



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

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February 28, 2018

TO: Honorable Christine Rolfes, Chair
Honorable John Braun, Ranking Member
Senate Ways & Means Committee

Honorable Timm Ormsby, Chair
Honorable Bruce Chandler, Ranking Member
House Appropriations Committee

FROM: David Schumacher
Director 

SUBJECT: CONCERNS ON SENATE/HOUSE SUPPLEMENTAL OPERATING BUDGETS

Thank you for your efforts to pass 2018 supplemental operating budgets in the House and Senate. As the governor has stated, our core duty this year is to enact a budget that completes the state's recent efforts to meet our constitutional obligation to fully fund basic education. Both budgets accomplish this fundamental goal. Though there are differences between the House and Senate approaches, both budgets also improve funding for services to protect vulnerable Washingtonians and make important adjustments and corrections to the underlying biennial budget.

I am writing to share comments and concerns with the budgets for your consideration as you continue working toward agreement on a final budget in the remaining days of session. Our most pressing concerns are outlined below. Attachment A contains additional comments, concerns and requests for your consideration. Some of these we have already brought to the attention of House or Senate staff. We are happy to provide more detail on any of these items. Suggestions for additional, more purely technical changes have been communicated directly to your staff.

Governor Inslee and I look forward to continuing discussions with you on these issues as you work to complete a final supplemental budget.

Mental Health Services

Both House and Senate budgets reflect continued commitment toward systemic improvements to transform the mental health system into a 21st century model of care that meets growing demand. Your efforts are appreciated and applauded as the state continues its work in this critical area. There remain, however, important mental health funding needs that are not addressed in the House and Senate budgets. We strongly encourage your further consideration of additional investments in these areas:

- a) *State hospital compliance* – Current efforts to implement the systems improvement agreement with the Centers for Medicare and Medicaid Services are not fully funded in either budget for state fiscal year 2018. These efforts are necessary to address medical care and health and safety conditions at Western State Hospital. Significant federal funding remains at risk if SIA-mandated improvements are not fully funded and implemented.
- b) *Forensic mental health services* – The Department of Social and Health Services will not expand the Yakima competency restoration program; however, an additional \$1.3 million GF-State is necessary in both budgets to fully fund and maintain the current program.



- c) *Staffing model and fiscal accountability* – The House budget directs the department to track state hospital staffing expenditures, including the use of overtime and contracted locums, to allotments and report monthly to the Office of Financial Management. The Senate budget directs the department to develop a budget structure that allows for transparency in the management and monitoring of expenditures, as well as related performance outcomes, and directs the department to develop and make progress toward implementing an acuity-based staffing model among other requirements. These requirements place an administrative burden on the department that are not funded. Please consider funding \$485,000 GF-State for five staff necessary to effectively support these requirements.

Behavioral health integration. Integration of community mental health, substance use disorder, and physical health programs requires state agencies to update information technology systems, review and modify rules and procedures, and transition staff. These efforts are necessary to support full integration requirements by 2020. We ask that the final budget fully fund behavioral health integration at \$3.6 million GF-S for the Health Care Authority and \$1 million GF-S for the Department of Health.

K-12 Education

Again, both budgets finalize the compensation funding requirements of the Supreme Court's latest ruling in the McCleary case. Enactment of Substitute House Bill 2242 last session, along with legislation under consideration this session, has resulted in a number of significant changes to school funding in the supplemental budgets. We request your further consideration of the following items:

Student assessment adjustment. The state assessment proviso was reduced by \$15.2 million this biennium, beginning in FY 2018, without a policy change to reduce costs. OSPI has contracts in place for mandatory state and federal student testing. We are concerned that the agency will not be able to absorb this cut.

National Board Certified Teachers (NBCT) bonus. The NBCT bonus payment to districts occurs in August of each school year. The budget bills update appropriations in this program to reflect increases in the number of teachers receiving bonus awards. However, neither budget updates the 2018-19 school year individual bonus amount to reflect changes in the implicit price deflator. Funding for this increase will occur in FY 2020 and is assumed in the four-year outlook. Without updating the individual bonus amount in the final budget, OSPI does not have a mechanism to send out the correct bonus funding.

Professional learning for science teachers. The governor proposed \$6 million per year for professional learning for science teachers in one grade level in each elementary, middle, and high school. The Senate budget provides funding at 50 percent of the proposed level, but maintains the mandate that schools send teachers to this training. The impact could be compounded because E2SSB 6362 delays state funding for professional learning generally. The House budget does not include funding for this initiative. Students will begin taking science assessments this spring. Teachers need to be adequately prepared to engage students in science lessons. This training is a high priority for the governor and we respectfully request full funding of his request.

Special education safety net. The fiscal year 2019 safety net payment occurs in August 2018 for the 2017-18 school year. The Senate budget cuts \$10 million per year beginning with the current school year. Without a policy change to drive the savings, OSPI cannot reject safety net claims solely based on a lack of state funding. The ongoing savings is not likely to materialize. The safety net threshold is calculated as 2.7 times the average per pupil expenditures (APPE) across all students, not just students in special education. Therefore, the formula for the safety net will not respond to changes in the special education basic education allocation.

Health and Human Services

Department of Social and Health Services

RHC Medicaid compliance. The governor proposed an increase of 195 staff and \$9.5 million GF-State to comply with federal requirements for active treatment and health and safety at intermediate care facilities. While both budgets fully fund the first year of the governor's budget, both budgets fall short of needed funding levels in ensuing years. We ask that the final budget include full funding of 195 staff and \$7.2 million GF-State in, at least, the second year of the current biennium. Anything short of full funding will put the department at risk of meeting federal requirements.

Department of Corrections

Sentencing audit solution. Additional funding of \$1.1 million is requested above the Senate budget to develop, implement and maintain a system to audit sentencing calculations related to prison entries and programming. The House budget includes this funding.

Enterprise records staffing. The governor proposed an increase of 12 staff for the department to ensure that offenders are confined and released as ordered by the court, to screen offenders for supervision, to ensure that offenders are supervised for the correction period of jurisdiction, and to train staff on offender and agency records management. We encourage both chambers to fully fund this request.

Prison caseload healthcare treatment services. Medically necessary and direct day-to-day health care is underfunded by \$7.7 million GF-State in both the Senate and House budgets. Not providing funding to pay for the cost of mandated health care forces the department to withhold other investments, such as equipment and hiring of staff, and challenges the department to meet statutory requirements to close the state fiscal year within appropriated funding levels.

Community caseload violator transport and nurses desk. Unfunded overtime costs will be incurred by not fully funding violator transport staff to keep pace with caseload increases, and not fully funding the nursing desk staff necessary to manage increases in violator medical bills and call volumes. This also will require reductions in equipment and other staffing areas to meet statutory requirements. We urge both chambers to provide \$3.6 million GF-State to fully fund these caseload-driven expenditures.

Health Care Authority

Savings restoration. Both budgets provide one-time funding to restore Healthier Washington and pharmacy savings assumptions that cannot be achieved. While one-time funding will help the Health Care Authority close out the current state fiscal year, lack of ongoing funds maintains a known deficit each year over the next three years. We ask that the deficit be resolved not only for the current state fiscal year, but also for at least FY 2019 to align current biennium appropriations with reasonably expected costs over the next 16 months.

Eradicate Hepatitis C. The House budget provides \$200,000 GF-State and directs the Authority to contract with a consultant to develop a request for proposal to implement a population-based, cost-effective approach to eradicate Hepatitis C in our state. We ask that this be included in the final budget.

Natural Resources

Department of Ecology

Ocean acidification advisor. The Senate budget provides \$144,000 GF-S of the requested \$194,000 GF-S for a position in the Governor's Office to support implementation of Executive Order 12-07 on

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ocean acidification. The House budget does not provide any funding. This position would represent the state, coordinate state actions, and work with tribes, federal agencies, non-governmental organizations and foreign governments. Ocean acidification is a significant threat to Washington's shellfish industry, and state leadership is essential if we are to combat it effectively. It appears that a Senate budget proviso requires the unfunded \$50,000 to be provided out of the Department of Ecology's base budget. We respectfully request full funding for this position.

Department of Fish and Wildlife

Orca whale recovery efforts. The Senate budget includes \$1.5 million GF-S of the \$3.1 million requested by the governor for Orca recovery efforts including partial support to facilitate a task force and funding of early action items at the Department of Fish and Wildlife. The House budget includes \$793,000 GF-S in partial funding to support Orca recovery efforts with additional enforcement staff and fish screen work at the Department of Fish and Wildlife. Additional funding is needed in the final budget to fully fund the task force; install fish screens in the Puget Sound, Wenatchee, and Methow watersheds; provide public education; increase salmon hatchery production; and enable the department to hire an Orca whale recovery coordinator.

In addition, to help the Puget Sound Partnership support the work of the Governor's Orca recovery task force, we ask that \$150,000 GF-S be provided to the Partnership.

General Government

Washington State Patrol

Executive Protection. The Governor and the House proposed budgets provided funding of \$512,000 for increased Executive Protection Unit costs. The Senate did not provide this funding. Without this funding, the Washington State Patrol may have to cut other areas of service to provide the needed protection.

Thank you for your consideration. We look forward to working with you on a compromise budget in the coming week.

cc: Michael Bezanson, Staff Coordinator, Senate Ways and Means Committee
Charlie Gavigan, Staff Coordinator, House Appropriations Committee
Jim Crawford, Assistant Director for Budget, OFM
David Postman, Chief of Staff, Office of the Governor

ATTACHMENT A

K-12 Education

Transitional bilingual assessment. The cost to assess non-English speaking students for eligibility for the Transitional Bilingual Instruction Program (TBIP) has increased. These contract costs are funded by withholding TBIP formula-driven funding from districts. Funding for the increased cost is not provided, nor is the withholding percentage adjusted in the budget bills. OSPI needs an additional \$385,000 in FY 2018 and \$856,000 in FY 2019 to maintain services to these students.

Salary hold harmless. The enacted budget bill includes salary hold harmless language that provides for the 2017-18 salary allocation increased by 2.3 percent. This percentage was the Seattle consumer price index (CPI) in effect when the budget bill was enacted. The Seattle CPI has since increased to 3 percent. We request that you consider increasing the hold harmless language to reflect this change to align with sections 208 and 209 of E2SSB 6362.

Compensation funding language. The Senate directs the FY 2019 appropriation increase of \$750 million to lapse if E2SSB 6362 is not enacted. However, a similar trigger is missing to revert the minimum salary allocation levels to the rates specified in the 2017-19 budget. This would result in OSPI apportioning the higher salary to districts for the 2018-19 school year without sufficient state appropriation.

Promoting student health and readiness through meal and nutrition programs. HB 1508 has passed both chambers. The House budget does not contain funding for the meal and nutrition program and the Senate budget includes only \$1.2 million, a little less than half of what is needed. We request full funding of \$2.5 million to ensure that children in higher poverty schools receive nutritious breakfasts. This one-time funding helps schools make logistical changes and purchase equipment to set up the breakfast program. Once these changes are made, the program should be self-sustaining.

Charter School Commission. The Charter School Commission is funded by withholding a percentage of apportionment payments from the charter schools authorized by the commission. Enrollment in charter schools is lower than expected, and therefore, apportionment is also lower. This results in a \$476,000 reduction in the Charter School Oversight Account. We recommend that the Legislature backfill the oversight account with other resources, as is done in the Senate budget. The agency workload is more closely tied to the number of schools than the number of students in each school. Appropriate oversight may be jeopardized if the House budget level is enacted.

Higher Education

University of Washington (UW) financial and accountability audit. The Senate budget includes a proviso that subjects the University of Washington and any UW public or private partnerships to financial and accountability audits by the State Auditor; requires the UW to include contract language related to producing financial information to the State Auditor upon demand; and requires the involvement of the Attorney General's Office if the UW believes an entity should not be subject to a state audit. The UW is already subject to audit by the State Auditor. This proviso makes a broad expansion of that requirement and warrants further evaluation.

Higher education funding models study. The Senate budget includes a proviso that states OFM, in consultation with the State Board for Community and Technical Colleges and the Council of Presidents, may use information from a Washington State Institute for Public Policy (WSIPP) compensation study to present higher education fund split options to the Legislature. This is included in a larger proviso that directs WSIPP to study higher education compensation adjustments and the Legislature to consider these options. The WSIPP study, combined with existing data and reports, is sufficient for the governor and

Legislature to make informed decisions related to higher education funding splits. The proviso allowing OFM to provide options and requiring the Legislature to consider OFM options appears unnecessary.

Expand Opportunity Scholarship certificate programs. The Senate and House budgets make significant and welcome increases in the State Need Grant (SNG) scholarship program. While we recognize this investment in SNG students, the Senate budget does not expand the Opportunity Scholarship to students enrolled in professional/technical certificate programs, such as pre-apprenticeships, apprenticeships, two-year degrees and certificates. State investment in this scholarship program will leverage a dollar-for-dollar private match and serve low and middle-income students who are pursuing high-demand fields. The Governor and House budgets both include this expansion at \$1 million.

Center for Education strategy. The House budget provides \$250,000 to create the Center for Education Strategy at UW-Tacoma. The Center is charged with creating a broad strategy for the overall education system; preliminary research on multi-institution, cross discipline needs; and a plan for the continued role of the center. This workload duplicates the efforts of the Student Achievement Council, Washington State Education Research and Data Center, and the Workforce Training and Coordinating Board.

Long Beach extension. The House budget includes \$180,000 GF-S for the Long Beach research and extension unit in Pacific County. This position provides important technical assistance to cranberry and shellfish growers in Willapa Bay and we ask that this funding be included in the final budget.

Human Services

DSHS

Foster parent liaison. With more than 11,000 children in out-of-home placements, the foster care system is under immense pressure to maintain and recruit new foster parents. We urge both chambers to consider fully funding the governor's request for 35 foster care liaison staff to support foster parents and the vulnerable children they serve.

Department of Corrections

ISRB hearings investigation. The Indeterminate Sentencing Review Board (ISRB) does not have a sufficient number of hearings investigator staff to assist in meeting statutory and policy requirements. Violation hearings have increased over 100 percent since 2013, and the workload has increased as a result of Chapter 130, Laws of 2014 that added a new population under the review of the ISRB with no additional staffing. We ask that the final budget include \$204,000 GF-State for an additional hearings investigator staff.

McNeil Island tugboats. In February 2018, the Department received notice from the U.S. Coast Guard that the McNeil Island tugboats qualify as "commercial" vessels, and as such, must comply with the Code of Federal Regulations, Chapter 46, and Subchapter M. The department anticipates the Millewa (built in 1944) and the Kimberly (built in 1966) will be decertified and forced out of service on July 1, 2018. A new tugboat would cost approximately \$4.3 million and is estimated to take two years to design, build, and enter into service. We ask that \$850,000 GF-State be funded in FY 2019 for the department to contract for temporary towing service and to begin a procurement for a permanent solution.

Fiscal year close transfer language. The House budget does not provide sufficient transfer language for the Department of Corrections to close state fiscal year 2018. We request that Section 202 of the final enacted budget include language proposed by the Governor and Senate budgets that allow for the transfer of funds provided for a specified purpose.

Health Care Authority

SEBB Account loan. The Governor's budget used GF-S funding to loan to the new SEBB Account for start-up costs, rather than using PEBB surplus funds. Both the House and the Senate make use of PEBB funds, running the risk of: (1) potential federal objections to using money partially derived from federal payments for state employee insurance for federally funded jobs; (2) technical issues with the use of funds in a qualified employee benefit plan for something other than plan beneficiaries; and (3) potential legal action to prevent use of an account to which state employees have contributed for specific purposes.

Department of Labor and Industries

Crime Victims Compensation Program. Chapter 235, Laws of 2017 made several changes that require the Crime Victims' Compensation Program to increase reimbursement to providers. As a result of these changes and declining federal grants, an additional \$3.8 million GF-State is needed to cover the full cost of projected benefit payouts.

Department of Children, Youth, and Families

Fiscal year close transfer language. The House budget omits transfer language necessary for the department to close state fiscal year 2019. We request that Section 223 of the final enacted budget include language proposed by the Governor and Senate budgets that allow for the transfer of state funds.

Natural Resources

Department of Fish and Wildlife

Enforcement records management. The Governor's and Senate budgets included \$1,376,000 in GF-S and \$400,000 from the Enforcement Reward Account to replace the department's enforcement records management and dispatch systems. This project was ranked high by the Office of the Chief Information Officer and would correct federal and state audit findings regarding sensitive data. We request the final budget include the funding necessary to complete this important public safety project.

Shillapoo and Buckmire Sloughs. The House budget includes a proviso that restricts the department from implementing salmon restoration projects funded by the Bonneville Power Administration at the Shillapoo Wildlife Area unless repayment is made to the original funders of the 540-acre wildlife area and a new 540-acre wildlife area is purchased for waterfowl and Columbian white-tailed deer habitat. We encourage the House to work with the department on revised proviso language that addresses potential repayment concerns, while balancing the multiple resource objectives for this property.

Department of Natural Resources

Earthquake and tsunami hazards. The House budget only includes \$380,000 GF-S of the \$543,000 GF-S requested by the governor and provided by the Senate for the Department of Natural Resources to expand its work to produce earthquake and tsunami hazards maps, create a seismic inventory of critical facilities, and develop a database of geologic hazards. Full funding of this work is critical for public safety, particularly for our coastal communities.

IPM for burrowing shrimp. The House proposal includes \$950,000 GF-S (\$475,000 in both FY 2019 and FY 2020) to the department for Integrated Pest Management (IPM) pilot projects for managing the impacts of burrowing shrimp on shellfish aquaculture. Conducting these pilots is critical to shellfish farmers in Willapa and we would ask that it be included in the final budget.

Marbled murrelet habitat conservation plan. The Senate directs the Department of Natural Resources to submit Alternative B as the preferred EIS alternative for conserving habitat for marbled murrelets to the U.S. Fish and Wildlife Service. This requirement may have negative legal consequences, delay

future timber harvest plans, and increase costs by as much as \$2 million. The Board of Natural Resources has completed its alternatives analysis and chosen Alternative D as the preferred alternative. Requiring the department to submit a different alternative to the federal government would require revisions to environmental impact statement work and Endangered Species Act consultations and delay the project by 12-18 months. We would ask that this proviso not be included in the final budget.

Department of Agriculture

Shellfish pesticide monitoring. The House proposal includes \$534,000 State Toxics Control Account for a monitoring program to study the impacts of Imidacloprid as a means to control burrowing shrimp. If the use of this pesticide is authorized by the Department of Ecology, this funding will help develop a better understanding of the potential impacts to shellfish and the broader ecosystem. We request the Senate consider including this funding in the final budget.

General Government

Office of Financial Management

Unfunded Studies. The Senate budget directs the Office of Financial Management (OFM) to conduct two studies, both of which are unfunded. The first requires OFM to report to the Legislature by November 1, 2018, with options for implementing the Family and Medical Leave program. Implementation of this program begins January 1, 2019, so any opportunity to consider options for this program would be needed long before the deadline for this report. Additionally, there is no data available for considering options. The current plan is for the state to implement the program as any other employer would do.

The Senate budget also requires OFM to study and develop an implementation plan (and draft legislation) to create a new agency to manage the Public Employees' Benefits Board (PEBB) and School Employees' Benefits Board (SEBB). Our concern with this proposal are (1) it is not funded; (2) less than 10 years ago, the Health Care Authority was the stand-alone agency for PEBB; and (3) the timing of such a change is inopportune given that the implementation of SEBB is underway.

Commission on Hispanic Affairs

Unexpected unemployment insurance (UI) costs. The Commission on Hispanic Affairs had to lay off an employee on February 13, 2018. The expected UI costs are estimated to be \$7,000 in this fiscal year. The Commission's budget is only \$261,000 in FY 2018, and it cannot absorb this unexpected cost. The House budget does not include funding for this item, which we request be included in the final budget.

Board of Tax Appeals

Board salary increases. The Board of Tax Appeals member salaries were increased at the beginning of the biennium. The House budget does not provide funding for these increases, which the Board cannot absorb in its budget. Not funding these salary increases would have the effect of a 6 percent reduction in the Board's budget and would create a significant burden on an already financially strapped agency.

Lease Cost Pool

Lease cost pool. The 2017-19 biennial budget (Section 723) created a lease cost pool that included planned agency moves amounting to approximately \$19 million GF-S, yet it provided \$9.7 million in GF-S funding. The Governor and House budget provide another \$8 million GF-S for the pool to provide funding for the planned moves in FY 2019. If this additional funding is not provided, the planned moves that were in the original lease cost pool for the Department of Corrections and Department of Social and Health Services will be delayed until the next biennium.

Department of Financial Institutions (DFI)

Financial Services Regulatory Account. The Senate budget increases the Department of Revenue's appropriation with \$10 million from DFI's Financial Services Regulatory Account (for a total of \$15 million this biennium). Funding from this account has never been appropriated to DOR or swept to the General Fund in an amount greater than \$10 million in a biennium. This is a fee-supported account, and the fee payers are increasingly concerned about using the funds for activities beyond the regulation of financial institutions.

Washington State Patrol

Toxicology lab. The Senate budget provides \$1,032,000 from the Death Investigations Account to help reduce the backlog in toxicology testing requests at the WSP toxicology lab. We ask that you include this funding in the final budget as the current delay for testing is up to five months and may hinder a person's right to a speedy trial, potentially leading to cases being dismissed.

Marijuana Diversion Task Force. The House budget provides \$2.8 million to the Washington State Patrol to create a new task force to control the potential diversion of marijuana to other states and to prevent illicit production or distribution of marijuana and marijuana-related products. We ask that you include this amount in the final budget.

Drug and gang task forces. The Governor's budget provides for two additional Washington State Patrol positions for multi-jurisdictional drug task forces. These task forces address gun crimes; gang violence; and the manufacture, transportation, and distribution of illegal drugs including heroin, fentanyl, and other illegal narcotics. We request that \$363,000 GF-S be included in the final budget for this important work.