

**HB 5038 A BUDGET REPORT and MEASURE SUMMARY**

**Carrier:** Sen. Steiner Hayward

**Joint Committee On Ways and Means**

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**Action Date:** 06/25/19

**Action:** Do pass the A-Eng bill.

**Senate Vote**

**Yeas:** 7 - Beyer, Frederick, Johnson, Manning Jr, Roblan, Steiner Hayward, Wagner

**Abs:** 5 - Baertschiger Jr, Girod, Hansell, Heard, Thomsen

**House Vote**

**Yeas:** 7 - Gomberg, Holvey, McLain, Nosse, Piluso, Rayfield, Stark

**Nays:** 1 - McLane

**Exc:** 1 - Smith G

**Prepared By:** Rhonda Nelson, Department of Administrative Services

**Reviewed By:** Tom MacDonald, Legislative Fiscal Office

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**Department of Administrative Services**

**2019-21**

**Oregon Health Authority**

**2019-21**

**Department of Education**

**2019-21**

**Department of Justice**

**2019-21**

## **Summary of Revenue Changes**

On November 23, 1998, 46 states and the four largest United States tobacco manufacturers, Philip Morris, R. J. Reynolds, Brown & Williamson, and Lorillard, entered into an agreement known as the Master Settlement Agreement (MSA). For release from past and present smoking-related claims by the states and for a continuing release of future smoking-related claims, these four companies, which are collectively known as the Original Participating Manufacturers (OPM), agreed to make annual payments to the states in perpetuity. The MSA requires an escrow agent to distribute the annual payments on or before April 15 of each year. The size of the annual payments is subject to numerous adjustments as outlined in the MSA. The OPMs also agreed to tobacco advertising and marketing restrictions, the disbandment of specific tobacco-related organizations, and efforts to reduce youth smoking, among other provisions.

MSA payments to Oregon are deposited in the Tobacco Settlement Funds Account administered by the Department of Administrative Services (DAS). House Bill 5038 allocates these funds according to the purposes stated in the bill and are based on resources projected to be available for the 2019-21 biennium. As actual amounts vary, the allocations or distributions set forth could also vary.

House Bill 5038 allocates a total of \$132,414,501 from the Tobacco Settlement Funds Account for the following purposes in 2019-21:

- \$30,914,500 to the Oregon Health and Science University Bond Fund to pay debt service and administrative fees on Oregon Opportunity Bonds.
- \$86,282,400 to the Oregon Health Authority for the Oregon Health Plan.
- \$12,101,500 to the Oregon Health Authority for community mental health programs.
- \$3,116,100 to the Department of Education for physical education related grants authorized by ORS 329.501.
- \$1 to the Department of Justice as a placeholder for supplemental enforcement activities.

State law (ORS 293.537) requires DAS to transfer sufficient funds from the Tobacco Settlement Funds Account to the Department of Justice (DOJ) for MSA enforcement activities (ORS 180.400 to 180.455, ORS 323.106, and ORS 323.806). DOJ expends these funds for the enforcement of the Non-Participating Manufacturing (NPM) requirements under the MSA, which includes a DOJ lawyer, paralegal, 2 field inspectors, investigator/auditor, and part of an administrator position. This program certifies tobacco product manufacturers and maintains a directory of all compliant tobacco products that can be sold in Oregon, monitors quarterly escrow payments by NPMs, coordinates with the Department of Revenue on distributor cigarette sales, and performs other compliance duties directed by statute.

DOJ's 2019-21 budget includes approximately \$1.7 million in Other Funds expenditure limitation (SB 5515) for MSA activities, however, for the 2019-21 biennium, DOJ has enough settlement funds carried over from prior biennia to cover its enforcement expenditures and will not need a transfer of funds from the 2019-21 allocation. The measure provides for a \$1 placeholder allocation in the event the agency needs to request

from the Legislature supplemental resources for enforcement activities, which would require an increase in expenditure limitation. The placeholder also signals the intent to include the department's 2021-23 allocation as a specific line item in that biennium's MSA allocation bill.

Apart from DOJ's allocation, the authority for DAS to transfer funds to DOJ under ORS 293.537(2) serves as a safeguard in the event supplemental enforcement funding is urgently needed to protect the state's financial interest in the MSA.

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

House Bill 5038 authorizes the transfer of \$132.4 million in MSA revenue from the Tobacco Settlement Funds Account to support debt service on OHSU bonds, the Oregon Health Plan, community mental health programs, physical education-related grants, and DOJ enforcement activities. No expenditure limitation is established by this bill. The expenditure limitation for MSA revenues allocated in the bill are contained in the identified agency budgets and expended as Other Funds.