

**HB 5042 A BUDGET REPORT and MEASURE SUMMARY**

**Carrier:** Rep. Rayfield

**Joint Committee On Ways and Means**

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**Action Date:** 03/19/21

**Action:** Do pass with amendments. (Printed A-Eng.)

**House Vote**

**Yeas:** 11 - Bynum, Drazan, Gomberg, Leif, McLain, Nosse, Rayfield, Sanchez, Smith G, Sollman, Stark

**Senate Vote**

**Yeas:** 10 - Anderson, Frederick, Girod, Golden, Gorsek, Johnson, Knopp, Lieber, Steiner Hayward, Taylor

**Nays:** 1 - Thomsen

**Exc:** 1 - Hansell

**Prepared By:** Julie Neburka, Legislative Fiscal Office

**Reviewed By:** Theresa McHugh, Laurie Byerly, Amanda Beitel, Legislative Fiscal Office

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**Various Agencies**

**2019-21**

## Budget Summary\*

	2019-21 Legislatively Approved Budget	2021 Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
			\$ Change	% Change
<b><u>Emergency Board</u></b>				
General Fund - General Purpose	\$ 88,458,571	\$ -	\$ (88,458,571)	-100.0%
General Fund - Special Purpose Appropriations				
Secretary of State - SB 861 Implementation	\$ 1,146,094	\$ -	\$ (1,146,094)	-100.0%
ODF - Fire Protection Expenses	\$ 2,000,000	\$ -	\$ (2,000,000)	-100.0%
Various - COVID-19 Public Health Emergency	\$ 208,867,888	\$ -	\$ (208,867,888)	-100.0%
Various - Wildfire Recovery & Prevention	\$ 7,072,256	\$ -	\$ (7,072,256)	-100.0%
 <b><u>ADMINISTRATION PROGRAM AREA</u></b>				
<b><u>Department of Administrative Services</u></b>				
General Fund	\$ 189,019,780	\$ 212,673,561	\$ 23,653,781	12.5%
Other Funds	\$ 697,732,495	\$ 761,121,565	\$ 63,389,070	9.1%
<b><u>Oregon Liquor Control Commission</u></b>				
Other Funds	\$ 258,548,499	\$ 262,994,195	\$ 4,445,696	1.7%
<b><u>Department of Revenue</u></b>				
General Fund	\$ 193,109,647	\$ 193,001,249	\$ (108,398)	-0.1%
Other Funds	\$ 140,177,244	\$ 140,285,642	\$ 108,398	0.1%
 <b><u>CONSUMER AND BUSINESS SERVICES PROGRAM AREA</u></b>				
<b><u>Consumer and Business Services</u></b>				
Other Funds	\$ 396,722,792	\$ 401,722,792	\$ 5,000,000	1.3%
<b><u>Real Estate Agency</u></b>				
Other Funds	\$ 9,706,611	\$ 10,336,185	\$ 629,574	6.5%
 <b><u>ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAM AREA</u></b>				
<b><u>Oregon Business Development Department</u></b>				
Other Funds	\$ 694,269,597	\$ 695,769,597	\$ 1,500,000	0.2%
Federal Funds	\$ 72,536,941	\$ 80,899,888	\$ 8,362,947	11.5%

## Budget Summary\*

	2019-21 Legislatively Approved Budget	2021 Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
			\$ Change	% Change
<b><u>Employment Department</u></b>				
Other Funds	\$ 199,742,735	\$ 229,742,735	\$ 30,000,000	15.0%
Federal Funds	\$ 289,627,887	\$ 259,627,887	\$ (30,000,000)	-10.4%
<b><u>Housing and Community Services Department</u></b>				
Federal Funds	\$ 316,568,848	\$ 317,095,799	\$ 526,951	0.2%
<b><u>Department of Veterans' Affairs</u></b>				
Federal Funds	\$ 3,267,259	\$ 4,227,341	\$ 960,082	29.4%
<b><u>EDUCATION PROGRAM AREA</u></b>				
<b><u>Department of Education</u></b>				
General Fund	\$ 857,416,440	\$ 1,097,913,300	\$ 240,496,860	28.0%
Other Funds	\$ 1,266,825,515	\$ 1,333,337,752	\$ 66,512,237	5.3%
Federal Funds	\$ 1,598,229,442	\$ 1,629,758,433	\$ 31,528,991	2.0%
<b><u>Higher Education Coordinating Commission</u></b>				
General Fund	\$ 38,064,384	\$ 43,044,384	\$ 4,980,000	13.1%
<b><u>State Support for Community Colleges</u></b>				
General Fund	\$ 682,473,923	\$ 683,015,956	\$ 542,033	0.1%
<b><u>HUMAN SERVICES PROGRAM AREA</u></b>				
<b><u>Oregon Health Authority</u></b>				
General Fund	\$ 2,578,141,819	\$ 2,583,367,815	\$ 5,225,996	0.2%
Other Funds	\$ 8,012,542,177	\$ 8,627,991,761	\$ 615,449,584	7.7%
Federal Funds	\$ 14,091,471,331	\$ 13,966,815,920	\$ (124,655,411)	-0.9%
<b><u>Department of Human Services</u></b>				
General Fund	\$ 3,718,265,808	\$ 3,721,165,808	\$ 2,900,000	0.1%
Other Funds	\$ 839,002,062	\$ 909,689,899	\$ 70,687,837	8.4%
Federal Funds	\$ 6,401,990,453	\$ 6,478,009,025	\$ 76,018,572	1.2%
<b><u>Long Term Care Ombudsman</u></b>				
Other Funds	\$ 1,111,464	\$ 1,117,464	\$ 6,000	0.5%

## Budget Summary\*

	2019-21 Legislatively Approved Budget	2021 Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
			\$ Change	% Change
<b><u>JUDICIAL BRANCH</u></b>				
<b><u>Public Defense Services Commission</u></b>				
General Fund	\$ 342,078,348	\$ 349,617,570	\$ 7,539,222	2.2%
<b><u>NATURAL RESOURCES PROGRAM AREA</u></b>				
<b><u>State Department of Energy</u></b>				
General Fund Debt Service	\$ 4,334,048	\$ -	\$ (4,334,048)	-100.0%
<b><u>Department of Environmental Quality</u></b>				
General Fund	\$ 50,110,873	\$ 50,205,208	\$ 94,335	0.2%
<b><u>Department of Forestry</u></b>				
General Fund	\$ 146,388,076	\$ 147,888,076	\$ 1,500,000	1.0%
Other Funds	\$ 375,087,994	\$ 389,281,557	\$ 14,193,563	3.8%
<b><u>Department of Land Conservation and Development</u></b>				
General Fund	\$ 17,819,643	\$ 17,919,643	\$ 100,000	0.0%
Other Funds	\$ 1,535,051	\$ 1,685,952	\$ 150,901	0.0%
<b><u>Department of State Lands</u></b>				
Other Funds	\$ 61,261,239	\$ 61,461,239	\$ 200,000	0.3%
Federal Funds	\$ 3,065,168	\$ 2,865,168	\$ (200,000)	-6.5%
<b><u>PUBLIC SAFETY PROGRAM AREA</u></b>				
<b><u>Department of Corrections</u></b>				
Other Funds	\$ 70,594,699	\$ 91,594,699	\$ 21,000,000	29.7%
<b><u>District Attorneys and their Deputies</u></b>				
General Fund	\$ 13,757,414	\$ 14,332,414	\$ 575,000	4.2%
<b><u>Department of Justice</u></b>				
General Fund	\$ 101,589,748	\$ 102,139,748	\$ 550,000	0.5%

**Budget Summary\***

	2019-21 Legislatively Approved Budget	2021 Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
			\$ Change	% Change
<b><u>Oregon Military Department</u></b>				
General Fund	\$ 26,479,602	\$ 27,318,666	\$ 839,064	3.2%
Other Funds	\$ 128,984,838	\$ 132,361,364	\$ 3,376,526	2.6%
Federal Funds	\$ 558,102,466	\$ 1,163,402,466	\$ 605,300,000	108.5%
<b><u>Oregon State Police</u></b>				
General Fund	\$ 286,303,088	\$ 287,803,088	\$ 1,500,000	0.5%
<b><u>Department of Public Safety Standards and Training</u></b>				
Other Funds	\$ 50,897,418	\$ 52,400,938	\$ 1,503,520	3.0%
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<b>2019-21 Budget Summary</b>				
<b>General Fund Total</b>	\$ 9,548,563,402	\$ 9,531,406,486	\$ (17,156,916)	-0.2%
<b>General Fund Debt Service Total</b>	\$ 4,334,048	\$ -	\$ (4,334,048)	-100.0%
<b>Other Funds Total</b>	\$ 13,204,742,430	\$ 14,102,895,336	\$ 898,152,906	6.8%
<b>Federal Funds Total</b>	\$ 23,334,859,795	\$ 23,902,701,927	\$ 567,842,132	2.4%

\* Excludes Capital Construction

## Position Summary

	2019-21 Legislatively Approved Budget	2021 Committee Recommendation	Committee Change from 2019-21 Leg. Approved	
			Change	% Change
<b>ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAM AREA</b>				
<b><u>Housing and Community Services</u></b>				
Authorized Positions	229	252	23	10.0%
Full-time Equivalent (FTE) positions	217.07	220.06	2.99	1.4%
<b>EDUCATION PROGRAM AREA</b>				
<b><u>Department of Education</u></b>				
Authorized Positions	695	697	2	0.3%
Full-time Equivalent (FTE) positions	650.48	650.90	0.42	0.1%
<b>HUMAN SERVICES PROGRAM AREA</b>				
<b><u>Oregon Health Authority</u></b>				
Authorized Positions	4,381	4,401	20	0.5%
Full-time Equivalent (FTE) positions	4,316.87	4,320.22	3.35	0.1%
<b>NATURAL RESOURCES PROGRAM AREA</b>				
<b><u>Department of Environmental Quality</u></b>				
Authorized Positions	789	791	2	0.3%
Full-time Equivalent (FTE) positions	765.49	765.66	0.17	0.0%

## **Summary of Revenue Changes**

The General Fund appropriations made in HB 5042 are within resources available as projected in the March 2021 economic and revenue forecast by the Department of Administrative Services Office of Economic Analysis.

## **Summary of Capital Construction Subcommittee Action**

The Subcommittee approved a series of actions in this omnibus budget reconciliation bill (HB 5042) needed to rebalance spending authority, address technical adjustments, modify appropriations, and adjust expenditure limitations in some 2019-21 agency budgets.

## **Emergency Board**

HB 5042 disappropriates \$307,544,809 General Fund from the Emergency Board. This represents the balances of general purpose and special purpose appropriations in the Emergency Fund for the 2019-21 biennium. The largest of these is \$208.9 million left unspent from the \$400 million special purpose appropriation for the state's response to the COVID-19 pandemic public health emergency approved in December 2020 as part of SB 5731 (2020 Third Special Session).

## **ADMINISTRATION**

### **Department of Administrative Services**

The Subcommittee approved an increase in Other Funds expenditure limitation of \$54,465,305 to accept funds from the Federal Emergency Management Agency (FEMA) to reimburse the Department of Administrative Services (DAS) for emergency response efforts and activities related to both the COVID-19 pandemic (\$53,925,305) and the 2020 wildfire season in Oregon (\$540,000). An additional \$8,923,765 Other Funds expenditure limitation increase was approved for expenditure of Coronavirus Relief Funds to reimburse the Department for its costs associated with appropriate response efforts related to addressing the COVID-19 pandemic.

The Subcommittee recommended seven one-time General Fund appropriations to DAS totaling \$20,000,000 to award grants to specified nonprofit organizations and local governments to establish and/or operate navigation centers to assist individuals and families with access to health services, permanent housing, and public benefits. The grants are to be awarded as follows:

- \$1,500,000 to the City of McMinnville for a navigation center;
- \$1,500,000 to the City of Roseburg for a navigation center;
- \$2,000,000 to Bybee Lakes Hope Center for a navigation center;

- \$2,500,000 to the City of Bend for a navigation center;
- \$2,500,000 to the City of Medford for a navigation center;
- \$5,000,000 to the City of Salem for a navigation center; and
- \$5,000,000 to Lane County for a navigation center within the City of Eugene.

The Subcommittee also approved one-time General Fund appropriations to DAS to award grants to local governments and other local entities impacted by the 2020 Labor Day wildfires. Funding is provided to mitigate financial hardships; replace fire trucks; redevelop and reopen parks; pay permitting expenses; relocate critical infrastructure; repair water and septic systems; cover professional services such as engineering, legal and planning; provide manufactured housing navigation services; and reimburse public safety costs. These wildfire grants are to be awarded as follows:

- \$98,495 to the City of Gates;
- \$200,000 to the Jackson County Housing Authority;
- \$210,000 to the City of Talent;
- \$220,000 to the City of Estacada;
- \$250,000 to the City of Phoenix;
- \$272,329 to the City of Detroit;
- \$350,000 to the Idanha-Detroit Rural Fire Protection District;
- \$426,957 to Marion County;
- \$450,000 to Douglas County;
- \$451,000 to Lane County; and
- \$725,000 to Lincoln County.

### **Oregon Liquor Control Commission**

Based on sales trends, the Oregon Liquor Control Commission (OLCC) expects to receive \$52 million more than previously forecast for sales of distilled spirits in the 2019-21 biennium. This projected increase drives higher costs for commissions on sales paid to liquor store and distillery agents and for fees related to the use of bank cards in OLCC stores. Additional Other Funds expenditure limitation for OLCC totaling \$4.4 million Other Funds was approved by the Subcommittee, as follows: \$1,531,400 for payment of bank card fees; \$2,255,296 for store agents' compensation; and \$659,000 for distillery agents' compensation.



### **Department of Revenue**

The Subcommittee approved a technical adjustment (fund shift) disappropriating \$108,398 General Fund approved by the Emergency Board in December 2021 (Item #44) for the Department of Revenue's Corporate Division and increasing the Division's Other Funds expenditure limitation by \$108,398, supported by the Corporate Activities Tax.

## **CONSUMER AND BUSINESS SERVICES**

### **Department of Consumer and Business Services**

The Subcommittee approved an increase of \$5 million Other Funds expenditure limitation for the Quarantine Time Loss program, funded with Coronavirus Relief Funds (CRF) received by the Department of Administrative Services and transferred to the Department of Consumer and Business Services. This program provides direct financial assistance for sick leave to certain workers who were not extended sick leave benefits under the Families First Coronavirus Relief Act. This action will add to the \$30 million CRF funds provided by the Emergency Board in July 2020, bringing total funding for the program to \$35 million.

### **Real Estate Agency**

The Subcommittee increased Other Funds expenditure limitation for the Real Estate Agency by \$629,574 to cover costs due to a higher number of examination retakes than anticipated. The additional revenue is from examination fees.

## **ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAM AREA**

### **Housing and Community Services Department**

The Housing and Community Services Department (HCSD) has received supplemental federal awards for rental assistance, energy assistance, the Community Services Block Grant, and homeless assistance programs. These supplemental funds are intended to address economic hardships stemming from the coronavirus pandemic. The Subcommittee approved the addition of three limited duration and ten permanent positions (1.69 FTE), and \$526,951 Federal Funds expenditure limitation to administer these federal awards in the 2019-21 biennium. The 2021-23 costs associated with these positions are estimated at \$2,592,636 and will be supported by administrative allowances from federal funds. The 2021-23 budget for HCSD will need to include expenditure limitation and ongoing position authority for the ten continuing positions.

To administer distributions to landlords for unpaid rent as described in HB 4401 (2020 Third Special Session), the Subcommittee approved the addition of ten limited duration positions (1.30 FTE) at a cost of \$546,135 in the 2019-21 biennium. A portion of the \$150 million General Fund for these landlord distributions approved in SB 5731 (2020 Third Special Session) supports the cost of the new positions, so no additional funding is required in the 2019-21 biennium. HCSD anticipates that six of the positions will need to be continued for a period of one month in

the 2021-23 biennium to close out any outstanding information and customer service requests, while four compliance specialist positions will be needed for between 2 and 18 months into 2021-23 to close out audit and accounting responsibilities associated with the program.

### **Oregon Employment Department**

The Subcommittee approved a shift of \$30 million Federal Funds expenditure limitation to Other Funds expenditure limitation in order to allow the Oregon Employment Department (OED) to pay the administrative expenses of unemployment insurance programs funded by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent relief packages. These administrative expenses were originally budgeted to be reimbursed at 100% through the U.S. Department of Labor. Subsequently, it was learned that federal funds are not available to support 100% of this expense. OED will use Special Administrative funds, derived from payments of penalties and interest on delinquent employer taxes, to cover these costs.

### **Oregon Business Development Department**

An increase in Federal Funds expenditure limitation of \$7,923,907 for the Oregon Business Development Department (OBDD) was approved to accommodate the third-round of Community Development Block Grant funding made available through the federal CARES Act. The funding will be distributed as grants to support three assistance programs:

- Grants and technical assistance to small business and micro-enterprise entities, designed to prevent job loss, particularly for jobs held by low and moderate-income persons;
- Special community economic development, local program support to assist low- and middle-income families, and public services related to the COVID-19 pandemic; and
- Emergency rental assistance.

Up to 7% of the total funding is available to the agency for program administration.

To accommodate operational changes in the Department due to the coronavirus pandemic, the Subcommittee approved an increase of \$1.5 million in Other Funds expenditure limitation, supported by Coronavirus Relief Funds transferred to OBDD from the Department of Administrative Services.

A federal grant award was made to OBDD by the U.S. Economic Development Administration for the creation of an economic recovery plan and business adaptation strategies to assist Oregon businesses disrupted by COVID-19. The Subcommittee approved an increase of \$439,040 Federal Funds expenditure limitation to accommodate the grant award.

The Subcommittee approved the rebalance between and establishment of new Other Funds expenditure limitations for OBDD's legislatively approved 2019-21 budget in order to implement in the agency's accounting system the intent of actions taken by the Emergency Board in January 2021. The changes include:

- A reduction of \$15.2 million Other Funds expenditure limitation for operational grants to rural type A and type B hospitals;
- An increase of \$2 million Other Funds expenditure limitation for technical assistance for underrepresented businesses;
- An increase of \$4 million Other Funds expenditure limitation for business personal protective equipment; and
- The establishment of \$9.2 million Other Funds expenditure limitation for commercial rent relief.

Funding for these actions is from Coronavirus Relief Funds transferred to OBDD by the Department of Administrative Services.

### **Oregon Department of Veterans Affairs**

Federal Funds expenditure limitation was increased by \$849,918 for CARES Act Provider Relief Fund payments from the U.S. Department of Health and Human Services for the Oregon Veterans' Homes program to prevent, prepare for, and respond to the coronavirus pandemic. The Oregon Department of Veterans Affairs (ODVA) received a targeted distribution of \$799,918 from the allocation for Skilled Nursing Facilities that will be used to reimburse health care related expenses and lost revenues attributable to the coronavirus pandemic. ODVA may also receive up to an additional \$50,000 in targeted incentive distribution payments prior to June 30, 2021.

Federal Funds expenditure limitation was increased by \$110,164 for the State Approving Agency (SAA) program, which is contracted through the U.S. Department of Veterans Affairs. ODVA was designated as Oregon's SAA beginning October 1, 2019. SAAs are responsible for the review, evaluation, approval, and oversight of schools and training facilities to ensure state and federal quality criteria are met for veterans using their G.I. Bill funds.

## **EDUCATION**

### **Department of Education**

The Consolidated Response and Relief Supplemental Act passed in late December 2020 provided another \$41.8 million in federal Governors' Emergency Education Relief (GEER) funds for Oregon. The federal legislation requires that \$27.6 million of this amount be used for the Emergency Assistance for Non-Public Schools (EANS) provisions of the Act. The assistance must be for secular, neutral, and non-ideological services and assistance including Personal Protective Equipment, COVID-19 testing, education technology, and internet connectivity. These funds cannot be used for vouchers, grants, education savings accounts, or scholarships. Those students who have been most impacted by the pandemic and low income students are to be prioritized. Two limited duration positions (0.42 FTE) were approved to develop the framework for

the assistance and to oversee its implementation. Federal Funds expenditure limitation of \$4,109,313 for 2019-21 assistance costs and \$117,872 for the positions and other related costs were also approved.

The Consolidated Response and Relief Supplemental Act also included an estimated \$103.8 million in additional Child Care Development Block Grant (CCDBG) resources to assist providers and to support other eligible uses allowed under the Block Grant related to COVID-19. The Oregon Department of Education's Early Learning Division requested, and the Subcommittee approved, \$22 million in Federal Funds expenditure limitation to use a portion of the additional CCDBG resources. The first \$10 million provides grants and technical assistance to child care providers to continue to operate and maintain their licenses. Another \$10 million is for grants and technical assistance to those licensed providers who are committed to reopen by September 2021. Finally, \$2 million in Federal Funds expenditure limitation was approved to continue the Employment Related Day Care (ERDC) program's zero-copay policy through June 30, 2021. The zero-copay policy, including this three month extension, will generate the need for approximately \$9.3 million Federal Funds expenditure limitation in 2021-23 for re-certification costs for the ERDC program.

For the Supporting Accelerated Learning Opportunities program, the Subcommittee approved \$172,246 General Fund. This program assists students, especially students with lower incomes, with the cost of tests for the Advance Placement (AP) and International Baccalaureate (IB) programs.

The Subcommittee approved a plan to spend \$250 million General Fund and \$21.2 million Federal Funds on one-time initiatives to provide academic learning and enrichment for school-aged students and preschoolers during the summer of 2021. Spending will occur in both 2019-21 and 2021-23, with \$240.3 million General Fund appropriated to a new Summer Learning Program Account in 2019-21.

Grant funding totaling \$195.6 million General Fund and \$10 million Federal Funds will be made available to participating school districts for academic summer school to support high school students facing academic credit loss, summer enrichment programs, and wrap-around child care, as follows:

- Summer Academic Support grants are available for programs that enable high school students to make up academic credits lost during the last two school years. A total of \$71.9 million General Fund is available to provide 75% of the costs of such programs; participating districts provide the other 25% of the cost of eligible programs. Each district's maximum allocation of funds for this grant will be based on a participation rate of 50% of the district's high school students.
- Summer Enrichment/Academic Program grants are directed to kindergarten through eighth grade students for extracurricular classes and activities, ranging from advanced academic instruction to non-academic enrichment activities, including social-emotional and mental health services. A total of \$93.7 million General Fund is available for the state's share (75%) of the program, with participating school districts providing 25% of the cost of eligible programs. Each district's maximum allocation of funds for this grant will be based on the methodology used for the school revenue formula, with average daily membership weighted for poverty at 1.0 instead of 0.25. Almost

70,000 students could be served through these programs, based on a cost of \$1,800 per child and including the increased cost of COVID-19 related precautions.

- Wrap-around Child Care grants are directed to low-income kindergarten through fifth grade students who participate in the Summer Enrichment/Academic Program above. A total of \$30 million General Fund and \$10 million in federal Child Care Development Block Grant (CCDBG) funds is available for part-time child care services provided directly by the district or in partnership with experienced child care providers in the community. These grants would not require a district match. It is estimated that this amount of funding would serve over 25,000 children with wrap-around child care.

The grants to school districts described above will be administered from the new Summer Learning Program Account established in SB 846 (2021) and are anticipated to be spent during the summer of 2021, which spans two biennia. The entire amount of General Fund for these three grants (\$195.6 million) will be appropriated to the Account in 2019-21. Other Funds expenditure limitation for the Oregon Department of Education (ODE) is increased by \$66.5 million to account for spending from the Summer Learning Program Account that is anticipated to occur during the remaining months of the 2019-21 biennium. Other Funds expenditure limitation for spending on summer learning grant programs occurring after June 30th will be included in the agency's budget bill for 2021-23. Any unspent funds remaining in the Summer Learning Account on January 1, 2022 will be returned to the General Fund.

Additionally, the Subcommittee approved a plan to spend \$12 million General Fund and \$11.2 million Federal Funds on one-time increases in funding for existing preschool and other early learning programs during the summer of 2021. As with the grant programs described above, a portion of the total amount (\$3 million General Fund and \$5.3 million Federal Funds expenditure limitation) is approved in HB 5042 for the remainder of the 2019-21 biennium, with spending anticipated after June 30th to be included in the agency's budget bill for 2021-23. The plan for summer preschool and early learning support is described below.

- An estimated additional 2,900 children will be served during the summer by expansion of the Preschool Promise program (\$3.6 million General Fund), Oregon Prekindergarten program (\$2 million General Fund), and the Early Childhood Equity Fund (\$2.4 million General Fund). A total of \$2 million is appropriated for these programs in 2019-21 with the remainder to be included in the agency's 2021-23 budget bill.
- Another \$4 million General Fund (\$1 million for 2019-21) will be directed to the Kindergarten Readiness Partnership and Innovation Program contracts with Early Learning Hubs for expanded kindergarten transition programming during the summer.
- New federal CCDBG funding of \$8.2 million from the Coronavirus Response and Relief Supplemental Appropriations Act will be transferred to the Employment Related Day Care (ERDC) program administered by the Department of Human Services (DHS). Federal Funds in the amount of \$7.9 million will expand services, increase the number of providers, and enhance programs serving children with

disabilities, and \$300,000 Federal funds will support associated administrative costs. The Subcommittee approved \$2.8 million Federal Funds expenditure limitation for 2019-21, with the remaining amount to be included in the agency's 2021-23 budget bill. Additionally, the Early Learning Division will make available \$3 million in CCDBG funding in 2019-21 and 2021-23 for Emergency Child Care grants to the new ERDC providers to cover increased costs due to COVID-19.

A one-time grant of \$41.2 million General Fund was approved for the Oregon Community Foundation (OCF). The first \$40 million is for Summer Activities Grants to public and non-profit community organizations such as YMCAs and Boys and Girls Clubs for indoor and outdoor activities for school-aged children that encourage engagement and participation with peers. An estimated 20,000 children could participate in grant-funded programs. Another \$1.2 million General Fund was approved for Parent Child Support Grants to provide multi-week parent-child summer programming to bolster social emotional development and healthy attachment in families with children under the age of five. Priority would be given to children with disabilities and their families, those that have experienced trauma, or those who are at risk of child welfare system involvement. An estimated 600 children and their families could be served through these grant-funded programs. Any funds granted to OCF remaining unspent on November 1, 2021 would be returned to the General Fund.

The Subcommittee approved \$500,386 General Fund for 2019-21 for agency staff and operational costs to develop and administer the new school-based grants, the grant to the Oregon Community Foundation, expanded early learning programs, and for contracts with regional organizations to recruit families for the early learning programs and to recruit ERDC providers. Administrative costs total \$825,772 General Fund over the two biennia. Administrative responsibilities include developing guidelines and rules, formalizing funding models and application processes, providing technical assistance to school districts and community-based organizations, and grant administration and oversight. The early learning related contracts total \$350,000 over the two biennia. The remaining \$675,386 necessary for 2021-23 will be included in the agency's 2021-23 budget bill.

**Budget Note:** The Oregon Department of Education will report to the Education Subcommittee of the Joint Committee on Ways and Means by May 15, 2021 on the development of the Summer Learning and Child Care program and the anticipated participation by school districts and other entities in the program. The Department will also report to the appropriate legislative committee by November 1, 2021 on the program and its outcomes.

The Department of Administrative Services is requested to unschedule all appropriations and related expenditure limitations except for the \$41.2 million General Fund designated for the Oregon Community Foundation and the \$500,386 General Fund for agency operations costs. The unscheduled appropriations and expenditure limitations could be rescheduled after the report required above by May 15, 2021 is presented.

#### **Higher Education Coordinating Commission**

The Subcommittee approved \$5 million General Fund to balance the Higher Education Coordinating Commission's (HECC) Operations budget between fund types. When the 2019-21 budget was developed, the agency lacked a federally-approved indirect cost allocation plan, and overly

generous assumptions were made about the amount of Other and Federal Funds that could be used to pay for many of HECC's staff and operational costs. The indirect cost allocation plan was not approved until the Fall of 2020, and the rate that was approved was much lower than what had been assumed during the development of the budget. Other factors contributing to the agency's shortfall include less Other Funds revenue than expected, reductions made during the August 2020 special session, and an unfunded strategic capital development plan.

Early in 2021, the Department of Corrections (DOC) changed its contractual relationship with the community colleges that provide adult basic education (ABE) to adults in custody in DOC facilities. In addition to revising its requirements for ABE services, DOC ended its independent contractual relationships with individual community colleges and established a single interagency agreement with HECC for ABE services. All participating community colleges, except for Blue Mountain Community College (BMCC), saw little change in their costs. Because of the nature of the staffing and services provided by BMCC, there was a significant reduction in the amount received for its services. The Subcommittee approved \$542,033 General Fund on a one-time basis to assist BMCC for the remainder of the 2019-21 biennium to adjust to the new requirements.

## **HUMAN SERVICES**

### **Department of Human Services**

Budget adjustments approved by the Subcommittee for the Department of Human Services (DHS) primarily help the agency address costs associated with providing shelter, food, and wraparound services to Oregonians impacted by wildfires. These augment budget changes approved by the Emergency Board on January 8, 2021 (Item #10) and are associated with a report on wildfire costs DHS made to the Emergency Board on December 11, 2020 (Item #6). As discussed in that report, under the state's Emergency Operations Plan guiding disaster response, DHS is the lead agency responsible for mass care, which includes congregate sheltering, feeding, distribution of emergency supplies, reunification of family members, emergency assistance, temporary housing, and other disaster assistance programs. Since the Labor Day 2020 wildfires, DHS has worked with various partners, including the Federal Emergency Management Agency (FEMA), community-based organizations, local governments, and the American Red Cross, to help perform these functions.

Approved budget changes include repurposing \$70.3 million General Fund to help cover wildfire-related costs estimated to be as much as \$180.1 million total funds over the last nine months of the biennium; along with funding allocated by the Emergency Board in January 2021, a total of \$93.2 million General Fund is available for these costs. The funds are moved to and budgeted within the Central Services program to isolate the expenditures for tracking and reporting ease. As a reminder, the agency's budget does not typically have any emergency support function expenditures built into it; these are extraordinary costs falling outside of normal agency operations, programs, or caseloads. The agency will continue to provide information on actual costs and will provide updated information on FEMA financial participation during the 2021 session. An increase of \$68.7 million Other Funds expenditure limitation is also built in to cover FEMA reimbursements.

The General Fund comes from a shift between fund types (from General Fund to Federal Funds) in other programs. In March 2020, a 6.2% increase in the Federal Medical Assistance Percentage (FMAP) was authorized as part of the Families First Coronavirus Response Act. The FMAP is primarily used for Medicaid services provided under the Aging and People with Disabilities (APD) and Intellectual and Developmental Disabilities (IDD) programs, but also drives some federal match for Child Welfare. The higher FMAP rate is expected to be available through the end of 2021, which means approximately \$50.2 million in additional federal funding is expected to be received by DHS in a calendar quarter, which can free up General Fund to help address budget issues. Funding for calendar year 2020 and the first quarter of 2021 was built into state or agency budgets previously. The current action taps the funding projected to be received in the second quarter of 2021.

In addition to wildfire-related budget adjustments, a Federal Funds expenditure limitation increase of \$25.8 million supports rate increases for APD and IDD providers approved by the Emergency Board in January 2021. While the General Fund portion was covered in that earlier action, the associated federal matching funds were not included. The approved budget plan also assumes DHS will continue to reimburse long term care providers for COVID-19 testing costs; this is estimated to cost \$3.5 million General Fund through the end of the biennium. While vaccine efforts are underway and COVID-19 cases are declining, regular testing is mandatory for all staff in licensed nursing, assisted living, and residential care facilities. Actual costs will be accounted for in the agency's next 2019-21 rebalance action.

In addition, the Subcommittee approved an Other Funds expenditure limitation increase of \$2 million to extend zero copays in the employment-related day care program through the end of the current biennium. The zero-copay policy was adopted to provide additional assistance to low income families negatively impacted by the COVID-19 economy and is funded by a transfer from the Oregon Department of Education. The Self Sufficiency program also received \$2.9 million General Fund for distribution to the Oregon Food Bank for emergency food purchases.

### **Oregon Health Authority**

HB 5042 appropriates \$5.2 million General Fund, adjusts expenditure limitations, and establishes 20 positions (3.35 FTE) to rebalance the Oregon Health Authority's (OHA's) 2019-21 budget; repay the federal government for overclaimed Medicaid match; make targeted investments to support the state's "aid and assist" behavioral health caseload; and begin implementation of Ballot Measures 109 and 110, which were adopted during the November 2020 general election. The following table provides a high-level summary of the changes.



Oregon Health Authority	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds	Positions	FTE
1. Rebalance							
a) Fall 2020 Medicaid caseload forecast	(32,859,700)	-	-	(96,041,178)	(128,900,878)	-	-
b) Insurer premium assessment revenue	(21,708,716)	-	28,206,953	20,425,970	26,924,207	-	-
c) Tobacco tax forecast - community mental health	3,021,000	-	(3,021,000)	-	-	-	-
d) Treasury loan	1,500,000	-	500,000,000	-	501,500,000	-	-
e) Expenditure limitation / position adjustments	-	-	63,631	(49,088,034)	(49,024,403)	5	1.00
f) FEMA Reimbursement	-	-	70,000,000	-	70,000,000	-	-
2. Federal Medicaid repayment	50,000,000	-	-	-	50,000,000	-	-
3. Aid and Assist Investments	5,214,510	-	-	47,831	5,262,341	5	0.65
4. Ballot Measure 109 (psilocybin services)	58,902	-	-	-	58,902	1	0.17
5. Ballot Measure 110 (drug addiction and recovery)	-	-	20,200,000	-	20,200,000	9	1.53
<b>Total Changes</b>	<b>5,225,996</b>	<b>-</b>	<b>615,449,584</b>	<b>(124,655,411)</b>	<b>496,020,169</b>	<b>20</b>	<b>3.35</b>

### Health Systems Division

Most of the recommended budget rebalance adjustments are in the Health Systems Division (HSD) and were identified in a report submitted to the December 11, 2020 meeting of the Emergency Board. Savings of \$32.9 million General Fund and \$96 million Federal Funds are included to recognize changes in forecasted Medicaid caseloads. These changes represent the difference between the fall 2020 caseload forecast and the budget adjustments based on preliminary caseload estimates during the August 2020 special session, which was the last time OHA's budget was adjusted for caseload changes. OHA's overall Medicaid caseload has continued to grow since the start of the pandemic, but by less than the amount funded in the agency's legislatively approved budget. Another caseload adjustment will be necessary later in the 2019-21 biennium upon completion of the spring 2021 caseload forecast.

A savings of \$21.7 million General Fund is also available, based on an increase in insurer assessment revenue used to support the Oregon Health Plan. Nearly all of this amount is attributable to the assessment paid by coordinated care organizations due to increased caseloads. This change also results in expenditure limitation increases of \$28.2 million Other Funds to recognize the increased assessment revenue and \$20.4 million Federal Funds for the related Medicaid match.

The March 2021 state revenue forecast shows that cigarette tax revenue dedicated for community mental health services is forecasted to be \$3 million lower than the current budgeted amount, which is based on the June 2020 revenue forecast. To maintain mental health service levels, \$3 million General Fund is included to backfill the decreased tax revenue. The Subcommittee made no budget adjustments related to the net

additional revenue dedicated for medical assistance programs (primarily the Oregon Health Plan) and tobacco use reduction programs pursuant to the tobacco tax increases now in effect due to the passage of Ballot Measure 108. If the net additional revenue collected for these programs in 2019-21 continues to not be included in OHA's 2019-21 budget, the unexpended amounts will be available in 2021-23 on a one-time basis.

During the last six months of each biennium, OHA typically borrows from the Oregon State Treasury to mitigate Oregon Health Plan cash imbalances that occur due to the timing of Other Funds revenue collections, such as hospital assessments. The amounts borrowed are then repaid once the Other Funds revenues are collected. For 2019-21, OHA's rebalance recognizes a \$500 million Other Funds increase in HSD to support repayment of this short-term borrowing and \$1.5 million General Fund in Central Services for interest costs.

The Subcommittee authorized the establishment of two limited-duration positions (0.17 FTE) in HSD to support the certified community behavioral health clinic (CCBHC) service model. In January 2021, the Emergency Board allocated General Fund to maintain CCBHC services through the remainder of the biennium; however, OHA's existing staffing resources have been challenged to manage and oversee the program. Given the few remaining months in the biennium, OHA will support the minimal cost of the two positions with existing HSD administrative resources. If the CCBHC service model is funded in 2021-23, OHA will request funding and permanent position authority to support these staffing costs on an on-going basis. Federal Funds expenditure limitation of \$71,505 and one limited-duration position (0.33 FTE) are also included in HSD for OHA's renewal of a non-competitive federal State Opioid Response grant. OHA previously received approval to apply for this grant, which supports increased access to medication-assisted treatment for opioid use disorder.

The Subcommittee approved one-time funding of \$50 million General Fund for OHA to repay the federal government for Medicaid match incorrectly claimed from July 2013 through June 2019 for payments to substance use disorder treatment facilities. This obligation was identified during the January 2020 meeting of the Joint Interim Committee on Ways and Means. The Centers for Medicare and Medicaid Services (CMS) has rejected requests by OHA to forgive or reduce the amount owed. Federal Funds expenditure limitation is reduced by \$50 million as a corresponding budget rebalancing adjustment.

The budget includes \$5.2 million General Fund in HSD to build community capacity for individuals under "aid and assist" court orders. This funding supports the following:

- \$0.2 million and five positions (0.65 FTE) to establish the Intensive Services Unit for oversight of community services for adults who enter the behavioral health system through court actions and \$0.5 million for contractual expenses to evaluate the root cause of recent trends in the number of these individuals.
- \$2.25 million for community restoration services for aid and assist clients placed in community settings.
- \$2.3 million for one-time costs to expand the number of treatment beds in community settings. Of this amount, \$1 million is immediately available to establish an estimated 24 community beds. The remaining \$1.3 million is prioritized to further expand community capacity with the understanding the Department of Administrative Services (DAS) will unschedule this amount until a spending plan is approved by the DAS Chief Financial Office and the Legislative Fiscal Office.

Because the budget for the next biennium is still being developed, the funding levels for community restoration services (\$2.25 million) and community residential capacity (\$2.3 million) are approved without having a predetermined impact on the level of funding available in 2021-23. OHA is responsible for ensuring these investments are managed within this parameter. Also, the Subcommittee included the following instructions:

**BUDGET NOTE:** The Oregon Health Authority shall report to the DAS Chief Financial Office and Legislative Fiscal Office by June 30, 2021 on the number of aid and assist clients served and funding expended or obligated in each county from the community restoration services investment supported by this measure. The reported dollar amounts shall be detailed according to specific service, such as legal skills training, case coordination, community consultations, local data collection, county administrative expenses, housing and rental assistance, wraparound services, and any other service. For amounts expended or obligated on housing and rental assistance, the report shall identify the number of individuals placed in housing as a result of this investment.

**BUDGET NOTE:** The Oregon Health Authority shall report to the DAS Chief Financial Office and Legislative Fiscal Office by June 30, 2021 regarding the residential treatment beds established through the funding approved in this measure. At a minimum, the report shall include the number of beds established and funds expended or obligated according to facility name, provider name, and location, as well as the anticipated occupancy date of the established beds and a description of the remodeling, construction, and other one-time costs necessary to establish the beds in each facility. The report shall also include an estimate of the average monthly funded community service capacity (e.g. residential beds) in 2021-23 by location and a point-in-time accounting of the community census by commitment type, planned admissions and discharges, and Oregon State Hospital census according to commitment type in comparison to the total number of funded beds, including in cottages, according to campus and treatment level.

The adoption of Ballot Measure 110 (2020) decriminalized certain drug possession offenses, created the Oversight and Accountability Council, and established the framework for new community addiction recovery centers and grants for treatment and recovery services. To fund these activities, the measure redistributes a significant portion of marijuana tax revenue dedicated to schools, the State Police, behavioral health programs, and local government.

Although the measure's operational structure will take more time to develop, a critical need currently exists to increase access to treatment and recovery services, including for individuals who will no longer be convicted of possession of controlled substances. To address this challenge while the ongoing program structure is designed, the Subcommittee approved an investment of \$20.2 million in marijuana tax revenue available in the new Drug Treatment and Recovery Services Fund. Of this amount, \$18.2 million supports targeted treatment and recovery services, including peer support and mentoring; screening; supportive housing and rental assistance; indigent care; detox and residential treatment; medication assisted treatment; harm reduction; supported employment; provider technical assistance; and data collection system support.

The remaining \$2 million includes \$1.8 million for program implementation and administration, including nine new positions (1.53 FTE) in OHA, and \$200,000 for a statewide inventory of treatment and recovery services. The statewide inventory will provide the roadmap necessary for ongoing investments to target the right services in the right places to maximize the success for those in treatment and recovery. The funding approved for the inventory is for OHA to distribute to the Oregon Health and Science University to complete this work by August 1, 2021. The Subcommittee approved the following budget note to establish the inventory's criteria:

**Budget Note:** The Oregon Health and Science University shall conduct an inventory of the resources available in the state to support the prevention of, treatment and maintenance for, and recovery from substance use disorders (SUD). At a minimum, the inventory must identify the following: the number and type (inpatient, outpatient, voluntary, mandated, etc.) of SUD prevention, recovery, treatment, and maintenance supports available in the state; the capacity of supports to scale up or expand operations; the ability of supports to serve co-occurring disorders; and the available recovery supports and services designed for individuals who are at risk of relapsing and for those who experience adverse health, social, or legal consequences related to their substance use.

Additionally, to ensure the \$20.2 million investment provides the needed impact as quickly as possible, the funding is approved with the understanding OHA will directly administer it, including the approval and awarding of grants and contracts for treatment and recovery services, during the 2019-21 biennium instead of through the process outlined in the ballot measure. A statutory change enabling OHA to do this in 2019-21 is included in SB 846.

### **Public Health Division**

An increase of \$990,695 in Federal Funds expenditure limitation and two positions (0.50 FTE) are included in the Public Health Division to support the awarding of Zero Suicide Initiative, Firearm Injury Surveillance, and Strengthening Environmental Health Program Capacity federal grants. Additionally, the Subcommittee reduced Federal Funds expenditure limitation by \$86,603 to recognize the expiration of a federal grant supporting domestic well drinking water program activities. OHA first received this funding in 2013 for program activities broader than those required in state law. The federal funding supported portions of five different positions who enter domestic well drinking water testing data into a database, conduct hazard assessments based on the data, develop public health messaging, and engage with partners and stakeholders in outreach and education activities. The Subcommittee does not support the agency's request to backfill the federal grant with General Fund in 2019-21. The cost of the backfill over a 24-month period totals \$233,000, which is being reviewed as part of OHA's 2021-23 budget proposal.

Ballot Measure 109 directs OHA to develop a program regulating the administration of psilocybin in supervised settings. The measure establishes a two-year program implementation timeline beginning January 2021. Although licensing fee revenue will eventually support the agency's costs for administering the program, General Fund is necessary to support initial implementation costs. The Subcommittee approved OHA's request for \$58,902 General Fund for one position (0.17 FTE) to support startup costs in 2019-21. This position will help establish the other roles and responsibilities for future program staffing, begin planning for program licensure and compliance, and support the new Psilocybin Advisory Board. In 2021-23, OHA estimates the need for 22 total positions (13.75 FTE) supported by \$2.5 million General Fund and \$760,000 Other Funds, which will be from licensing fee revenue collected in the last several months of the biennium.

The Subcommittee approved \$70 million in Other Funds expenditure limitation for reimbursement from the Federal Emergency Management Administration (FEMA) for COVID-19 vaccine distribution and administration costs. This amount represents a high-level estimate of anticipated reimbursement through the end of the biennium, but the longer-term costs are expected to be higher and could necessitate additional expenditure limitation later in the 2019-21 biennium if spending and reimbursement occurs faster than expected.

In addition to the adjustments described above, the Subcommittee approved a series of net-zero fund shifts and technical adjustments across programs, as well as transfers between appropriations to properly align savings approved during the August 2020 special session with appropriate budget structures in the Health Policy and Analytics Division.

### **Long Term Care Ombudsman**

The Oregon Public Guardian and Conservator Program (OPGC) serves as a court-appointed, surrogate decision maker for adults incapable of making some or most of the decisions necessary for their basic care and safety. The OPGC has received \$6,000 in donations from the Oregon Health Council. The Subcommittee approved an Other Funds expenditure limitation increase of \$6,000 to allow the OPGC program to use these funds to pay for legal services to establish guardianships for vulnerable Oregonians.

## **LEGISLATIVE BRANCH**

### **Legislative Assembly**

The Subcommittee approved a net-zero rebalance within the Legislative Assembly budget. General Fund appropriated for the biennial offices is decreased by \$1.5 million and appropriations for the 80th Legislative Assembly and 81st Legislative Assembly are increased by \$100,000 and \$1.4 million, respectively, for costs related to a branch-wide classification study, subsequent changes in position classifications, and pay equity remedies.

## JUDICIAL BRANCH

### Public Defense Services Commission

The Subcommittee approved a \$7.6 million General Fund budget increase for the Public Defense Service Commission (PDSC). These resources will support the following:

- PDSC's new attorney contract model (\$3.6 million);
- A forecasted caseload increase for habeas corpus cases based on Covid-19 (\$1.5 million);
- Appellate Division transcription/deposition costs (\$1 million);
- A deficit in Multnomah County's implementation of the Parent Child Representation Program (\$623,170);
- Caseload changes anticipated from the U.S. Supreme Court ruling in *Ramos v. Louisiana* (\$409,920); and
- Multnomah County Courthouse office furnishings (\$353,854).

In late 2018, the Sixth Amendment Center released the findings of its review of Oregon's indigent public defense system. This review found the state's method of contracting for public defense services, a fixed fee per case model, did not meet constitutional standards. In September 2020, PDSC approved a new contracting model effective January 1, 2021. New contracts are based on the number of attorneys and support staff required to handle the projected caseload. The agency will pay a single statewide rate for each full-time equivalent attorney and each support staff (or fraction thereof), and a regionally-adjusted rate for administrative costs. There are capped limits on the number of cases an attorney can be assigned.

PDSC has not yet developed a plan to implement the Sixth Amendment Center report findings or conducted a financial analysis of the cost of adopting the report's recommendations. While the Commission directed the Office of Public Defense Services to implement the new contracting model in a budget neutral manner, the new contract model is anticipated to exceed PDSC's 2019-21 legislatively approved budget authority by \$3.6 million General Fund, although the amount remains uncertain as PDSC has had difficulty quantifying the financial impact of the agency's procurement activities. Because of the importance of the new contract model to the state's public defense system, the Subcommittee approved PDSC's supplemental request for \$3.6 million General Fund.

For the 2021-23 biennium, the recently-estimated contractual difference exceeds the 2021-23 current service level by over \$35.1 million General Fund. This amount is likely to change as the actual cost of the new contract model becomes better known. Most of the projected deficit(s) are attributable to the Parent Child Representation Program (PCRP) contracts, with which funding for trial-level services must compete. Currently, PDSC is unable to provide a comprehensive financial report on the Professional Services Account budget, which comprises over \$309 million General Fund (or 90%) of the agency's legislatively approved budget. This makes it difficult to determine a more precise estimate of the amount of funding needed for the remainder of the current biennium as well as for the 2021-23 budget. Additional adjustments may be needed as more information becomes available.

The COVID-19 pandemic has resulted in an increase in the filing of state habeas petitions. Habeas corpus is a legal remedy available under state and federal constitutions to adults in custody to challenge the conditions of their confinement due to either the failure of a jail or prison to provide adequate care for a serious medical condition or sentencing errors that keep persons incarcerated past a sentence date. Typically, an adult in custody must first exhaust all available administrative processes prior to filing a habeas corpus case in state court unless the risk of harm is so great that a court's immediate action is necessary before all administrative options have been pursued or completed. If an adult in custody prevails in a habeas corpus petition, the court will order the jail or prison to provide the needed care, if a medical case, or, in rare cases, order the release of the adult in custody.

PDSC handles both cases arising from adults in custody in the state prison system and cases associated with inmates held in local county or city jails. A state habeas corpus case is a civil rather than a criminal case and is heard in the circuit court where the correctional facility is located. The Oregon Rules of Civil Procedure require the state to file a response to the initial petition within 30 days. Circuit courts do not grant extensions for the state to file a response given an adult in custody's civil liberty interests. The Subcommittee approved PDSC's request for \$1.5 million General Fund for a contract with an attorney, hourly attorneys, investigators, interpreters, medical experts, and ancillary expenses for approximately 315 adults in custody who have challenged their conditions of incarceration. PDSC typically sees fewer than 24 such cases per year.

SB 5723 (2020 Second Special Session) disappropriated \$1 million General Fund in the Appellate Division to capture what appeared to be cost savings for transcriptions and depositions. Subsequently, PDSC identified miscoded expenditures and determined that a restoration of the reduction was needed to cover actual costs. The Subcommittee approved \$1 million General Fund to restore the funding.

During the 2019 legislative session, the Legislature provided \$3.5 million General Fund to PDSC to expand PCRCP to Multnomah County. This appropriation included funding for one permanent full-time Deputy General Counsel position (1.00 FTE) unrelated to the Multnomah County PCRCP expansion, leaving \$3.2 million to fund the program's expansion. PDSC implemented the expansion on July 1, 2020 and reports that the cost for the expansion on a one-year annualized basis, and based on the prior contract model, totals \$6.7 million General Fund. The Subcommittee approved funding of \$623,170 General Fund, which represents the difference between the agency's six month contract cost estimate of \$3.8 million and the original \$3.2 million budget. The remainder of the unbudgeted cost of the expansion will be absorbed by the agency. PDSC estimates the 2021-23 biennial cost of the expansion at \$13.5 million General Fund.

Additionally, the Subcommittee approved two technical adjustments for the PCRCP. The first moved \$283,715 in professional services to personal services in order to fund a previously authorized program manager position and the second moved \$150,000 General Fund in training funds from the Professional Services to the Contract and Business Services Division.

The U.S. Supreme Court ruled in *Ramos v. Louisiana* that the Sixth Amendment to the U.S. Constitution (rights related to criminal prosecutions) requires that guilty verdicts for criminal jury trials be unanimous. The decision affects not only those persons currently in custody, but persons who have served their sentence and post-prison supervision but have a felony conviction from some time in the past. All those persons would

currently be able to bring a post-conviction relief case challenging their conviction. The key issue for these cases is whether the *Ramos* rule should be made retroactive, which will ultimately be decided by the Oregon Supreme Court and the U.S. Supreme Court. The Oregon Supreme Court has just recently begun issuing decisions related to *Ramos* cases. Hundreds of criminal convictions have been pending appeal before Oregon's appellate courts awaiting the *Ramos* decision and it is anticipated that thousands of cases could be filed over the next biennium seeking relief. The Subcommittee approved \$490,920 General Fund to supplement an existing contract with the Criminal Justice Reform Clinic at Lewis and Clark Law School to provide legal navigation services and case review. *Ramos* related costs are expected to increase significantly in the 2021-23 biennium.

The recently-constructed Multnomah County Courthouse was opened in the fall of 2019. PDSC is a tenant in the new county courthouse and co-locates office space in the building. Housed within this office space is a "Public Defense Resource Center," which exists to provide meeting space for Portland public defenders as well as offices for state Appellate Division staff and managing trial-level attorneys. PDSC will not be assessed rental fees by Multnomah County during the 50-year lease; however, the agency has spent \$353,854 General Fund on furniture, fixtures, and equipment; audio-visual equipment and information technology; network, phone, and other monthly reoccurring costs; and has hired, administratively, one limited duration Office Manager position (1.00 FTE). The Subcommittee approved \$353,854 General Fund to pay for these unbudgeted expenses.

## **NATURAL RESOURCES**

### **Department of Agriculture**

The Subcommittee approved a shift in Federal Funds expenditure limitation between two programs within the Department of Agriculture. The shift totals \$32,630, moving expenditure limitation from the Market Access Policy Area, where the expenditure limitation was not needed, to the Administration Policy Area, where it will be used for distribution of additional Wolf Compensation Grants.

### **Department of Energy**

The Department of Energy's Small Scale Local Energy Loan Program (SELP) anticipated a cash flow deficit in 2019-2021 and was provided \$4,334,048 General Fund in SB 5545 (2019) to cover an anticipated debt service payment due April 2021. However, reduced costs to the program, refunding of SELP bonds, and a prepayment from one of the larger SELP borrowers has allowed the Department to cover its debt payment without the need for this General Fund in 2019-21; the Subcommittee approved a corresponding budget reduction. The Department now anticipates a General Fund debt service need for the SELP program of approximately \$3.5 million in 2021-23 for payments due in April 2022 and 2023.



### **Department of Environmental Quality**

The Subcommittee approved an increase of \$94,335 General Fund for the Department of Environmental Quality (DEQ) and established two permanent full-time positions (0.17 FTE) for sampling and lab testing of cyanotoxins in waterbodies. The positions include a Chemist 2 position to conduct lab testing and a Natural Resource Specialist 1 position to collect samples. These positions are expected to be filled expeditiously as cyanotoxins, caused by harmful algal bloom, typically happen between May and September and there is concern that recent destruction of foliage caused by wildfires will increase the likelihood of cyanotoxins in waterbodies. Included in the General Fund appropriation is funding for the purchase of a cyanotoxin autoanalyzer and associated services and supplies costs for the personnel and the autoanalyzer. Because the positions are permanent, but the cyanotoxin work is generally seasonal, it is assumed these positions can transition to other laboratory testing-related work at other times. The anticipated roll-up cost for the 2021-23 biennium is \$675,007 General Fund. This includes the two permanent positions at \$332,237, associated services and supplies of \$292,770, and the purchase of a nutrient analyzer (\$50,000) which will assist in determining what might be causing the cyanotoxins.

### **Department of Forestry**

Each fire season, the Oregon Department of Forestry (ODF) pays for fire costs that are incurred by partner entities, pending federal reimbursement for a substantial portion of these costs. The final resolution of and reimbursement for fire season costs can take several years to complete. The Subcommittee approved an increased Other Funds expenditure limitation of \$14,193,565 to allow the agency to process prior fire season cost settlements.

The Subcommittee approved \$1.5 million General Fund for ODF to establish a grant program to provide funding to local governments to repair or replace emergency communications infrastructure. ODF does not currently have a grant program in place to distribute the funds but intends to mirror the process it used to distribute funding provided by the Emergency Board in January 2021 for federal forest restoration projects and fuel reduction projects on non-industrial private forestlands.

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

The Subcommittee approved an increase of \$150,901 Other Funds expenditure limitation for the Department of Land Conservation and Development for reimbursements of collaborative projects with state and national partners.

The Subcommittee also approved a one-time \$100,000 General Fund increase to assist wildfire-impacted communities with land use planning and permitting.

### **Department of State Lands**

A change in funding was approved for the Department of State Lands, South Slough National Estuarian Research Reserve due to a shortfall in anticipated federal revenues for the program. The change reduces budgeted expenditures from Federal Funds by \$200,000 and provides a matching increase in Other Funds budgeted expenditures from Common School Fund revenues.

## **PUBLIC SAFETY**

### **Department of Corrections**

To balance the receipt of federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding, management cost saving actions taken this biennium, and the financial impacts of operational changes made during the COVID-19 pandemic, the Subcommittee approved a net-zero rebalance moving \$10.6 million General Fund between four Department of Corrections appropriations.

The Subcommittee approved an increase in Other Funds expenditure limitation of \$19.5 million to allow the Department of Corrections to receive and spend reimbursements from the Federal Emergency Management Agency (FEMA) related to the COVID-19 pandemic. An additional \$1.5 million Other Funds expenditure limitation was approved for receipt of FEMA reimbursements related to the 2020 wildfires.

### **Department of Justice**

The Subcommittee approved a \$550,000 General Fund budget increase for the Department of Justice (DOJ) and the Defense of Criminal Convictions (DCC), with the understanding that the Department of Administrative Services will unschedule the entire amount pending the agency providing the Legislative Fiscal Office with a completed (revised) methodology for forecasting and budgeting the DCC. The program funds the cost of defending the state in cases in which sentenced offenders challenge their convictions or sentences and has a 2019-21 legislatively approved budget of \$27.2 million General Fund, which increases to \$27.8 million with this request.

DOJ moved mid-biennium to a new DCC forecasting model, as noted by the Emergency Board in December of 2020 (Item #10). The Emergency Board suggested that DOJ undertake a more concerted effort to re-evaluate and document how the agency forecasts and budgets the DCC caseload. This undertaking has been initiated by the agency but has yet to be completed. Of note, under the prior DCC forecast methodology, the 2019 close-of-session forecast has increased by \$928,406 (or 3.5%).

### **District Attorneys and Their Deputies**

The Subcommittee approved a supplemental \$575,000 General Fund increase to the Department of Justice for payment of expenses for District Attorneys (DAs) and their Deputies. DAs are state employees, and, by statute, the state is responsible for funding their salaries. There is an estimated \$554,604 General Fund deficit being projected for the 2019-21 biennium for the DA budget. Of this amount, \$243,799 is attributable to a 12 month selective salary increase of 4.5% that was administratively approved by the Department of Administrative Services (DAS) and

includes associated Other Payroll Expenses (OPE); however, no provision for this selective salary increase was included in the supplemental compensation plan funding approved by the Emergency Board in December of 2020 (Item #44). The remaining request of \$310,805 General Fund is attributable to the final reconciliation of personal service costs, net of \$85,539 in vacancy savings, which occurs each odd numbered year session as part of the early session omnibus measure. This reconciliation accounts for any unfunded portion of salary and wages and updated cost estimates from what was originally budgeted for Other Payroll Expenses. The prior such adjustment for the 2017-19 biennium was \$350,000 General Fund.

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

To address demand for training for newly-hired police and corrections officers across the state, the Subcommittee approved \$1,503,520 Other Funds expenditure limitation for the Department of Public Safety Standards and Training to add two Basic Police and one Basic Corrections class to its 2019-21 training calendar.

#### **Department of State Police**

The Subcommittee approved \$1.5 million General Fund to increase the number of grant awards that can be made by the Office of the State Fire Marshal to local fire agencies through the Wildland Urban Interface Assistance Grant program. This program provides funding to support fire prevention programs and activities and community fire preparedness in communities throughout the state.

#### **Oregon Military Department**

To pay for Oregon National Guard State Active Duty expenses incurred during Oregon's 2020 wildfire season and during security missions to support the City of Portland and the Oregon State Police, the Subcommittee approved \$229,608 General Fund. An additional \$25,000 General Fund was approved for interest expense incurred on the Military Department's line of credit, used to cover State Active Duty payroll costs associated with these missions.

The Subcommittee also approved increases in Other Funds expenditure limitation totaling \$3,376,526: \$136,489 for wildfire costs billed to the Federal Emergency Management Agency (FEMA); \$2,740,151 for State Active Duty costs incurred during the 2020 wildfire season and reimbursed by the Oregon Department of Forestry through an interagency agreement; and \$499,886 for a State Active Duty mission to assist the Oregon Employment Department, reimbursed by the Oregon Employment Department.

To provide the required 25% state match for expenses incurred through FEMA's Other Needs Assistance Program, the Subcommittee approved \$584,456 General Fund.

To enable the Office of Emergency Management to fulfill its obligation as administrator of the FEMA Public Assistance Program in Oregon, the Subcommittee approved an increase in Federal Funds expenditure limitation of \$605.3 million to allow the agency to receive and pass FEMA reimbursements through to state, local, and tribal government agencies and public and private non-profit entities for costs incurred during Presidentially-declared disasters.