

**75th OREGON LEGISLATIVE ASSEMBLY – 2009 Regular Session
BUDGET REPORT AND MEASURE SUMMARY**

MEASURE: HB 5022-A

JOINT COMMITTEE ON WAYS AND MEANS

**Carrier – House: Rep. Nathanson
Carrier – Senate: Sen. Walker**

Action: Do Pass as Amended and Be Printed A-Engrossed

Vote: 18 – 2 – 2

House – Yeas: Buckley, D. Edwards, Galizio, Garrard, Jenson, Kotek, Nathanson, Richardson, Shields, G. Smith

– Nays: Gilman

– Exc: Komp

Senate – Yeas: Bates, Carter, Johnson, Monroe, Nelson, Verger, Walker, Winters

– Nays: Girod

– Exc: Whitsett

Prepared By: Linda Gilbert, Department of Administrative Services

Reviewed By: Doug Wilson, Legislative Fiscal Office

Meeting Date: June 11, 2009

Agency
Department of Justice

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Biennium
2009-11

Budget Summary*

| | 2007-09 Legislatively Approved Budget (1) | 2009-11 Essential Budget Level | 2009-11 Committee Recommendation | Committee Change from 2007-09 Leg. Approved | |
|--------------------------|--|-----------------------------------|-------------------------------------|--|----------|
| | | | | \$\$ Change | % Change |
| General Fund | \$ 54,305,136 | \$ 64,884,333 | \$ 58,999,753 | \$ 4,694,617 | 8.6% |
| Other Funds | \$ 215,016,905 | \$ 227,810,768 | \$ 226,512,636 | \$ 11,495,731 | 5.3% |
| Other Funds Nonlimited | \$ 7,944,005 | \$ 7,988,839 | \$ 7,871,355 | \$ -72,650 | -0.9% |
| Federal Funds | \$ 100,277,305 | \$ 104,152,120 | \$ 112,319,145 | \$ 12,041,840 | 12.0% |
| Federal Funds Nonlimited | \$ 14,851,812 | \$ 15,035,429 | \$ 15,857,750 | \$ 1,005,938 | 6.8% |
| Total | \$ 392,395,163 | \$ 419,871,489 | \$ 421,560,639 | \$ 29,165,476 | 7.4% |

Position Summary

| | | | | |
|--------------------------------------|----------|----------|----------|-------|
| Authorized Positions | 1,334 | 1,314 | 1,330 | -4 |
| Full-time Equivalent (FTE) positions | 1,306.71 | 1,305.68 | 1,317.45 | 10.74 |

(1) Includes adjustments through the December 2008 meeting of the Emergency Board

* Excludes Capital Construction expenditures

Summary of Revenue Changes

The Department receives General Fund for criminal appeals, district attorney assistance, organized crime and criminal intelligence, Oregon Domestic and Sexual Assault Violence fund, corrections litigation, Master Settlement Agreement litigation, and state match for federal child support enforcement funds and federal Medicaid fraud funds. In this recommended budget General Fund is 14 percent of the total spending.

The Department generates the majority of its Other Fund revenues from charges to state agencies for legal services. Child Support payments for families in the Temporary Assistance for Needy Families (TANF) program and federal performance incentives partially fund the Child Support program. Criminal Fine and Assessment Account (CFAA) funds support the Crime Victims' Compensation program, the Child Abuse Multidisciplinary Intervention (CAMI) program, the Child Abuse Medical Assessment program, and regional assessment centers. Registration and filing fees are charged to charitable organizations. Other Fund revenues, including Nonlimited Other Funds, make up just under 56 percent of this budget.

Federal Funds support child support enforcement and Medicaid fraud activities. Federal grant funds support crime victim programs, drug enforcement activities and law enforcement agencies in narcotic intelligence sharing. This budget also recognizes expected one-time stimulus funding. Federal Funds are 30 percent of the total budget.

To implement this budget correctly, the Department will need to make specific revenue adjustments at the policy package level. The individual adjustments will not be identified in the following package narratives, and ultimately depend on the hourly rate for the Department's services, as

assumed by the Legislature. In the Governor's budget the rate for attorneys, for instance, was \$158 per hour. While this budget does not change the rate per se, by disallowing policy packages that would have supported the \$158 rate, it implicitly reduces hourly rates. The final rate, to be determined later, depends on issues affecting all state agencies including the final decisions on employee compensation.

Summary of Public Safety Subcommittee Action

The Department of Justice is responsible for providing general legal counsel and supervision of all civil actions and legal proceedings in which the state is a party or has an interest. The Department is in charge of all the state's legal business that requires an attorney or legal counsel, and is further responsible for a number of programs including child support enforcement, district attorney assistance, crime victims' compensation and assistance, charitable activity enforcement, and consumer protection services. The Department is organized into the Office of the Attorney General (Administration) and the following operational divisions or programs: Appellate, Civil Enforcement, Criminal Justice, Crime Victims' programs, General Counsel, Trial, and Child Support. For budget purposes, the Defense of Criminal Convictions (DCC) fund is a budget unit charged for work performed in the Appellate and Trial Divisions.

The Subcommittee approved a budget for the Department of \$421.6 million total funds, which is \$29.2 million and 7.4 percent above the 2007-09 Legislatively Approved Budget (LAB) as of December 2008. Of the total amount, \$59.0 million is General Fund, an 8.6 percent or \$4.7 million increase over the 2007-09 LAB. The Subcommittee also approved 1,330 positions (1,317.45 FTE). The budget is 0.4 percent higher than the 2009-11 Essential Budget Level (EBL) in total funds but General Fund is 9.1 percent under the EBL.

The approved budget:

- Excludes policy packages that would increase the legal hourly rates charged by the Department to other state agencies.
- Reduces funding for Defense of Criminal Convictions (DCC), recognizing that the Department may need to revisit the funding level with the Emergency Board or next special legislative session. Since 2005-07, the DCC General Fund budget has increased 140 percent in order to resolve case backlogs, meet increasing legal costs, and meet tighter timelines enforced by the courts. The Department had made good progress toward meeting its goals. This budget will cause some backsliding with the courts.
- Terminates the Tobacco Tax Compliance Task Force, a joint effort of the Department, State Police, and the Department of Revenue. Tobacco tax compliance will still be enforced, but the majority of the kind of work appropriate to the task force has been accomplished.
- Includes \$1 million total funds for legal costs related to defending the state's position with respect to the Tobacco Master Settlement Agreement (MSA). Tobacco companies that are a party to the MSA have withheld portions of their MSA payments. The state must prove diligent enforcement of the agreement to free the suspended funds.
- Includes various General Fund reductions to meet the resource constraints in the overall state budget. These include reductions to crime victims programs (\$1 million), District Attorney Assistance and Organized Crime program (\$1 million), and the Child Support Enforcement programs (\$800,000).

- Reduces the General Counsel Division by \$2 million to encourage greater efficiency in the division and in the way other state agencies use the division's resources.
- Includes a \$3.6 million fund shift in the Child Support Enforcement program, using federal stimulus resources to free up \$3.6 million in General Fund.
- Adds \$1.0 million General Fund for medical assessments for children suspected to be abuse victims.
- Includes a package reflecting one of the Attorney General's priorities, prosecuting environmental crimes. It is dependent on passage of Senate Bill 797.
- Includes three Budget Notes to the Department with respect to reviewing legal service provision to state agencies, how agencies are billed for legal services, and reviewing the Department's activities in view of potential internal reorganization. Two of the Budget Notes are applicable Department-wide, and are listed here.

The Attorney General has stated that he plans to review the way agencies, specifically major agencies like the Departments of Human Services and Transportation, are billed for legal services. These larger agencies which have major legal expenses due to their responsibilities could benefit from dedicated resources to help them manage both their amount of legal services and their risk.

Budget Note

The Department of Justice is to report on their efforts in reviewing how agencies are billed for legal services to the Emergency Board or other appropriate legislative committee prior to July 1, 2010. The report should include any proposed changes in the way agencies are billed for legal and other services, and changes proposed in the way the services are provided to agencies generally and for specific agencies.

As with many new elected officials administering a major agency, this new Attorney General has stated that he plans to review the activities and way they are undertaken in many of the agency's programs or divisions, including administrative and support functions.

Budget Note

The Attorney General is instructed to report to the Legislature during the planned 2010 Session on his review of these activities and any actions he has taken in reorganizing the agency. This report should include a description of any planned or proposed major shift of functions or resources between programs, productivity improvements to the operations of agency activities, any major policy changes that may result in the level or in the way services or programs are delivered, any major shifts of positions between programs, and any other major changes proposed as a result of the review.

Administration Division

The Administration Division provides administrative oversight and support to the operating divisions in the Department. The Subcommittee approved a budget of \$25 million total funds and 113.50 FTE, which is the Division's EBL. No policy package funding was approved, but the Subcommittee did recommend authorizing some specific actions.

Package 101 Personal Services Adjustments. The Subcommittee approved reclassification of five positions with the understanding that the Department would absorb the costs for 2009-11. The package also requested increases in positions to reflect actual workload and to relieve doublefills. The Subcommittee did not recommend approval of the additional position authority. The agency has stated that it plans to review its administrative components. If the review reveals the positions identified in this package are merited, the next legislative body may recommend establishing and funding them.

Package 207 Charities Activities Database would have added an Information Systems Specialist 6 position in the Administration Division. The Subcommittee recommended instead that the position be approved in the Civil Enforcement Division where the Charities program resides.

Appellate Division

The Appellate Division represents the state's interests in all cases in federal and state appellate courts. It also prepares and defends ballot titles. The Subcommittee approved a budget of \$18.2 million total funds and 62.19 FTE. This is an increase of \$1.4 million and 8.1 percent over 2007-09 LAB but a decrease from the EBL of \$2.3 million (11.2 percent).

The Subcommittee approved four packages for the Appellate Division that make changes to the 2009-11 Essential Budget Level.

Package 101 Personal Services Adjustments reclassifies a Support Services Supervisor 2 position to a Principal Executive Manager A. It also reduces Services and Supplies by \$227,000 Other Funds to help pay for Department-wide enhancements. While the new Administration positions were not approved, the Subcommittee approved the reduction and the reclassification with the understanding that the agency will absorb the costs for the 2009-11 biennium.

Package 490 Intra-Agency Adj for Roll-up and Admin. Pkgs in the amount of \$285,359 Other Funds provides limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is decreased from the Governor's budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 810 Classification of New Attorney Positions reduces Other Funds by \$238,309 in recognition that all new attorney positions should be at the Assistant Attorney General level rather than Senior Assistant Attorney General. The higher level classification not only costs the agency more but also adds to the rate charged to other state agencies for legal services. For the Appellate Division, this package affects four attorney positions that were added in Essential Package 040 as part of building the Department's EBL.

Package 811 Defense of Criminal Convictions Funding reduces Other Funds by \$2,109,293 and eliminates 10 positions (10.52 FTE) to address two issues. It makes the corresponding changes related to the almost \$4 million reduction in the overall funding for DCC and it makes the changes to the updated DCC workload analysis between the Appellate and Trial Division. The Trial Division benefits at the expense of the Appellate Division.

Civil Enforcement Division

The Civil Enforcement Division represents the state in civil cases and also enforces certain criminal laws. General responsibilities of this Division include: (1) child advocacy representing the Division of Child Support in judicial proceedings to establish paternity and enforce child support orders and representing the Department of Human Services in juvenile dependency and termination of parental rights cases and mental health commitments, (2) prosecuting Medicaid fraud and related crimes as well as providing related education/outreach, (3) prosecuting plaintiff's civil litigation on behalf of any agency with a tort, contract, statutory, or other claim to recover money or property and representing agencies in bankruptcy proceedings and collections, (4) educating consumers to better protect themselves against marketplace fraud and abuse, and (5) supervising and regulating the activities of charitable, professional fundraisers and other nonprofit organizations and enforcing laws related to charitable trusts, solicitations and gaming. The Subcommittee approved a budget of \$54.2 million total funds, \$1 million General Fund, and 181.10 FTE. This is a \$3 million, 5.9 percent total funds increase and a \$0.5 million, 103.2 percent General Fund increase above the EBL. The significant General Fund increase in this division results from the Master Settlement Agreement (MSA) defense litigation cost approved in Package 817.

The Subcommittee approved six packages for the Civil Enforcement Division that make changes to the 2009-11 Essential Budget Level.

Package 101 Personal Services Adjustments increases two positions to full time, an Office Specialist 1 and an investigator position. Savings in Services and Supplies are used in part to provide \$58,852 funding for this increase and to fund Department-wide increases. The full-time equivalent impact is +0.44. The Subcommittee approved the package because of workload issues and because the increase is financed internally and results in no increase to the Attorney General rate. In addition a requested reclassification is approved, but with the understanding that the agency will absorb the costs for the 2009-11 biennium.

Package 206 Cost Recovery adds one paralegal position (1.00 FTE) to the Civil Recovery section to increase the amount collected by SAIF (State Accident Insurance Fund). The \$158,944 Other Funds cost will be covered by charges to SAIF.

Package 207 Charities Activities Database establishes three positions, a Research Analyst 2, Office Specialist 2, and an ISS 6 to provide for electronic filing and storage of charities program records. The total package is \$452,814 Other Funds and three positions (3.00 FTE). It is funded with registration and reporting fees paid by charities.

Package 208 Fin. Fraud & Cons. Prot. & Educ. Enhancement establishes six positions (6.00 FTE) to investigate unlawful marketplace conduct in mortgage transactions, discriminatory actions, or other marketplace activities. The \$1,077,420 Other Funds package is funded with settlements and other resources in the Consumer Protection and Education fund. The new positions are two Attorneys, two Paralegals, one Public Service Rep 4, and one Administrative Specialist 1.

Package 490 Intra-Agency Adj for Roll-up and Admin Pkgs provides limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is \$403,292 Other Funds and a reduction of \$25,792 Federal Funds. It is decreased from the Governor's recommended budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 817 Master Settlement Agreement Defense provides the funding for the defense of the Master Settlement Agreement (MSA) signed between states and the major tobacco companies. A revenue stream of over \$150 million per biennium is at risk to the State and the Department is responsible for the State's defense. Initial funding for this function of \$500,000 General Fund is included in this package. In addition, it is expected that the agency can use the remaining \$500,000 Other Funds balance in the Tobacco Enforcement Fund (Treasury Fund #1151) for this purpose, for a total of \$1 million. Depending on progress made in this case and the timing of a planned arbitration, this total may not be sufficient. The Department may need to return to the Legislature or the Emergency Board to request further funding.

Criminal Justice Division

The Criminal Justice Division provides prosecution and investigation assistance to District Attorneys statewide and provides investigation, intelligence and prosecution services relating to terrorism, drug and organized crime. The Subcommittee approved a budget of \$30.5 million total funds, \$8.5 million General Fund, and 71.37 FTE. This is an increase of \$1.9 million or 6.7 percent total funds above the EBL, with General Fund \$1 million or 10 percent under EBL.

The Subcommittee approved eight packages that make changes in this Division to the 2009-11 Essential Budget Level.

Package 090 Analyst Adjustments reduces General Fund by \$947,771, or 10 percent of the Division's EBL because of statewide General Fund constraints. The General Fund reduction eliminates three positions. The package also eliminates the Tobacco Compliance Task Force funding of \$1.5 million Other Funds and six positions. Overall the package eliminates nine positions (8.42 FTE).

Package 101 Personal Services Adjustments includes a reclassification of an ISS 4 to an ISS 6, which is funded by the Western States Information Network grant funds. The reclassification expense is offset by a reduction in Services and Supplies. The net impact is a reduction of \$75,650 Other Funds.

Package 253 Terrorism Prevention/Fusion Center continues the Fusion Center program and positions which analyze and distribute terrorism related information to law enforcement agencies. Funding of \$899,558 Other Funds is assumed to come from federal homeland security sources channeled through the Oregon Military Department. Five positions (2.10 FTE) are established as limited-duration given the uncertainty of future federal funding to support an ongoing effort.

Package 256 Statewide Police Records Database continues the Regional Automated Information Network or RAIN program, which is a police records database where police agencies are able to share information included in police reports. The package is funded through participation fees or assessments on law enforcement agencies. Two positions (2.00 FTE) that were established in 2007-09 are continued and are made permanent.

Participating agencies asked the Department to manage this function and indicate that funding will continue for the 2009-11 biennium and beyond. The total is \$400,505 Other Funds.

Package 257 Retain Statewide DUII Pros. Coordination continues the statewide DUII (Driving Under the Influence of Intoxicants) attorney position (0.90 FTE) through April 2011. It is funded with a grant from the Oregon Department of Transportation. The position provides advice and training on DUII issues to law enforcement and district attorneys across the state. Past April 2011, it is understood the Department will need to secure further funding from ODOT or from other non-General Fund sources to continue the program. Given the uncertainty of the funding stream, the position is approved as limited-duration. Overall the package adds \$296,882 Other Funds.

Package 490 Intra-Agency Adj for Roll-up and Admin Pkgs adjusts limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is a reduction of \$366,874 Other Funds and an increase of \$406,771 Federal Funds. It is decreased from the Governor's recommended budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 814 Federal Grant Limitation. This package adds expenditure limitation for three grant revenue sources that became known after the completion of the Governor's Recommended Budget. The first is \$350,000 Other Funds Nonlimited in the Racketeer Influenced and Corrupt Organizations program, the second is additional High Intensity Drug Trafficking Area funding of \$1,750,000 Federal Funds, which is passed through to counties identified as having heavy drug trafficking, and the third is an expansion of the Internet Crimes Against Children (ICAC) grant in the amount of \$655,983 Federal Funds. The ICAC grant adds three limited-duration investigator positions (2.00 FTE). The ICAC resources will fund the positions for an average of 16 months, after which the Department expects further federal funding to continue the program.

Package 819 Environmental Related Prosecutions is added to include expenditure limitation and position authority for a small unit in the agency to pursue environmental crimes prosecutions. Currently county district attorneys are responsible for pursuing these crimes but only a few counties have the necessary staff numbers and no county likely has the expertise on staff for these types of crimes. This package includes two Assistant Attorneys General and one Investigator (2.67 FTE). Funding will be from the Consumer Protection and Education fund and depends on the passage of language in Senate Bill 797. The total is \$714,728 Other Funds. The Subcommittee put on record its concerns that this unit would only address very serious environmental crimes which would otherwise not be prosecuted. The Subcommittee also expressed concern that unit would not be a source of elevated harassment to small businesses.

Crime Victims Programs

The Crime Victims Programs unit includes programs for Crime Victims' Compensation, Federal Victims of Crime Act, Prosecutor-based Victim/Witness Assistance, Crime Victim Grants, Child Abuse Multidisciplinary Intervention Account (CAMI) and Sexual Assault Victims' Emergency Medical Response Fund. The Address Confidentiality Program is also within this section. The Subcommittee approved a budget of \$51.8 million total funds (\$5.8 million General Fund) and 32.64 FTE. This is a 6.9 percent total funds and a 20.2 percent General Fund increase above the EBL.

The Subcommittee approved six packages that make changes to the unit's 2009-11 Essential Budget Level.

Package 090 Analyst Adjustments reduces Other Funds by \$1,023,868. The source of the funds is Criminal Fine and Assessment Account revenues. The reduction is to be proportionally spread among Child Abuse Multidisciplinary Intervention (CAMI), Regional Assessment Centers, Crime Victims' Compensation program, and the Child Abuse Medical Assessment program.

Package 101 Personal Services Adjustments reclassifies two management positions and a support position upward. In addition, a support position is increased to full-time for an increase of 0.08 FTE. The cost is \$27,754 Other Funds.

Package 301 Crime Victims Rights & Appellate Victim Serv. continues the Crime Victims Rights program in the unit including three limited-duration positions (3.00 FTE) that will be made permanent. The program is expected to be funded with punitive damages awards in the amount of \$640,670. The program will provide technical assistance, training, crime victim related information, and other assistance to ensure that victims' rights are addressed as required in the Oregon Constitution. This program will also centralize the activities of the Department including those activities that are now in the Appellate Division.

Package 490 Intra-Agency Adj for Roll-up and Admin Pkgs adjusts limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is a reduction of \$19,391 General Fund, and increases of \$46,326 Other Funds and \$44,090 Federal Funds. It is decreased from the Governor's recommended budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 814 Federal Grant Limitation. This package adds a total of \$2,647,780 Federal Funds. One component is \$751,000 for the funds provided through the federal stimulus package for crime victims programs. In addition, the Department has been notified of \$1.9 million additional Violence Against Women Act (VAWA) funds during 2009-11 that were not in the EBL. A limited-duration position (0.64 FTE) is added for the VAWA grant. Of the total combined funding, just under \$2.5 million is passed through to local service provider entities.

Package 818 Medical Assistance Funding provides \$1 million General Fund for increased medical assessments for children who are suspected victims of physical abuse. The workload in this area has been substantially increased because of the passage in 2007 of "Karly's Law." The Department will work with Child Advocacy Centers across the state as well as the CAMI Advisory Committee and other stakeholders in designing a program to use the funds. The funds will either pay for medical assessments that cannot be reimbursed through the existing Victims Compensation program or through a formula distribution to existing community-based organizations. The Subcommittee noted that the fiscal impact in 2007 for Karly's Law was estimated to be minimal. Further, there was discussion in reaction to the uncertainty of how the funding was to be used and concerns that the CAMI program not be harmed.

General Counsel

The General Counsel Division provides a broad range of legal services to over 150 state agencies, boards, and commissions. The Subcommittee approved a budget of \$45.1 million total funds and 157.95 FTE. This is a 4.2 percent decrease from EBL but \$9.8 million or 17.8 percent below the 2007-09 LAB. This decrease from the 2007-09 budget is in large part from a transfer of \$5.1 million to the Trial Division for Juvenile Dependency functions.

The Subcommittee approved three packages that make changes to the General Counsel 2009-11 Essential Budget Level.

Package 101 Personal Services Adjustments increases one Office Specialist position from part-time to full-time (0.20 FTE), \$17,351 Other Funds. There is also a \$385,000 Other Funds reduction in Services and Supplies.

Package 351 Business Activities Workload Increase adds an Attorney position (1.00 FTE) for projected increases in workload for the Business Activities section. The fund source is client agency billings. The position is expected to generate sufficient revenue to fund itself. There should be no impact on the hourly rate charged to state agencies for legal work. The cost is \$247,285 Other Funds.

Package 490 Intra-Agency Adj for Roll-up and Admin Pkgs adjusts limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is an increase of \$133,720 Other Funds. It is decreased from the Governor's recommended budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 812 Agency Reductions eliminates \$2 million Other Funds, of which \$1.8 million is in Personal Services although no positions are eliminated. The Subcommittee raised concerns about the growth in the Department's budget over the past two biennia. The growth arises from expanding caseloads, expansion of services, employee compensation, and changes in how expenditures are reported. There were questions on whether the way legal services are provided, requested and billed for could be more efficient and effective. Also discussed were issues relating to whether the billing system should be changed, whether some agencies were requesting unnecessary legal services, and other agencies not asking for enough legal advice.

Also, the Attorney General has stated that he plans to review how legal services are requested and provided to state agencies and how the Department of Justice may improve the way the services are delivered. It is expected that this will result in increased productivity in the provision of legal services by the agency as well as greater coordination between the Department of Justice and its client agencies on how best to use and request legal services. To address the Subcommittee's and the Attorney General's concerns, the Subcommittee approved the following budget note in relation to the General Counsel Division:

Budget Note

The Department of Justice is instructed to report to the appropriate committee during the planned 2010 Legislative Session on its efforts to increase its productivity in providing legal services. The report should include: (1) What actions were taken to increase

productivity within the agency in the provision of legal services; (2) the number and type of positions that will be eliminated or changed through these efforts; (3) the anticipated outcomes of the Department's efforts to better coordinate the request and use of legal services by state agencies; (4) the estimated amount of savings that can be expected by these coordination efforts with other agencies, (5) and any other related issues. In addition, the Department of Justice is expected to work with all state agencies, boards and commissions regarding appropriate and sufficient legal services budgets in preparing for the 2011-2013 budget. Consultation shall occur before agency budgets are submitted for consideration.

Trial

The Trial Division represents the State of Oregon and its agencies, departments, boards, commissions, officers, employees, and agents in all state and federal trial courts. The Subcommittee approved a budget of \$25.6 million total funds and 104.92 FTE. This is a \$1 million or 4 percent total funds increase above the Essential Budget Level. It is \$3.2 million or 14.2 percent over the 2007-09 LAB.

The Subcommittee approved six packages in the Trial Division that make changes to the 2009-11 Essential Budget Level.

Package 101 Personal Services Adjustments establishes an Assistant Chief Trial Counsel (1.00 FTE) and reclassifies a Support Services position to a PEM A. The cost is \$235,922 Other Funds.

Package 401 Tort Group establishes three new positions (3.00 FTE) to keep pace with projected tort related workload including actions resulting from the Clarke v OHSU case, increased sex abuse and neglect cases, changes in privacy rights, and other tort related issues. Positions are an Assistant Attorney General, a paralegal, and a word processing technician. The package provides \$525,565 Other Funds from billings to client agencies.

Package 402 Trial Division Investigator establishes an Investigator position (1.00 FTE) to support Trial Division's attorneys. The \$166,868 package is supported by billings to client agencies.

Package 490 Intra-Agency Adj for Roll-up and Admin. Pkgs. adjusts limitation for the Division's share of increases to central administration. The General Fund requested by the agency was not included in the Governor's budget nor is it here, so the costs of the Administration packages are out of balance. The package is an increase of \$94,092 Other Funds. It is decreased from the Governor's recommended budget in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 810 Classification of New Attorney Positions adjusts the salary funding for the new attorney positions added in Package 040, mandated caseload, to the Assistant Attorney General classification instead of the higher Senior Assistant Attorney General classification. The savings are \$168,368 Other Funds.

Package 811 Defense of Criminal Convictions Funding reflects the reduction in the funding for DCC of \$3.8 million and the adjustment in the DCC workload between the Appellate and the Trial Divisions. Since there is a shift in workload from Appellate to Trial, there is an increase of \$143,607 Other Funds and one position (0.68 FTE) in this Division. Overall, the net changes in the two divisions reflect the \$3.8 million reduction.

Defense of Criminal Convictions (DCC)

Defense of Criminal Convictions is a budgetary unit to track the cost to the Department of defending the state in cases in which sentenced offenders challenge their convictions or sentences. Work on ballot measure titles is also billed to this fund. This fund is used to finance staff in both the Trial and Appellate divisions that defend the state in DCC cases. The Subcommittee approved a budget of \$24.6 million General Fund, which is \$3.8 million or 13.5 percent under EBL but \$4.8 million or 24.1 percent over the 2007-09 LAB.

The Subcommittee approved Package 811 Defense of Criminal Convictions Funding, reducing General Fund \$3,848,474. This is a 13.5 percent decrease in funding for this program. The reduction will create delays in the direct appeals and post conviction cases and likely create backlogs, erasing progress made in past biennia. This reduction will require the cooperation of the courts, Public Defense Services Commission and the Department to avoid transferring workload to the courts if the Department is unable to keep pace with the caseload. The Subcommittee directed the Department to report back to the Emergency Board on workload issues in the following Budget Instruction:

The Department is instructed to report back to the Emergency Board before September 1, 2010 on its workload and spending for this program in 2009-11. The report should include discussion regarding measures the agency and its partners have taken to reduce spending, the impact of the reduction on delays, the impact of the reduction on partner workload, and an updated forecast of the program's caseload and workload.

Division of Child Support

The Division of Child Support works to enhance the security and interests of children and promote positive parental involvement by providing child support program services to families under federal and state laws. The Division establishes paternity, enforces and modifies child support obligations, and receives and distributes child support payments from absent parents. The Subcommittee approved a budget of \$146.7 million total funds, \$19.1 million General Fund, and 593.78 FTE. This is a 4.1 percent total funds increase and an 11.9 percent General Fund decrease from the Essential Budget Level. Total funds are \$3.5 million or 2.4 percent over the 2007-09 LAB while General Fund is \$0.2 million or 0.9 percent below LAB.

The Subcommittee approved four packages that make changes in this Division to the 2009-11 Essential Budget Level.

Package 070 Revenue Shortfalls. Two changes in federal requirements reduced revenues to support the program. The first is a change in the calculation of the federal incentive payments estimated to reduce Federal Funds by \$2.5 million. The second change eliminates the Division's authority to conditionally assign certain arrears to the state for collection, which is estimated to reduce Other Funds revenue by \$1 million and Federal Funds by \$1.9 million. The Department asserts that 28 positions (27.95 FTE) are eliminated with this loss of revenue. The impact in this package is \$5,490 General Fund, and reductions of \$974,046 Other Funds, \$4,052,316 Federal Funds, \$467,484 Other Funds Nonlimited, and \$319,326 Federal Funds Nonlimited. Package 451 replaces a portion of these lost funds with General Fund resources and provides funding for the positions.

Package 451 Maintains Program Despite Reduced Fed. Rev. This package replaces some of the lost funds in Package 070 with General Fund and provides funding for the 28 positions (27.95 FTE). The Department will need to find roughly \$800,000 in savings in the program to fully fund the positions. It is expected that they could identify savings of at least that amount through information systems changes and automation processes. In

addition, the agency has applied for grants for this program, which may also generate savings. The impact of this package is \$1,033,111 General Fund, \$3,347,636 Federal Funds, \$210,755 Federal Funds Nonlimited, 28 positions, and 27.95 FTE.

Package 490 Intra-Agency Adj for Roll-up and Admin Pkgs. adjusts limitation for the Division's share of increases to central administration. The package is an increase of \$19,391 General Fund, \$421,887 Other Funds, and \$696,829 Federal Funds. It is decreased from the Governor's recommended level in this and other divisions due to Administration packages being reduced and the updating of the overall costs based on a new federally approved cost allocation plan. Overall, the federal share has been increased and the General Fund share is backfilled with Other Fund resources.

Package 813 Fund Shift reflects the federal stimulus package passed earlier in 2009, which allows states to use incentive payments to match federal funds for the child support program. This particular match was discontinued as part of the Deficit Reduction Act of 2005. With this reinstatement, \$3,626,936 General Fund can be offset in 2009-11 with \$2,696,044 Federal Funds and \$930,892 Federal Funds Nonlimited for a net zero package impact.

Summary of Performance Measure Action

See attached Legislatively Adopted 2009-11 Key Performance Measures form.