State Lands**

Representative Morgan moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of State Lands by section 3(3), chapter 776, Oregon Laws 2005, Common School Fund programs, by \$364,080, and approve the establishment of five full-time limited duration positions (3.75 FTE) for activities related to two federal grants from the U.S. Environmental Protection Agency.

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

On July 18, 2005, the Department of State Lands received legislative permission to apply for two three-year EPA grants totaling \$1.274 million. The Department was notified by the federal agency that it will be awarded these grants.

One grant will provide funding for three staff positions, as well as service and supplies, to conduct the monitoring required under the State Programmatic General Permit (SPGP), which was issued to the Department by the U.S. Army Corps of Engineers on July 18, 2005. The development of the SPGP, which is intended to streamline the environmental permit process, has involved a number of federal and State of Oregon agencies. The grant project will test whether the SPGP actually is resulting in no more than minimal adverse impacts to species and habitats as assumed by the various agencies when crafting the program. Intended outcomes of the project include recommendations for program improvements, including modifications to wetland mitigation plans, monitoring programs, permit conditions, and permit compliance monitoring methods.

The other grant provides funding for two staff positions, as well as services and supplies, to assist in implementing *Oregon's Wetland Conservation Strategy (1995)*, improve the outcome and tracking of wetland restoration projects, and provide assistance to property owners. A key outcome of this project is improved coordination of the various state and federal programs for wetland restoration, with the goal of increased efficiency and a reduction in obstacles and disincentives to landowners who wish to participate in the programs. The project also will contribute to the agency's accounting for and reporting on performance measures related to wetland acres gained or lost in any given year and the Oregon Progress Board's wetland benchmark.

Required matching funds will be provided by in-kind services of existing staff. Of the \$1.274 million in grant funds, the agency reported that it plans to spend approximately \$848,880 in 2005-07. However, it also reported that, of the Federal Funds expenditure limitation in its 2005-07 legislatively adopted budget for Common School Fund operations, only \$218,398 is earmarked for existing federal grants and the remaining amount can be used for the EPA grant expenditures. As a result, the agency requested an increase of \$550,559 in its Federal Funds expenditure limitation.

The Subcommittee heard that the agency's expenditure plan for the grants was based upon a full biennium and filling several of the positions at the top of their salary ranges. The Subcommittee agreed that, by using a hiring date of January 1, 2006 as well as using the budgeting standard of filling positions at the second step of the salary ranges, the need for additional limitation and FTE would be reduced. Therefore, the Subcommittee recommended an increase of \$364,080 in the agency's Federal Funds expenditure limitation and approving the establishment of five positions, with a corresponding 3.75 FTE. The Subcommittee acknowledged that, if the agency finds it can attract qualified applicants only by hiring at higher than the second step of the salary ranges, it may need to return to the Emergency Board to request additional limitation unless the agency can find savings in other areas of its budget.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

### **31. Department of State Lands**

Representative Morgan moved that the Emergency Board increase the Federal Funds expenditure limitation established for the Department of State Lands by section 3(3), chapter 776, Oregon Laws 2005, Common School Fund programs, by \$446,261 for a one-year U.S. Fish and Wildlife Service grant to assist in the revision of the Elliott State Forest Habitat Conservation Plan.

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

In a letter dated July 18, 2005, the Department of State Lands (DSL) received legislative approval to apply for a one-year, \$0.6 million U.S. Fish and Wildlife Service grant to assist in the revision of the Elliott State Forest Habitat Conservation Plan (HCP). DSL was notified in September 2005 that its application for funding was successful, although at the lower amount of \$446,261.

The revised plan would cover a number of federally listed species and allow forestry activities, including logging, to continue under an incidental take permit and in compliance with the federal Endangered Species Act. Completion of the revised plan and acquisition of the permit is expected by September 2006. The grant does not obligate the State Land Board to have an HCP. DSL reported that whether the Land Board adopts the revised HCP will be based on the costs and benefits in terms of future revenues and operational certainty.

Required state match will be provided by in-kind services of existing staff. This funding will actually be passed through to the Oregon Department of Forestry (ODF), which is working with DSL and the Oregon Department of Fish and Wildlife in revising the HCP. DSL requested the additional Federal Funds expenditure limitation to pass through the funds to ODF.

The Subcommittee recommended approval of the request.

The motion carried with no objections voiced. Senators Carter and Westlund excused.

The meeting was adjourned at 11:15 a.m.

EMERGENCY BOARD:

/s/ Karen Minnis

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Representative Karen Minnis, Presiding Chair

/s/ Wayne Scott

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Representative Wayne Scott, Secretary

ATTEST:

/s/ Ken Rocco

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Ken Rocco, Legislative Fiscal Officer

**DEPARTMENT OF HUMAN SERVICES 2003-05 CLOSE-OUT PLAN  
October 2005**

<u>Cluster/Program Area</u>	<u>2003 Oregon Laws Reference</u>	<u>Fund Type</u>	<u>Adjustments to Legislatively Approved Budget</u>	<u>No. Pos.</u>	<u>FTE Change</u>
<b><u>Transfers, Appropriation Increases, and Expenditure Limitation Adjustments:</u></b>					
<b>Department-Wide Support Services</b>	Chpt 726, Sec 1(1)	General Fund	18,847,743		
	Chpt 726, Sec 2(1)	Other Funds	-		
	Chpt 726, Sec 4(1)	Federal Funds	-		
		Total	18,847,743	-	-
<b>Children, Adults and Families</b>	Chpt 726, Sec 1(2)	General Fund	-		
	Chpt 726, Sec 2(2)	Other Funds	-		
	Chpt 726, Sec 4(2)	Federal Funds	-		
		Total	-	-	-
<b>Community Human Services</b>	Chpt 726, Sec 1(3)	General Fund	-		
	Chpt 726, Sec 2(3)	Other Funds	-		
	Chpt 726, Sec 4(3)	Federal Funds	-		
		Total	-	-	-
<b>Health Services</b>	Chpt 726, Sec 1(4)	General Fund	(34,270,754)		
	Chpt 726, Sec 2(4)	Other Funds	-		
	Chpt 726, Sec 3	Lottery Funds	-		
	Chpt 726, Sec 4(4)	Federal Funds	10,889,770		
		Total	(23,380,984)	-	-
<b>Seniors and People with Disabilities</b>	Chpt 726, Sec 1(5)	General Fund	15,423,011		
	Chpt 726, Sec 2(5)	Other Funds	32,578,858		
	Chpt 726, Sec 4(5)	Federal Funds	-		
		Total	48,001,869	-	-
<b>Capital Improvement</b>	Chpt 726, Sec 1(6)	General Fund	-		
<b>Department Totals</b>	Chpt 726, Sec 1	General Fund	-		
	Chpt 726, Sec 2	Other Funds	32,578,858		
	Chpt 726, Sec 3	Lottery Funds	-		
	Chpt 726, Sec 4	Federal Funds	10,889,770		
		Dept. Total	43,468,628	-	-