

ANALYSIS

Department of Justice Protection and Education Account

Analyst: Steve Robbins

Request: Acknowledge receipt of a report on the status of the Protection and Education Revolving Account.

Analysis: ORS 180.095(5) requires the Department of Justice (DOJ) to submit a report to the Joint Committee on Ways and Means before April 1 of each odd-numbered year that includes:

- (a) The department's projection of the balance in the Department of Justice Protection and Education Revolving Account at the end of the biennium in which the report is made and at the end of the following biennium;
- (b) The amount of the balance held for restitution and refunds;
- (c) An estimate of the department's anticipated costs and expenses under subsection (1)(b) and (c) of this section for the biennium in which the report is made and for the following biennium; and
- (d) Any judgement, settlement, compromise or other recovery, the proceeds of which are used for purposes other than:
 - (A) For deposit into the Department of Justice Protection and Education Revolving Account; or
 - (B) For payment of legal costs related to the judgement, settlement, compromise or other recovery.

The purpose of the DOJ Protection and Education Revolving Account (P&E Account) is contained in ORS 180.095, and section 3 defines that various types of moneys received by DOJ that are to be deposited into the account: judgements, settlements, a compromise or assurance of voluntary compliance, including damages, restitution, refunds, attorney fees, costs, disbursements and other recoveries, but excluding civil penalties under ORS 646.642.

Section 1 of the statute defines how the funds may be used to pay for a variety of activities, which include consumer and business education relating to the laws governing antitrust and unlawful trade practices and expenses incurred by DOJ in investigating, preparing, commencing, and prosecuting state and federal antitrust laws and other statutory actions, as well as restitution and refunds in these actions. The 2023 Legislative Assembly passed SB 619 that added proceeds of any recovery related to investigative demands and actions relative to disclosure of different data types.

The P&E Account report was submitted to the Joint Committee on Ways and Means on February 19, 2025, and reports a beginning balance for the 2023-25 biennium of \$52.7 million. Actual and projected revenues anticipated through the end of the biennium are \$20.6 million, with actual and projected expenditures estimated to be \$25.9 million, resulting in an ending balance for the 2023-25 biennium of \$47.4 million, which is a net decrease of \$5.3 million.

The 2023-25 beginning balance in the P&E Account for restitution was \$0, with revenues equaling expenditures of \$112,036, resulting in no ending balance.

The report suggests anticipated revenues in the 2025-27 and 2027-29 biennia of approximately \$7.6 million, while projected expenditures range between \$25 million and \$28 million. Proceeds specific to restitution are estimated to be approximately \$600,000 with all funds being disbursed in the same biennia the funds are received.

The traditional approach used by the Legislature to determine an appropriate ending balance for the P&E Account, as referenced in ORS 180.095(6), has been 4 years of working capital. With net expenditures from the account estimated to be \$25 million to \$30 million per biennia, and revenues only anticipated at \$7.6 million per biennia, it puts the operating premise of maintaining 4 years of working capital at risk. It is important to note that new sources of revenue or additional expenditures may change the trajectory of the projected ending balance.

Also included with the report, per ORS 180.095(5)(d), is an inventory of matters where proceeds were received beyond what is codified in the rest of the statute.

Recommendation: The Legislative Fiscal Office recommends acknowledging receipt of the report.

Department of Justice Chase

Request: Report on the projected expenses and ending balances of the Protection and Education Account by the Department of Justice.

Recommendation: Acknowledge receipt of the report.

Discussion: Pursuant to Oregon Revised Statute (ORS) 180.095, the Department of Justice (DOJ) shall report to the Joint Committee on Ways and Means, the projected expenses and ending balances associated with the Protection and Education (P&E) Account.

ORS 180.095 requires DOJ to deposit moneys received under a judgment, settlement, compromise, or other recovery (excluding civil penalties) into the P&E Account. These resources derive from infrequent and long-developing cases and are used to fund consumer protection efforts.

DOJ projects a 2023-25 ending P&E Account balance of \$47,372,164 – which assumes no major case settlements or awards for the remainder of the biennium.

Account revenues projected for 2025-27 and 2027-29 are significantly lower than 2023-25, due to the irregular nature of the recoveries. As a result, allowable consumer protection costs for those two biennia are projected to be funded using carry-forward balances.

The projected ending P&E Account balances for 2025-27 and 2027-29 based on current authorized uses, are \$29,464,551 and \$9,000,324, respectively.



DEPARTMENT OF JUSTICE

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February 19, 2025

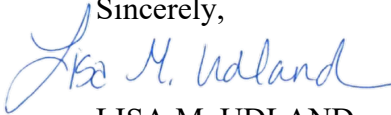
Senator Kate Lieber, Co-Chair
Representative Tawna Sanchez, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairpersons:

Pursuant to ORS 180.095(5), enclosed is the information the Department is required to report to the Joint Committee on Ways & Means each odd-numbered year. This report has been updated and replaces the report submitted on February 18, 2025.

The consumer protection work at the Department of Justice is completely self-financed through the P&E Account. The cases that ultimately provide financing for the P&E Account are long-developing and occur infrequently. Because of the irregular nature of these recoveries, the Department strives to keep at least four years of working capital in the account as had previously been agreed.

Please note that the current analysis results in a projected ending balance of \$47.3 million by the end of the 2023-25 biennium if no additional major case settlements or awards are received between now and the end of this biennium.

Sincerely,

LISA M. UDLAND
Deputy Attorney General

cc: Steve Robbins, LFO
Stacy Chase, DAS-CFO
Sarah Roth, ASD
Claudia Groberg, CED

Department of Justice
P&E Ending Balance Estimates

Estimated Ending Balance 2023-25	Projections	Balance
Beginning Balance 23-25 P&E		\$52,650,502
Beginning Balance 23-25 P&E Restitution		\$0
Expenditures (Actuals thru 12/31/24)		
P&E	(\$18,560,325)	
Restitution	(\$11,000)	
Total Expenditures	(\$18,571,325)	
Projected Expenditures		
P&E	(\$7,334,944)	
Restitution	(\$101,036)	
Total Expenditures	(\$7,435,980)	
Revenues (Actuals thru 12/31/24)		
Current P&E Revenue	\$17,566,931	
Current Restitution Revenue	\$6,884	
Total Current Revenues	\$17,573,815	
Projected Revenue		
Projected P&E Revenue	\$3,050,000	
Projected Restitution Revenue	\$105,152	
Total Projected Revenues	\$3,155,152	
Estimated Ending Balance P&E		\$47,372,164
Estimated Ending Balance P&E Restitution		\$0
Total Estimated Ending Balance 23-25		\$47,372,164

Estimated Ending Balance 2025-27	Projections	Balance
Beginning Balance 25-27 P&E		\$47,372,164
Beginning Balance 25-27 P&E Restitution		\$0
Expenditures		
P&E (CSL)	(\$24,907,613)	
Restitution (CSL)	(\$591,412)	
Total Projected Expenditures	(\$25,499,025)	
Revenues		
Current projections	\$7,000,000	
Restitution	\$591,412	
Total Projected Revenues	\$7,591,412	
Estimated Ending Balance P&E		\$29,464,551
Estimated Ending Balance P&E Restitution		\$0
Total Estimated Ending Balance 25-27		\$29,464,551

Estimated Ending Balance 2027-29	Projections	Balance
Beginning Balance 27-29 P&E		\$29,464,551
Beginning Balance 27-29 P&E Restitution		\$0
Expenditures*		
P&E	(\$27,464,227)	
Restitution	(\$616,843)	
Total Projected Expenditures	(\$28,081,070)	
Revenues		
Current projections	\$7,000,000	
Restitution	\$616,843	
Total Projected Revenues	\$7,616,843	
Estimated Ending Balance P&E		\$9,000,324
Estimated Ending Balance P&E Restitution		\$0
Total Estimated Ending Balance 27-29		\$9,000,324

* Used 9% Personal Services inflation, 19.43% Attorney General inflation, and 4.3% Services & Supplies inflation

Senator Kate Lieber, Co-Chair
Representative Tawna Sanchez, Co-Chair
February 19, 2025
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Protection and Education Account Report - April 2025
Per ORS 180.095(5)(d)*

Payment Date	Matter	P&E Deposit	Restitution to Individual Consumers/Agency	Other Terms**	Notes
6/20/2023	Covid Clinic: Settlement with Covid testing provider that deceptively advertised expedited test results for an additional fee.	\$26,000.00	\$165,000 to consumers	n/a	
7/15/2023	Avanti Destinations, Inc: Assurance of Voluntary Compliance related to a travel agency	\$100,000.00	\$179,925.24 to consumers	n/a	
11/29/2023	JUUL: Settlement related to deceptive marketing practices by an electronic nicotine delivery system manufacturer	\$984,303.60	n/a	Pursuant to Oregon Laws 2023, chapter 602, section 41, after payment of attorney fees and costs, the settlement proceeds are deposited in the Oregon Health Authority Fund. Pursuant to the settlement, funds are to be used to fund programs aimed at reducing youth use of electronic nicotine delivery systems, including cessation assistance, prevention education, and research.	This settlement was reached on December 28, 2022. The total settlement amount is \$19.3m and is payable over 5-8 years. The allocation for the first payment was included on the report for the 2023-25 biennium.
11/29/2023	State v Opioid Manufacturers, Distributors and Pharmacies: Oregon participated in ten national settlements arising from corporate misconduct that fueled the opioid epidemic.	\$5,254,069.39	n/a	Pursuant to Oregon Laws 2022, chapter 63, section 5, the majority of these funds will be placed in the Opioid Settlement Prevention, Treatment, and Recovery Fund or directly disbursed to local governments for opioid abatement.	These are separate settlements that were reached at various times between 2021 and 2024. Oregon's total recovery from these settlements will be approximately \$700M payable over 18 years.
12/8/2023	Enhanced Community Development: False Claims Matter Relating to Oregon New Markets Tax Credit Program	\$2,380,775.00	\$3,120,000 to Business Oregon	n/a	
1/4/2024	Centene: False Claims Matter relating to Pharmacy Benefit Manager	\$2,653,576.00	n/a	The second payment of \$8.9m was received on 1/4/2024. After payment of outside counsel fees, DOJ attorney fees, and deposit to the P&E, \$3.5m was allocated to the Medicaid Fraud Control Unit to fund program operations. Allocation determination for the remainder is in process.	This settlement was reached on November 22, 2022. The allocation for the first payment was included on the report for the 2023-25 biennium.
7/30/2024	Johnson and Johnson: Settlement related to the marketing of Johnson and Johnson's baby powder and body powder products that contained talc.	\$1,064,107.53	n/a	A total of \$4,680,390 to five charities that will directly support women's health.	This settlement was reached June 28, 2024, and the payments will be made over four years. The total amount to be paid under the settlement is \$15,046,143.13. Of that amount, a total of \$10,365,753.13 will be deposited in the P&E.
9/27/2024	Pediatric Therapy Services: Settlement related to Medicaid provider billing	\$0.00	\$1,000,000 to Oregon Health Authority		This settlement was reached August 5, 2024, and the total amount is \$2.5 million. It will be paid in two payments. The first payment was distributed to the Oregon Health Authority as restitution; the second payment is expected in August 2025. The Medicaid Fraud Control Unit will receive \$446,062.50 to fund program operations. The remainder will be returned to the state and federal Medicaid programs.

*ORS 180.095(5) Before April 1 of each odd-numbered year, the Department of Justice shall report to JWM on (d) Any judgment, settlement, compromise or other recovery, the proceeds of which are used for purposes other than: (A) for deposit into the P&E; or (B) for payment of legal costs

** Terms other than deposit to P&E or restitution to consumers/agencies

NOTE: This report does not include matters with partial settlement (i.e. case has not been fully resolved)