

## Analysis

### Item 34: Department of State Police

#### 2018 Fire Season Expenses

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**Analyst:** Julie Neburka

**Request:** Allocate \$11,525,082 from the General Fund and increase the Other Funds expenditure limitation by \$11,000,000 to pay extraordinary costs of the 2017-19 biennium's wildfire seasons.

**Analysis:** The escalating cost of responding to wildfires in Oregon has strained resources throughout state government. As the budgetary "home" of the Oregon State Fire Marshal (OSFM), the Oregon State Police (OSP) budget bears the cost of responding when the Governor invokes the Emergency Conflagration Act in response to fires threatening life, safety, and property. As of the date of its Emergency Board request, OSP has incurred unbudgeted costs of \$13 million for coordinating responses to nine conflagrations declared during the 2018 fire season. This amount, in addition to the \$16.8 million incurred during the 2017 fire season, has created both a budget shortfall and a cash flow problem for the agency in the current biennium.

OSFM is responsible for mobilizing firefighting resources throughout the state when local fire agencies are not able to protect structures from fire on their own. During a mobilization, firefighters and equipment from other fire protection agencies in the state are "loaned" to the local agency for the duration of the incident. OSFM coordinates such mobilizations. The Emergency Conflagration Act (ORS 476.510 - 476.610) governs mobilizations, and requires that "...the state shall reimburse the political subdivision supplying such aid..." and shall "...draw warrants on the State Treasurer for the payment of all duly approved claims..." As a practical matter, the State Police budget reimburses local agencies for mobilizations, and in turn OSP seeks reimbursement from the federal government for eligible expenses.

Wildfires that threaten populated areas are typically eligible for reimbursement through the Federal Emergency Management Agency's (FEMA) Fire Management Assistance Grant (FMAG) Program. This program will reimburse states for up to 75% of the eligible costs incurred to fight large, destructive wildfires. Similarly, the federal Bureau of Indian Affairs (BIA) will reimburse states 100% of the cost of fighting wildfires on tribal lands. To be reimbursable under the FMAG program, FEMA evaluates a fire's potential for destruction against four criteria:

- Threat to lives and improved property, including threats to critical infrastructure and watershed areas
- Availability of state and local firefighting resources
- High fire danger conditions
- Potential major economic impact

Wildfires that do not meet these criteria are not eligible for reimbursement through the FMAG Program.

Federal grant guidelines and generally accepted accounting principles require that federal reimbursement revenues be recorded when the reimbursable expenditures are incurred. This accounting treatment can present cash flow problems if reimbursements are delayed and other

resources are not available to cover expenses in the near term. Over the past several biennia, the time it has taken to request and receive FMAG reimbursements from FEMA has slowed, from an average of 14 months to the current average of 30 months. This timing delay creates, in essence, a state “loan” to the federal government. OSP currently carries \$23 million in FEMA receivables from 2015, 2017, and 2018 fires and \$1.5 million in BIA receivables from 2017 fires on its books, having borrowed from its own operating budget to pay the associated expenses up front.

**1) 2018 WILDFIRE COSTS TO DATE**

During the 2018 fire season, currently underway, the Governor has declared ten conflagrations and the OSFM has incurred costs (as of August 27, 2018) of \$13 million to respond. Seven of the fires are eligible for FMAG reimbursement; costs incurred for the other three represent unbudgeted expenses for the state. The final cost of the 2018 fire season will not be known until all invoices are processed, which can take up to five months after a conflagration has ended. Note that the Hugo Fire conflagration was declared after the agency made its request, so is not shown in the table below.

<b>2018 Fire Name</b>	<b>Estimated Total Fire Cost</b>	<b>Estimated FMAG Reimbursement @ 75% of total</b>	<b>Estimated state obligation</b>
Graham	517,658	388,244	129,415
Substation	1,646,358	1,234,769	411,590
Garner Complex	3,530,145	2,647,609	882,536
Taylor	2,514,414	1,885,811	628,604
South Valley	729,559	547,169	182,390
Miles*	1,749,213	0	1,749,213
Memaloose #2*	284,603	0	284,603
Stubblefield*	1,463,593	0	1,463,593
Ramsey Canyon	534,806	401,105	133,702
<b>Total</b>	<b>12,970,349</b>	<b>7,104,705</b>	<b>5,865,644</b>
<i>*fire not eligible for reimbursement under FMAG program</i>			

In keeping with past practice, and noting that the 2018 fire season has not yet ended, the Legislative Fiscal Office recommends allocating the state’s current obligation of \$5,865,644 from the Emergency Fund to the Oregon State Police and increasing the agency’s Other Funds expenditure limitation by \$7,104,705 to account for reimbursements from the FMAG program for the 2018 fires.

**2) 2017-19 CASH FLOW**

Taken together, response to the fires that have occurred in 2017 and as of August 2018 in the current biennium has cost the State Fire Marshal \$29,826,171, as shown in the following table. The agency has paid these invoices by using the \$67.8 million General Fund appropriated for administrative services, agency support, criminal justice information services, and the office of the State Fire Marshal by Chapter 581 (1)(4), Oregon Laws (2017). Normal program spending in the four divisions sharing this appropriation, plus the extraordinary expenditures for wildfires to date will cause this appropriation to run out of General Fund in November 2018. Other Funds resources will not be adequate to continue operations for the remainder of the biennium.

Year	2018 Fire Name	Estimated Total Fire Cost	Estimated federal reimbursement	Estimated state obligation
2017	Nena Springs**	1,547,279	1,547,279	0
2017	Milli	1,757,769	1,318,327	439,442
2017	Chetco Bar	7,001,537	5,251,153	1,750,384
2017	Eagle Creek	6,549,237	4,911,928	1,637,309
<b>Subtotal: 2017</b>		<b>16,855,822</b>	<b>13,028,686</b>	<b>3,827,136</b>
2018	Graham	517,658	388,244	129,415
2018	Substation	1,646,358	1,234,769	411,590
2018	Garner Complex	3,530,145	2,647,609	882,536
2018	Taylor	2,514,414	1,885,811	628,604
2018	South Valley	729,559	547,169	182,390
2018	Miles*	1,749,213	0	1,749,213
2018	Memaloose #2*	284,603	0	284,603
2018	Stubblefield*	1,463,593	0	1,463,593
2018	Ramsey Canyon	534,806	401,105	133,702
<b>Subtotal: 2018</b>		<b>12,970,349</b>	<b>7,104,705</b>	<b>5,865,644</b>
<b>Total: 2017-19 biennium</b>		<b>29,826,171</b>	<b>20,133,391</b>	<b>9,692,780</b>
*fire not eligible for reimbursement under FMAG program				
**fire reimburseable from the Bureau of Indian Affairs (100%)				

The Office of the State Fire Marshal itself is a fee-supported program and budgets about \$500,000 per biennium from its Fire Insurance Premium Tax revenues for its own costs associated with conflagrations. This amount was spent during the 2017 fire season. HB 5201 (2018) provided \$3,165,945 General Fund and \$12,770,000 Other Funds expenditure limitation to OSFM, and \$90,000 General Fund to OSP's Patrol Division, for \$16.6 million of 2017 fire season costs as of October 2017. The agency has confirmed that reimbursement from the Bureau of Indian Affairs for the 2017 Nena Springs fire (\$1.5 million) will arrive in October 2018, but neither the remaining \$11,270,000 in outstanding 2017 federal reimbursements from FEMA nor the 2018 reimbursements are expected to arrive in the current biennium.

The Legislative Fiscal Office notes that the agency has limited resources with which to manage large and/or unanticipated fluctuations in its cash flow. Its General Fund budget is legally appropriated in four separate appropriations, limiting its ability to manage resources between programs. The Oregon State Police has a large number of distinct lines of business, many of which are fee-supported or use revenues that are legally restricted and not able to be "pooled" or loaned temporarily to other agency programs. Various other means of addressing its cash flow shortfall - including the use of a Treasury loan or line of credit, deferring certain expenditures until later in the biennium, or posting expenditures to other agency General Fund appropriations - would, at best, shift the shortfall further out in the biennium; at worst, they would cause budgetary overspending in additional OSP divisions and violate generally accepted accounting principles.

Given the Emergency Board's limited resources, the likelihood of additional expenses accruing to the State Fire Marshal before the end of this year's fire season, and the understanding that the Oregon Department of Forestry has not yet requested funding for its fire season expenses for 2018, the Legislative Fiscal Office recommends allocating \$4 million from the Emergency Fund to the Oregon

State Police to meet cash flow needs through January 2019, with the understanding that wildfire reimbursements in the same amount would revert to the General Fund upon receipt.

The agency is expected to return to the Emergency Board in December 2018 to report on the need for additional resources for operations through the beginning of the 2019 legislative session, at which point the Legislative Assembly can both address resource needs through the end of the biennium and approve structural changes to OSP's budget that will enable the agency to more easily manage through its future cash flow disruptions, if any. Additionally, cash accounting limitations created by the statutory State Fire Marshal Fund (ORS 476.055) can be analyzed and resolved during the upcoming legislative session, and any remaining unfunded "gap" in the State Fire Marshal's 2018 wildfire expenses (see below), can be discussed and resolved.

### 3) 2017-19 BIENNIUM BUDGET SHORTFALL

In addition to the \$5.8 million unreimbursable portion of its 2018 fire season expenses, the agency has requested General Fund resources for the "gap" between the estimated federal reimbursement rate (75% of eligible expenses) and its actual reimbursements, which can be less than 75% if some expenditures are disallowed by FEMA. If funding for this gap is not identified, the agency must absorb the expenditures within its existing budget. As the 2017 fire season has not yet been reimbursed and the 2018 fire season is not yet over, the size of the gap for the current biennium is not yet known but can reasonably be estimated at more than \$1 million. The agency reports having absorbed more than \$2 million of unreimbursed fire costs in the 2013-15 and 2015-17 biennia through delaying the purchase of emergency response vehicles and equipment, draining Other Funds balances, and holding positions vacant.

Whether or not state agencies should budget or otherwise be held responsible for wildfire costs is a budget and policy question and one that the Legislature may consider during its upcoming legislative session. The Legislative Fiscal Office recommends that funding of the "gap" amount, when finalized, be considered for a current-biennium budget bill during the 2019 legislative session. The agency has included a policy option package to address fire mobilization costs in its 2019-21 request budget.

#### **Legislative Fiscal Office Recommendation:**

- 1) Allocate \$5,865,644 from the Emergency Fund and increase the Other Funds expenditure limitation by \$7,104,707 to account for estimated costs that will be incurred by the Department of State Police during the 2018 wildfire season.
- 2) Allocate \$4,000,000 from the Emergency Fund to provide operating cash to the agency through January 2019, with the understanding that wildfire reimbursements in the same amount would revert to the General Fund upon receipt. The agency is directed to return to the Emergency Board in December 2018 to report on its remaining 2018 fire season expenses and the status of its federal receivables, and to request additional resources, if needed, for cash management purposes through March 2019.
- 3) Address the remaining unfunded wildfire costs assumed by the Department of State Police in the 2017-19 biennium in a budget bill during the 2019 legislative session.

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**Request:** Allocate \$11,525,082 from the State Emergency Fund and increase Other Funds expenditure limitation by \$11,000,000 for extraordinary costs associated with the 2017 and 2018 fire seasons.

**Recommendation:** Approve the request as modified.

- Allocate \$5,865,644 from the State Emergency Fund for the 2018 Fire Season based on the information at the time of this request. This funding is to support Oregon State Fire Marshal (OSFM) non-reimbursable expenditures for 2018 fires to date.
- Allocate \$5,000,000 from the State Emergency Fund to assist the OSFM's cash flow problem directly related to the 2018 Fire Season expenditures.
- Increase OSFM Other Funds expenditure limitation by \$7,104,705 to account for estimated federal reimbursements for the 2018 fire costs.
- Any FEMA reimbursements the Department receives from the 2015, 2017 and 2018 fire seasons, during the 2017-19 biennium, not needed to reimburse local fire agencies will be unscheduled by the Department of Administration (DAS). Any unobligated funds should be transferred to the General Fund at the end of biennium.

**Discussion:** The Office of the State Fire Marshal (OSFM) within the Oregon State Police is responsible for mobilizing, managing, and directing the Oregon fire services during major emergency operations through the state's Conflagration Act. The Conflagration Act, for the purposes of this request, was used in response to fires threatening lives and structures. At the time of this request, there were nine Conflagrations in 2018 (Grahams, Substation, Garner Complex, Taylor, South Valley, Sugar Pine/Miles, Memaloose 2, Stubblefield and Ramsey Cannon Fires). The total estimated 2018 fire season costs listed in the table on page 2 is an incomplete estimate. At the time of this request, the Ramsey Canyon fire was still active and another Conflagration was called for the Hugo fire. The Department is not able to estimate fire costs until after a demobilization has occurred.

Under the Conflagration Act for Oregon, local fire agencies have 60-days after demobilization to submit invoices to OSFM for costs incurred during their response. OSFM is expected to reimburse local fire agencies within 90-days of receiving the invoices.

States may request federal assistance from the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) through the Fire Management Assistance Grant (FMAG) program. Not all Conflagrations qualify for federal assistance. During the 2017 fire season, three of four Conflagrations were determined to be FEMA/FMAG fires. As of this request for the 2018 Fire Season, six of nine Conflagrations qualified as FEMA/FMAG fires. OSFM submits their FEMA/FMAG claims to the Oregon Department of Forestry (ODF), the state's FEMA recognized agency for submitting claims.

OSFM submitted their 2017 FEMA eligible fires to ODF. By the end of this month, the Department will start submitting individual fire claims to ODF for the 2018 fire season. FEMA reimbursements for the 2017 and 2018 fire seasons are not expected to be realized within the current biennium. These reimbursements may be realized sometime during the 2019-21

biennium. On average, it has taken more than two years for agencies to see FEMA/FMAG reimbursements.

The table below outlines the 2017 and 2018 Fires Season for OSFM, as of August 27, 2018.

Fire Season (1)	Actual costs Total	Estimated Fire costs (2)	Estimated FEMA Reimbursable (3)	Estimated cost Non-FEMA Fires (4)	E-Board Funded @ 2018 Session (5)	Estimated General Fund GAP (6)
2017	\$16,848,822		\$13,023,437	\$3,825,385	\$3,255,945	\$659,440
2018		\$12,970,349	\$7,104,705	\$5,865,644		\$5,865,644
Analyst Recommendation for Funding the 2018 Fire Season						\$6,865,644
<p>(1) A fire season, for this request, is based on the calendar year.</p> <p>(2) These are the estimated costs for all fires, not just the FEMA/FMAG fires as of 8/23/2018.</p> <p>(3) FEMA will pay 75 percent of eligible costs. This column represents the 75 percent estimate of expenditures submitted for FEMA reimbursements.</p> <p>(4) Estimated fire costs the state is responsible for paying.</p> <p>(5) The Patrol Division received \$90,000 of the \$3,255,945 for costs incurred by the State Troopers for evacuations and traffic control, during the Chetco Bar fire.</p> <p>(6) Estimated General Funds gap at the time of this E-Board request related to SFM only.</p>						

The Department is expecting to receive funding for one 2017 fire season fire, Nena Springs. This fire was on native land and is reimbursed 100 percent by the Bureau of Indian Affairs (BIA). The Department recently indicated they expect to see the reimbursement for this fire by the end of this calendar year.

Although OSFM shares an appropriation with three other divisions and with back-to-back fire seasons within the same biennium, they are projecting a negative operating balance as of November 2018. As illustrated in the table above, OSFM has paid out \$16,848,822 total funds for the 2017 Fire Season. During the 2018 Session, the Legislature provided \$3,165,945 General Fund to the Department for the 2017 fire season. This funding covers 25 percent of the total projected costs of the 2017 FEMA/FMAG claims at that time. The Department has since trued-up their actual costs and if FEMA reimburses at the 75 percent eligible rate of actual cost, there is still an unfunded projected balance of \$659,440. The final cost of FEMA fires will not be known until FEMA makes a final determination and the Department receives the reimbursement.

To date, the 2018 fire season has cost the Department \$12,970,349 total funds. This figure will grow since the Ramsey Canyon fire had not been demobilized at the time of this request and the Hugo fire is still active. The table above shows the projected eligible reimbursement to be \$7,104,705 from FEMA and \$5,685,644 unfunded being a combination of the 25 percent FEMA match and non-FEMA fires.

The recommendation is attempting to address three issues related to the 2018 Fire Season as follows:

- The 25 percent of the unfunded portion for the FEMA/FMAG estimated costs as of the August 23, 2018 for the 2018 Fire Season;
- Addressing the operating cash flow shortfall OSFM will need to sustain operations during this 2018 Fire Season; and,
- Other Funds expenditure limitation of \$7,104,705 allow accounting for the estimated federal portion of the 2018 Conflagrations.

The Department should coordinate with the Oregon Department of Forestry in the report of the costs of the 2018 fire season planned for the December meeting of the Emergency Board.

Additionally, the Department may return early in the 2019 Legislative Session to request additional funding to support actual costs not reimbursable by FEMA for the 2017 and 2018 fire seasons. If the Department returns to the Legislature during the early portion of the 2019 Session, they are to present a complete status report outlining all 2018 fire season costs and any realized reimbursements from the 2015, 2017 and 2018 fire seasons.

**Reference:** Allocation of \$10,865,644, from the State Emergency Fund to supplement the appropriation made by chapter 581, section 1(4), Oregon Laws 2017, for the Oregon State Police State Fire Marshal for the 2017-19 biennium.

Increase Other Funds expenditure limitation established by chapter 581, section 2(4), Oregon Laws 2017, for the Oregon State Police State Fire Marshal, by \$7,104,705 for the 2017-19 biennium.



**August 27, 2018**

The Honorable Senator Peter Courtney, Co-Chair  
The Honorable Representative Tina Kotek, Co-Chair  
State Emergency Board  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301-4048

**RE: DEPARTMENT OF STATE POLICE – 2017-19 FIRE SEASONS REQUEST**

Dear Co-Chairpersons:

**Nature of the Request**

The Department of State Police (the Agency) respectfully requests permission to appear before the September 2018 Emergency Board for the purpose of:

- Requesting \$11.0 million Other Funds limitation and \$11.5 million General Fund for the extraordinary costs associated with the 2017-19 biennium fire seasons.

**Agency Action**

The Office of State Fire Marshal (OSFM), a Bureau within the Department of State Police, is responsible for mobilizing, managing and directing the Oregon fire service during major emergency operations through the Conflagration Act. Under ORS 476.520 – 476.610, the State Fire Marshal is required to prepare plans to carry out statutory provisions and provide advice and counsel to the Governor for the most practical use of fire-fighting resources. The Conflagration Act is used in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources. The Conflagration Act is mainly used when structures are threatened as the resources that the OSFM mobilizes are structural firefighting resources. So far in 2018, Governor Brown has invoked the Conflagration Act nine times and she has approved one mutual aid request from the State of California to send resources under the Emergency Management Assistance Compact (EMAC). On each of these incidents, local fire resources have been mobilized under the direction of the OSFM to protect lives and structures. So far in 2018, Oregon mobilizations have occurred on the Graham Fire, Substation Fire, Garner Complex Fire, Taylor Fire, South Valley Fire, Sugar Pine/ Miles Fire, Memaloose 2 Fire, Stubblefield Fire, and the Ramsey Canyon Fire. The number of uncontained large fires has created a strain on local resources that has been compounded with an extremely active fire season throughout much of the country, which has stretched resources from thin to nonexistent.

Under the Conflagration Act, local fire agencies have 60 days to submit invoices to the OSFM for payment of costs incurred during their response to a Conflagration. Following the submission of the invoices, the OSFM is required to reimburse local fire agencies within 90 days of receiving the invoice.

States may *request* Federal assistance from the U.S. Department of Homeland Security / Federal Emergency Management Agency (FEMA) through the Fire Management Assistance Grant (FMAG) Program. The Governor of a State or the Governor's Authorized Representative may submit a request for federal funding assistance to FEMA for an FMAG declaration. In the State of Oregon, the Oregon Department of Forestry (ODF) is considered to be the Governor's Authorized Representative. The Agency is considered to be a "sub-recipient" of ODF under the FMAG. FEMA will pay up to 75% of *eligible* fire costs under the FMAG.

**Not all State declared Conflagrations are eligible for federal funding through the FMAG Program.**

***2018 Fire Season Agency Estimates, through August 24, 2018***

For a number of communities throughout Oregon, 2018 will be remembered as a repeat of the challenging and devastating 2017 fire season. For the past two years, Oregon has experienced severe fires that have threatened lives, homes, air and water quality, agricultural wheat crops, habitat, recreation, scenic value, historic sites, and standing timber. Citizens have been imprisoned in their homes from health concerns as smoke has choked the region, looming in the air for weeks at a time. Fires have closed some roads and highways, and a considerable number of people have been evacuated from their homes.

The Agency also incurred unanticipated costs related to law enforcement duties when we assisted and augmented duties for our local law enforcement partners. The Agency has conducted evacuations of citizens from their homes, patrolled the affected communities to ensure law and order was maintained and has worked with the Oregon Department of Transportation and the Oregon Military Department to close roads and highways in the impacted communities. The majority of the troopers that responded to the impacted communities were from Area Commands located in other parts of the state. At this time, no expenses related to costs incurred during the 2018 fire season by the Patrol Division or the OSFM members are included in this request. The Agency is still working through the 2018 fire season and information on final estimates will be finalized at the close of the fire season.

As of August 24, 2018, total fire costs related to the 2018 Conflagration fires are estimated at approximately \$13.0 million.

***2017 Fire Season Agency Actuals, June 2017 through December 31, 2017***

In 2017, Governor Brown invoked the Conflagration Act three times and she had approved two mutual aid requests from the State of California to send resources under the EMAC and one mobilization to send resources to a fire on Tribal land. The three Conflagration fires were declared to be eligible for federal reimbursement under the FMAG through FEMA, while the mobilization fire was declared to be eligible for 100% reimbursement by the Bureau of Indian Affairs (BIA), since it was located on Tribal lands. BIA *eligible costs* are reimbursed at 100%, while FEMA/FMAG *eligible costs* are reimbursed up to 75%. If a fire is not declared to be either FEMA/FMAG or BIA eligible, then none of the costs are federally reimbursed and are 100% state obligations.

The Agency's 2017 fire season costs totaled \$16.8 million, compared to our five year average of \$3.2 million. We estimated that up to \$20.1 million of the \$29.8 million total 2017-19 fire costs may end up being reimbursed by either the FEMA or BIA. The remaining \$9.7 million in 2017-19 fire costs are 100% state obligations.

In 2017, the OSFM paid expenses of \$16.8 million on the 2017 fire season.

Information for both the 2017 and 2018 fire seasons, as of August 24, 2018, are detailed below.

2017 Fire Name	Actual Fire Costs	Estimated Reimbursement	Estimated Unfunded Liability	Reimbursement Source
Nena Springs	\$1,547,279	\$1,547,279	\$0	BIA (100%)
Milli Fire	\$1,757,769	\$1,318,327	\$439,442	FMAG (75%)
Chetco Bar Fire	\$7,001,537*	\$5,251,153	\$1,750,384	FMAG (75%)
Eagle Creek Fire	\$6,542,237	\$4,906,678	\$1,635,559	FMAG (75%)
<b>Totals</b>	<b>\$16,848,822</b>	<b>\$13,023,437</b>	<b>\$3,825,385</b>	
<b>2018 Session Revenue</b>			<b>\$3,165,945</b>	
<b>2017 Unfunded GF Liability</b>			<b>\$659,440</b>	

2018 Fire Name	Estimated Fire Costs (as of 8/24/18)	Estimated Reimbursement	Estimated Unfunded Liability	Reimbursement Source
Graham Fire	\$517,658	\$388,244	\$129,414	FMAG (75%)
Substation Fire	\$1,646,358	\$1,234,769	\$411,589	FMAG (75%)
Garner Complex Fires	\$3,530,145	\$2,647,609	\$882,536	FMAG (75%)
Taylor Fire	\$2,514,414	\$1,885,811	\$628,603	FMAG (75%)
South Valley Fire	\$729,559	\$547,169	\$182,390	FMAG (75%)
Miles Fire	\$1,749,213	\$0	\$1,749,213	N/A
Memaloose #2	\$284,603	\$0	\$284,603	N/A
Stubblefield Fire	\$1,463,593	\$0	\$1,463,593	N/A
*Ramsey Canyon Fire	\$534,806	\$401,105	\$133,701	FMAG (75%)
<b>Totals</b>	<b>\$12,970,349</b>	<b>\$7,104,707</b>	<b>\$5,865,642</b>	
<b>2017 Unfunded GF Liability</b>			<b>\$659,440</b>	
<b>2018 Unfunded GF Liability</b>			<b>\$5,865,642</b>	
<b>Total Unfunded GF Liability</b>			<b>\$6,525,082</b>	

\*As of August 27, 2018, the Ramsey Canyon Fire is still an active conflagration. The Agency will finalize estimates after demobilization occurs.

### ***2017-19 Biennial Budget Impact***

The Agency faces two separate funding issues relating to fire costs in the 2017-19 biennium. One is a ***budgetary issue***, and the other is a ***cash flow issue***.

#### **Budgetary Issue**

The ***budgetary issue*** relates to the “unfunded liability” associated with costs in the 2017 and 2018 fire seasons that aren’t federally reimbursable and will remain a State of Oregon cost. The Agency is currently estimating the “unfunded liability” on FMAG declared fires for the 2017 fire season to be \$3.8 million, and \$5.9 million for the 2018 fire season, for a total of \$9.7 million. During the February 2018 Legislative Session, the Agency was appropriated \$3.2 million, leaving \$6.5 million of the estimated “unfunded liability” remaining.

The Agency’s Legislative Adopted Budget did not anticipate a fire season such as what occurred in 2017, and what is occurring in 2018, and as a result is projecting to exceed its Other Fund expenditure limitation, diminish its cash reserves, and deplete General Fund in an effort to cover the expenses incurred during the 2017, and to date in the 2018 fire season.

An initial Emergency Board request was made to the November 2017 Interim Joint Committee on Ways and Means requesting funding to mitigate the extraordinary estimated costs associated with the 2017 fire season. The Legislature appropriated \$3,165,943 General Fund to the Agency for non-reimbursable fire expenses and \$90,000 General Fund to cover 25% of extraordinary patrol related expenses in the February 2018 Session. These figures were based on the assumption that federal reimbursements would occur from FEMA at the 75% “benchmark” and BIA at 100% of total eligible costs.

The Agency anticipates that none of the 2017 or 2018 fire season expenses will be received by the Agency prior to the close of the 2017-19 biennium and the gap between the 75% FEMA “benchmark” on eligible costs and the reality of what the actual reimbursement rate that FEMA will provide to the Agency will be substantially different. The Agency and specifically the OSFM will not be able to absorb the total amount of the fire season expenses or the ‘gap’ between the 75% FEMA “benchmark” and the actual rate of reimbursement within its 2017-19 budget. The Agency’s Legislative Approved Budget for OSFM is comprised of 1% GF and 98% Other Fund revenue received from the Fire Insurance Premium Tax (FIPT) and program related fee collection, and 1% federal grant revenue.

Since fire costs such as those outlined in the preceding table are not included in the Agency’s 2017-19 Legislatively Approved Budget, the Agency is submitting a request to the Legislature of \$6.5 million General Fund for the estimated state portion, or “unfunded liability” of the 2017 and 2018 fire seasons to ensure local fire agencies will be reimbursed in a timely fashion, and agency operations can continue as anticipated through the end of the biennium.

### **Cash Flow Issue**

The ***cash flow issue*** relates to a phenomenon created by the extraordinary costs associated with the 2017 and 2018 fire seasons, coupled with the delay in the Agency receiving federal reimbursement from the FEMA on fire costs that are declared to be eligible for federal reimbursement under the FMAG. Due to the magnitude of other natural disasters across the nation, including hurricanes, and other massive fires, it has taken up to 36 months for the Agency to receive reimbursements from FEMA under this grant.

Prior to 2014, FEMA reimbursements had been received within a year to eighteen months from the time of the fire season. However, during the 2015 fire season, five Conflagrations were determined to be eligible for federal reimbursement under FMAG through FEMA and the Agency has only received reimbursement for one out of the five fires as of August 2018. One other fire that occurred in 2015 was a BIA eligible fire and the Agency has already been reimbursed for that fire at 100% cost recovery. Based on this information, the agency is estimating FEMA reimbursements will continue to take a minimum of three years from the date of the fire for the Agency to receive reimbursement on eligible costs.

The Agency is currently waiting for total FEMA reimbursements estimated at \$23.1 million (using the 75% “benchmark”), which is comprised of: \$4.5 million for the 2015 fire season, \$11.5 million for the 2017 fire season, and an estimated \$7.1 million for the 2018 fire season, as of August 24, 2018.

The Agency is attempting to mitigate the ***cash flow issue*** created by holding \$23.1 million in estimated federal receivables by exploring all available options to meet its cash flow needs until the anticipated federal reimbursements are received, including the utilization of existing cash reserves and applying for a short term line of credit with the Oregon State Treasury.

However, the Agency does not have enough cash reserves or the assurance of timely reimbursement from federal sources within the 2017-19 biennium to cover the unbudgeted cost of the 2015, 2017 and 2018 fire seasons and the \$23.1 million estimated federal receivable. It is anticipated the \$4.5 million of outstanding federal reimbursements for the 2015 fire season will be realized within the 2017-19 biennium, but anticipate the \$18.6 million of estimated federal reimbursements for the 2017 and 2018 fire seasons will not be realized until after the 2017-19 biennium ends. The Agency is requesting \$5 million General Fund from the Legislature to mitigate the estimated ***cash flow issue*** through the end of the 2017-19 biennium. At the end of calendar year 2018, the Agency will re-evaluate the situation to determine if any remaining budgetary needs exist in order to close the 2017-19 biennium. The Agency anticipates that if any General Fund appropriation is provided to the Agency for purposes of covering the outstanding federal receivables, it will be reduced from the Agency’s General Fund after payments from FEMA are received.

The Agency will continue to attempt to mitigate the shortfall, but is extremely concerned about cash flow problems within the OSFM due to outstanding receivables from the federal government.

### Summary

2017 and 2018 have been challenging fire seasons. Oregon saw a large amount of uncontained fire on the landscape which required response from over 80 fire service agencies and our partners from other states in the nation. The resource draw down on local fire agencies has been extensive, resulting in increased risk of future events not having adequate reserves.

Although an overwhelming majority of structures and lives were saved in 2017 and so far in 2018, which has protected an estimated 7600 homes and prevented billions in potential losses (approximately \$3.8 billion in residences alone), several structures were consumed by conflagration fires and one person has died.

In 2018, the Agency has already responded to nine conflagration fires and one emergency management assistance compact request from California. It is certain there would have been considerably more loss without Governor Brown's timely invocation of the Conflagration Act and the Agency's coordinated mobilization of resources. The severity of the 2017 and 2018 fire seasons has identified where funding gaps exist for the Agency.

The Agency is requesting \$6.5 million in General Fund to mitigate the estimated "unfunded state liability" or *budgetary issue*, and \$5.0 million in General Fund to mitigate the *cash flow issue* created by the re-payment of estimated federal reimbursements. The combined General Fund request is \$11.5 million.

### Action Requested

The Department of State Police respectfully requests the 2018 September Emergency Board:

- Increase Other Fund expenditure limitation by \$11.0 million.
- Increase General Fund by \$11.5 million.

### Legislation Affected

#### **Chapter 581, Oregon Law 2017**

- Section 1(4) Administrative Services, Agency Support, Criminal Justice Information Services, and State Fire Marshal
- Section 2(4) Administrative Services, Agency Support, Criminal Justice Information Services, and State Fire Marshal

Thank you for your time and consideration.

Sincerely,



Travis Hampton  
Superintendent  
Oregon State Police

Cc: Heidi Moawad, Governor's Office  
Michelle Lisper, Department of Administrative Services - Chief Financial Office  
Julie Neburka, Legislative Fiscal Office