



WASHINGTON STATE  
**ECONOMIC AND REVENUE FORECAST COUNCIL**

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## AGENDA

### **Budget Outlook Meeting**

May 18, 2016  
10:00 a.m.

- Call to order
- Approval of meeting minutes: April 26, 2016
- Discussion: Budget Outlook and methodology
- Discussion: K-12 Costs
- Adoption: Budget Outlook
- Adjourn

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STATE OF WASHINGTON

**ECONOMIC AND REVENUE FORECAST COUNCIL**

*Capitol Plaza Building, PO Box 40912 □ Olympia, Washington 98504-0912 □ (360) 534-1560*

**Meeting Minutes**

**Budget Outlook**

April 26, 2016

John A. Cherberg, Hearing Room 2

**Economic and Revenue Forecast Council**

*Members Present*

**Andy Hill, Senate, Chair (via phone)**

**Jim Hargrove, Senate (via phone)**

**Terry Nealey, House of Representatives (via phone)**

**Jim McIntire, Treasurer (via phone)**

**David Schumacher, Office of Financial Management**

**Vikki Smith, Department of Revenue (via phone)**

*Staff*

Steve Lerch, Executive Director

*Budget Outlook Work Group*

*representatives:*

Michael Bezanson

Melissa Palmer

Pam Davidson

**Call to Order**

The meeting was called to order by Director Schumacher at 10:02 a.m.

**Presentation on Budget Outlook**

Michael Bezanson, Melissa Palmer, and Pam Davidson requested guidance from the council as they prepare the outlook on the Governor’s proposed budget.

Revisions to Growth Rates/Approach

*Question: Should the outlook workgroup revisit how growth is projected for the purpose of the Outlook during the interim and present the ERFC with revisions in the fall, prior to the November Outlook?*

After discussion and clarification the Council agreed that the workgroup should revisit growth projections prior to the November outlook.

Reversions

*How should the Outlook on the enacted budget calculate reversions?*

The Council agreed that reversions should be calculated as 0.5 percent of the General Fund-State budget rather than as a flat amount.

OFM Central Service - unalloted amounts

*Should the outlook on the enacted budget increase the assumption for reversions for fiscal year 2016 by \$2.8 million?*

After a discussion about establishing precedents, the Council agreed to increase the assumption for reversions by \$2.8 million.

Department of Revenue - unalloted amounts

*Should the Outlook for the enacted budget increase the assumption for reversions by the amount of unalloted DOR funds?*

The Council agreed to the increase in assumed reversions consistent with the previous decision.

Department of Revenue – penalties on unpaid royalty tax

*Should the budget driven revenue in the Outlook for the enacted budget include \$46 million related to agreements on unpaid royalty taxes?*

Discussion ensued regarding how audit payments and refunds are incorporated into the revenue forecast. The Council agreed not to include the \$46 million as budget driven revenue.

Department of Revenue – audit payments

*Should the Outlook for the enacted budget include the \$34 million of anticipated audit payments?*

Discussion ensued regarding the timing of how monthly collection variances are factored into the revenue forecast as well as concerns about the uncertainty of timing of audit payments and refunds. The Council agreed not to include the anticipated audit payments.

Fire Insurance Premiums

*Should the transfers in the Outlook for the enacted budget assume the transfer of \$29.5 million or should it be adjusted for the fire insurance premiums?*

The Council agreed to adjust the transfer for fire insurance premiums..

**Other Issues**

Treasurer McIntire initiated a conversation to propose including McCleary funding in the outlook. While it is exempt in the Budget Outlook statute, there are questions regarding recent legislative actions.

The Council has requested that the Budget Outlook Work Group look into the legality of including the information in the official outlook, as well as preparing options for the Council that include a range of estimated budget impacts to be reviewed at the beginning of the next meeting.

**Adjournment**

Meeting adjourned at 10:46 a.m.

**Outlook for Enacted 2016 Supplemental Budget**  
(Near GF-S & Opportunity Pathways Account, Dollars in Millions)

	FY 2016	FY 2017	2015-17	FY 2018	FY 2019	2017-19
<b>Beginning Balance</b>	1,011	1,084	1,011	474	(115)	474
<b>Current Revenues</b>						
February 2016 Revenue Forecast	18,660	19,178	37,837	20,021	20,871	40,892
Additional Revenue Based on 4.5% Growth Rate Assumption	-	-	-	20	72	92
	18,660	19,178	37,837	20,041	20,943	40,983
<b>Other Resource Changes</b>						
GF-S Transfer to BSA (1%)	(184)	(188)	(372)	(197)	(205)	(401)
Extraordinary Revenue to BSA	-	(64)	(64)	-	(8)	(8)
Extraordinary Revenue from BSA to GF-S	-	64	64	-	8	8
Prior Period Adjustments	20	20	41	20	20	41
2015 Session Transfers and Other Resource Changes (Net)	96	82	178	51	51	101
Budget Driven Revenue	(3)	(3)	(5)	(1)	(1)	(2)
Proposed Fund Transfers	4	25	29	-	15	15
Other Legislation	-	(2)	(2)	(3)	(5)	(8)
AG Lawsuit Settlements	3	-	3	-	-	-
<b>Total Revenues and Resources (Including Beginning Balance)</b>	<b>19,608</b>	<b>20,196</b>	<b>38,720</b>	<b>20,385</b>	<b>20,703</b>	<b>41,203</b>
<b>Enacted Appropriations</b>	<b>18,639</b>	<b>19,580</b>	<b>38,219</b>	<b>20,494</b>	<b>21,036</b>	<b>41,530</b>
K-12 (excluding 2015 PL K-3 and All day K)	8,564	8,864	17,428	8,992	9,184	18,175
K-3 Class Size	83	268	350	524	590	1,114
All Day K	55	125	180	151	158	309
Everything except K-12 - all other items	9,937	10,324	20,261	10,827	11,105	21,931
<b>2016 Supplemental Maintenance Level</b>	<b>37</b>	<b>166</b>	<b>203</b>	<b>95</b>	<b>63</b>	<b>157</b>
K-12 Education	12	8	20	14	15	29
I-732	-	-	-	(37)	(67)	(104)
K-3 Class Size	(8)	(10)	(17)	(2)	-	(2)
Local Effort Assistance	10	13	24	(6)	(22)	(29)
Higher Education	(9)	(6)	(15)	(5)	(3)	(7)
Dept of Early Learning	(1)	(0)	(1)	1	1	2
Mental Health/Dev. Disabilities/Long Term Care	(19)	20	1	19	20	39
Corrections/JRA/SCC	13	12	25	10	10	19
Children's/Economic Svcs	(2)	9	8	9	9	19
Low Income Health Care	(9)	(18)	(26)	(19)	(10)	(28)
Hepatitis C Treatment	(22)	5	(16)	(3)	(3)	(6)
Managed Care Rates	61	135	196	139	144	283
FMAP Expansion Adjustments	-	-	-	(9)	(13)	(22)
Debt Service	(8)	(26)	(34)	(27)	(28)	(56)
All Other	17	23	39	10	10	20
<b>2016 Supplemental Policy Level</b>	<b>(49)</b>	<b>80</b>	<b>31</b>	<b>15</b>	<b>26</b>	<b>41</b>
K-12 Education	(0)	10	10	13	15	28
K-12 Recruitment and Retention	-	5	5	-	-	-
Higher Education	9	39	48	9	9	18
Dept of Early Learning	1	(3)	(2)	(5)	(5)	(10)
Child Care CBA	-	13	13	13	13	26
Mental Health/Dev. Disabilities/Long Term Care	(27)	4	(23)	4	4	7
IP Overtime	6	23	29	20	19	39
State Hospitals Enhancement	14	21	35	11	12	23
Community MH Enhancement	-	4	4	4	4	7
Corrections/JRA/SCC	2	1	3	5	6	11
Children's/Economic Svcs	(16)	(46)	(63)	(30)	(30)	(60)
Low Income Health Care	(2)	3	2	(2)	(2)	(4)
Healthier WA & Waiver Savings Restoration	20	8	28	9	9	17
Managed Care Rates	-	(13)	(13)	(29)	(30)	(59)
Low Income Health Care/I-502	(38)	(5)	(43)	(2)	4	2
Debt Service	-	1	1	1	1	3
All Other	4	14	18	(2)	5	3
Public Safety Enhancement Account	-	-	-	-	-	-
Pension Rate Changes	-	-	-	(5)	(6)	(10)
Fires	(21)	-	(21)	-	-	-
Actual/Estimated Reversions	(103)	(104)	(207)	(103)	(108)	(211)
<b>Revised Appropriations</b>	<b>18,524</b>	<b>19,722</b>	<b>38,246</b>	<b>20,500</b>	<b>21,017</b>	<b>41,517</b>
<b>Projected Ending Balance</b>	<b>1,084</b>	<b>474</b>	<b>474</b>	<b>(115)</b>	<b>(314)</b>	<b>(314)</b>
<b>Budget Stabilization Account</b>						
Beginning Balance	513	509	513	701	911	701
Transfer From GFS	184	188	372	197	205	401
Extraordinary Revenue to BSA	-	64	64	-	8	8
Extraordinary Revenue from BSA to GF-S	-	(64)	(64)	-	(8)	(8)
Appropriations from BSA for fires	(190)	-	(190)	-	-	-
Interest Earnings	1	3	5	14	27	41
<b>Ending BSA Balance</b>	<b>509</b>	<b>701</b>	<b>701</b>	<b>911</b>	<b>1,143</b>	<b>1,143</b>
<b>Total Reserves</b>	<b>1,593</b>	<b>1,174</b>	<b>1,174</b>	<b>796</b>	<b>829</b>	<b>829</b>

\* Totals may not tie fiscal year due to rounding.

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## Overview of the Methodology for the State Budget Outlook (2016 Enacted)

### **Introduction**

The purpose of this document is to provide an overview of the methodology used to develop the four-year budget projections pursuant to Chapter 8, Laws of 2012, and 1st sp. sess. (SSB 6636). This document summarizes the major components of the projection, the overall approach, as well as the assumptions used in the State Budget Outlook (Outlook) document.

The amounts reflected in the Outlook are the sum of the state General Fund (GF-S), the Education Legacy Trust Account (ELTA), and the Opportunity Pathways Account.

### **Resources**

Pursuant to Chapter 8, Laws of 2012, 1st sp. sess. (SSB 6636), the amounts depicted include the actual/projected revenue and other resources. Some of the largest components include:

#### Beginning Fund Balance

The Outlook uses the certified fund balance in accordance with generally accepted accounting principles for the most recently closed biennium as the starting point.

The beginning fund balance for subsequent years is equal to the projected ending balance for the previous year.

#### Revenue Forecast

The amounts for 2015-17, and 2017-19 reflect the February 2016 quarterly revenue forecast by the Economic and Revenue Forecast Council (ERFC). The provisions of Chapter 8, Laws of 2012, 1st sp. sess. (SSB 6636) call for the ensuing biennium (in this instance, the 2017-19 biennium) to be balanced based on the greater of: (1) the official revenue forecast for the ensuing biennium; or (2) an assumed revenue increase of 4.5 percent per year for that ensuing biennium. The February 2016 Outlook for the enacted 2016 supplemental budget assumes 4.5 percent per year for the ensuing biennium.

#### Other Enacted Fund Transfers

This category reflects all enacted fund transfers made in the 2015 legislative sessions (including special sessions). For more information, see the 2015 Legislative Budget Notes at [http://leap.leg.wa.gov/leap/budget/index\\_lbns.asp](http://leap.leg.wa.gov/leap/budget/index_lbns.asp)

#### Fund Transfers and Resources

The enacted 2016 supplemental budget funds transfers, after accounting for vetoes and ERFC guidance, total \$29.4 million for 2015-17 and \$14.8 for 2017-19. The Governor vetoed the intent language in the budget regarding the Public Works Assistance Account in the 2017-19 language, as a result, the \$154 million transfer in 2017-19 is not included. The governor vetoed the language specifying criteria for the fire insurance premium distributions and language directing undistributed funds to the Disaster Response Account. The Outlook reflects a \$14.8 million transfer from the Disaster Response Account to the GF-S, this amount is adjusted to reflect fire insurance premium veto impact. The enacted outlook also does not include \$46 million related to royalty tax payments to reflect the veto impact.

Additionally, pursuant to ERFC guidance, the Outlook for the enacted 2016 Supplemental Budget does not include \$33.8 million related to expected audit payments.

#### Transfers to Budget Stabilization Account

## Overview of the Methodology for the State Budget Outlook (2016 Enacted)

Pursuant to a constitutional amendment approved by the voters in 2007, the Outlook reflects the transfer of 1 percent of general state revenues for each fiscal year (FY) to the Budget Stabilization Account (BSA). This transfer is legally required and estimated transfer amounts are based on the February revenue forecast.

### Extraordinary Revenue Growth

Pursuant to a constitutional amendment approved by the voters in 2011, this reflects the transfer of three-quarters of extraordinary revenue growth into the budget stabilization account. Extraordinary revenue growth (ERG) is defined in the state Constitution as growth in general state revenues for the fiscal biennium that exceeds the average biennial percentage growth of the prior five fiscal biennia by one-third. The state Constitution also provides that the transfer only occur to the extent that it exceeds the normal transfer amount into the budget stabilization account. A transfer of \$64 million in 2015-17 and \$8 million in 2017-19 is reflected from the GF-S into the BSA.

Chapter 2, Laws of 2015, 3rd sp. sess. (EHB 2286) directs the State Treasurer to transfer amounts attributable to extraordinary revenue growth that were deposited into the BSA to the GF-S. The transfer amounts were capped at \$75 million for 2015-17 and \$550 million for 2017-19. The transfer of \$64 million is projected to be deposited back to the GF-S in 2015-17 and \$8 million in 2017-19.

### **Expenditures**

As the starting point for the expenditure projection, the enacted 2016 supplemental budget Outlook utilizes the Outlook adopted in July 2015 for the enacted budget. For more information on the 2015-17 supplemental Budget, please see [http://leap.leg.wa.gov/leap/budget/index\\_lbns.asp](http://leap.leg.wa.gov/leap/budget/index_lbns.asp)

### Assumed Reversions

The methodology for calculating reversions was updated during the 2016 session to be based on 0.5% of the GF-S budget. This change results in total reversions of \$392.9 million over the four-years. The reversion assumption in the previously adopted Outlook was based on average of the prior 10 years and totaled \$345 million over the four-years.

Additionally, reversion were increased across the four-year timeframe to reflect amounts agencies were directed to hold in unallotted status.

### **Maintenance Level Revisions**

In this section, additional adjustments are made to reflect the costs of continuing to comply with current law provisions. This is often referred to as Maintenance Level (ML). Pursuant to the provisions of Chapter 8, Laws of 2012, 1st sp.s. (SSB 6636), this excludes the costs of policy enhancements, including new collective bargaining agreements not approved by the Legislature, other proposed compensation increases, costs of any adverse court rulings within 90 days of each respective legislative session, and the phase-in of K-12 McCleary-related funding.

### K-12 Education

The updates are based on the most recent enrollment forecast and budget driver information for required K-12 entitlement changes. The K-12 funding is adjusted 0.66 percent from FY 2017 each year of the ensuing biennium. The Materials, Supplies, and Operating Costs (MSOC) amount is adjusted by both enrollment and the implicit price deflator (IPD).



## Overview of the Methodology for the State Budget Outlook (2016 Enacted)

Larger adjustments in ML include: pupil transportation (\$58 million in 2015-17 and \$48.4 million in 2017-19), I-732 adjustments for revised inflation estimates (-\$104.4 million in 2017-19), Local Effort Assistance (\$23.6 million in 2015-17 and -\$28.7 million in 2017-19), class size (-\$17.4 million in 2015-17 and -\$1.9 million in 2017-19), enrollment/workload adjustments (\$2 million in 2015-17 and \$1.3 million in 2017-19), and K-12 staff mix (-\$20.9 million in 2015-17 and -\$15.4 million in 2017-19).

### Higher Education

Higher Education adjustment are related to the College Bound Scholarship program and to maintenance and operations and lease adjustments. Higher Education items are adjusted by 0.3 percent per year from FY 2017.

The larger adjustment in ML is related to the College Bound caseload adjustment (-\$18.5 million in 2015-17 and -\$12.95 million in 2017-19).

### DSHS Mental Health, Long-Term Care, and Developmental Disabilities

The amounts depicted reflect the most recent caseload and per capita cost information prepared through joint effort by legislative and executive branch staff, as well as other mandatory maintenance level changes. Some of the major cost components include utilization and severity of client needs. Assumed future growth is estimated at 3.42 percent per year from FY 2017.

Larger adjustments in ML include: caseload, workload, and utilization changes (-\$7.3 million in 2015-17 and \$16.3 million in 2017-19), nursing home rebasing (\$6.6 million in 2015-17 and \$13.9 million in 2017-19) and hospital revenue adjustments (\$5.3 million in 2015-17 and \$5.9 million in 2017-19).

### Department of Corrections, DSHS Juvenile Rehabilitation and Special Commitment Center

The amounts depicted reflect the most recent caseload and per capita cost information prepared through joint effort by legislative and executive branch staff, as well as other mandatory maintenance level changes. A major cost component is the proportion of community and institution population. Assumed future growth is estimated at 3.19 percent per year from FY 2017.

Larger adjustments in ML include: caseload changes (\$21.8 million in 2015-17 and \$23.4 million in 2017-19), and equipment and facility maintenance (\$3 million in 2015-17).

### DSHS Children's Services and Economic Services

The amounts depicted reflect the most recent caseload and per capita cost information prepared through joint effort by legislative and executive branch staff, as well as other mandatory maintenance level changes. Some of the major cost components include caseload and per capita cost increases and revised growth trends. Assumed future growth is estimated at 1.93 percent per year from FY 2017.

The larger adjustments in ML is related to caseload and per capita adjustments (\$13.8 million in 2015-17 and \$23.3 million in 2017-19).

### Low-Income Health Care

The amounts depicted reflect the caseload and per capita cost information prepared as part of the agencies budget submittal, as well as other mandatory maintenance level changes. Some of the major cost components include utilization, caseload, and medical inflation. Assumed future growth is estimated at 3.22 percent per year from FY 2017.

## Overview of the Methodology for the State Budget Outlook (2016 Enacted)

Larger adjustments in ML are related to managed care rates (\$196.2 million in 2015-17 and \$282.98 million in 2017-19) and Medicare cost share changes (\$65.6 million in 2015-17 and \$93.3 million in 2017-19), Individual and Family Services program (\$11.2 million in 2015-17 and \$19.2 million in 2017-19), caseload and utilization changes (-\$75.8 million in 2015-17 and -\$116.9 million in 2017-19), adjustments in the Federal Medical Assistance Percentage (FMAP) rates related to the Affordable Healthcare Act (ACA) (-\$8.7 million in 2015-17 and -\$22 million in 2017-19), and savings from the initial cost estimates associated with the new Hepatitis C drug treatment (-\$16.3 million in 2015-17 and -\$5.7 million in 2017-19).

### Debt Service

The amounts depicted reflect the cost of debt service for the capital budget. Assumed future growth is estimated at 3.22 percent per year from FY 2017. ML savings are due to refunding and changes in interest rates (-\$33.6 million 2015-17 and -\$55.5 million in 2017-19)

### Other

This area includes all other agencies not reflected in the proceeding Outlook groups. Many are general government agencies, smaller human service agencies, natural resource agencies, legislative agencies and judicial agencies. Assumed future growth is estimated at 0.53 percent per year from FY 2017.

Larger adjustments in ML include: funding adjustments for rate adjustments for Behavioral Health Organizations (\$9.3 million in 2015-17 and \$15.9 million in 2017-19), waiver savings (-\$7.9 million in 2015-17 and -\$13 million in 2017-19), Washington State Patrol cost allocation (\$2.3 million in 2015-17 and \$2.3 million in 2017-19) and savings related to COP repayments adjustments (-\$5.9 million). Both transfers and lean savings increase the "Other" functional area of the outlook but net to zero in the budget across all outlook areas.

### **Policy Level Revisions**

In this section, adjustments are made to reflect the policy level expenditures included in the enacted 2016 supplemental budget.

#### K-12 Education

Enhancements in PL for K-12 \$9.7 million in 2015-17 and \$27.9 million in additional funding. Larger adjustments include funding for the reenactment of charter laws (\$3.9 million in 2015-17 and \$9.8 million in 2017-19), foster youth education outcomes (\$1.4 million in 2015-17 and \$3 million in 2017-19). Additionally \$5.25 million was provided in 2015-17 for recruitment and retention. Savings in 2017-19 are included to reflect changes in K-12 pension growth rate assumptions (-\$10.4 million).

#### Higher Education

In 2015-17, \$48 million was provided and in 2017-19, \$18 million was provided in 2017-19. Larger items funded on a one-time basis in 2015-17 include \$19.8 million for Moore v HCA settlement and \$18 million for maintain the state need grant. A total of \$21.4 million over the four-years was provided to backfill institutes of higher education related to capping tuition.

#### Early Learning

In 2015-17, funding was provided for the ECLIPSE program (\$2.2 million) and funding for health and safety work (\$935,000). Savings of \$21 million over four-years are a result of using federal Child Care Development Funds (CCDF) rather than GF-S.

## Overview of the Methodology for the State Budget Outlook (2016 Enacted)

### Child Care Collective Bargaining Agreement (CBA)

The enacted 2016 supplemental budget includes funding for the reopener for the SEIU 925 CBA, which includes increased tiered reimbursement rates, a base rate increase, and funding for training (\$12.7 million in 2015-17 and \$25.7 million in 2017-19).

### DSHS Mental Health, Developmental Disabilities and Long Term Care

The enacted 2016 supplemental budget includes funding for enhancements to the state hospitals (\$35.2 million in 2015-17 and \$22.8 million in 2017-19), Individual Provider over-time (\$29.4 million in 2015-17 and \$38.8 million in 2017-19), and community mental health (\$4 million in 2015-17 and \$7.4 million in 2017-19). Saving of \$24.4 million are achieved in 2015-17 related to under expenditures and Southwest RSN reserve savings.

### Department of Corrections, DSHS Juvenile Rehabilitation Administration and Special Commitment Center

The enacted 2016 supplemental budget includes \$3 million in 2015-17 and \$11 million in 2017-19. Larger adjustments include: high acuity interventions/services (\$3.2 million in 2015-17 and \$4.5 million in 2017-19), SBCTC contract (\$1.3 million in 2015-17 and \$2.3 million in 2017-19). Savings include changes to supervision of offenders (-\$2.3 million in 2015-17 and -\$4.9 million in 2017-19) and fund shifts (-\$6 million in 2015-17).

### DSHS Children's Administration and Economic Services

The enacted 2016 supplemental budget includes funding for Medicaid cost allocation (\$4.9 million in 2015-17). Savings are achieved in GF-S through fund shifts to federal or other funds (-\$58.3 million in 2015-17 and -\$60 million in 2017-19) and under-expenditures (-\$11.9 million in 2015-17 and -\$2.5 million in 2017-19).

### Low-Income Health Care

The enacted 2016 supplemental budget includes funding for Healthier WA and waiver savings restorations (\$28.1 million in 2015-17 and \$17.5 in 2017-19), health home services (\$3.9 million in 2015-17 and -\$3.8 million in 2017-19). Savings are achieved through shifting cost from GF-S to the Dedicated Marijuana Account (-\$43 million in 2015-17) and from managed care rate reforms (-\$13.3 million in 2015-17 and -59.4 million in 2017-19).

### All Other

Funding is provided for a variety of items including the Information Technology Pool (\$1.7 million in 2015-17) and the data processing revolving account shortfall (\$3.4 million in 2015-17). Savings are achieved from under-expenditures related to drought (-\$7.3 million in 2015-17), shifting costs from GF-S (-\$14.2 million in 2015-17 and -\$5 million in 2017-19). Funding is provided for the Moore Settlement in the respective Outlook areas, the overall total is \$36 million for the three accounts covered by the Outlook (a portion of the total appears in this area of the Outlook).

### Fires

The enacted 2016 supplemental budget provides funding for fire suppression from the Budget Stabilization Account (\$189.5 million). This amount includes shifting funding in the underlying budget from the GF-S to the BSA (\$18 million).

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## MEMORANDUM

**To:** Economic and Revenue Forecast Council

**From:** Steve Jones, Fiscal Counsel, Senate Ways & Means Committee  
Kristen Fraser, Fiscal Counsel, House of Representatives Committee on  
Appropriations  
Julie Murray, Fiscal Counsel, Senate Ways & Means Committee

**Subject:** Exclusion of *McCleary*-Related Costs in the State Four-Year Budget Outlook

**Date:** April 29, 2016

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This memorandum is in response to a request by the Economic and Revenue Forecast Council (Council), at its April 26, 2016, meeting, for a legal analysis of the inclusion (or exclusion) in the next state four-year budget outlook (Outlook) of future costs related to the requirements of the state Supreme Court decision in *McCleary v. State*, 173 Wn.2d 477 (2012). In that ruling, the court held that the state "has not complied with its article IX, section 1 duty to make ample provision for the education of all children in Washington" (*McCleary*, 173 Wn.2d at 482).

### Background

The four-year balanced state budget statute was enacted in 2012 (chapter 8, Laws of 2012 1st sp. sess.). It requires the Legislature to adopt a biennial appropriations act that (1) has a "positive ending fund balance in the General Fund and related funds" for the current biennium and (2) has a "projected maintenance level [that] does not exceed available fiscal resources for the next ensuing biennium." RCW 43.88.055(1).

To "facilitate compliance" with these two requirements, the statute directs the Council to approve an official Outlook for state revenues and expenditures for the state General Fund and related funds. This Outlook must be updated "within thirty

days following enactment of an operating budget by the Legislature." RCW 82.33.060(5).

In anticipation of this post-session 2016 update of the Outlook, the Council met on April 26, 2016, to review the budgetary assumptions to be used by staff in developing a proposed Outlook for consideration by the Council at its May 18, 2016, meeting. It was at this recent meeting that members of the Council discussed whether the Outlook must include the future costs of addressing the *McCleary* decision, and whether any acts of the 2016 Legislature affect that legal determination.

## Analysis

**1. Outlook and four-year balanced budget statutes.** Any legal analysis of the future costs required to be included in a four-year Outlook under RCW 82.33.060 must begin with the statutory recitation of the estimated ensuing biennium costs that must be included (or excluded) in the Outlook:

The estimate of ensuing biennium expenditures must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, **and actions required by law**, including legislation with a future implementation date. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. RCW 82.33.060(2)(a) (emphasis added)

"Actions required by law" clearly include statutory requirements and in some contexts could include actions required by court rulings, such as judicial interpretations of the state Constitution.

However, the 2012 statute's definition of "projected maintenance level" for purposes of determining compliance with the balanced-budget requirement for the next ensuing biennium provides an explicit exclusion of future costs related to the *McCleary* decision:

"Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution, **but does not include in the 2013-2015 and 2015-2017 fiscal**

**biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009 [ESHB 2261], and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short-term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations. RCW 43.88.055(2)(b) (emphasis added)**

The record does not reflect specific member intent regarding the *McCleary* exclusion from the ensuing biennium balance requirement. However, the budget and legal context of the exclusion suggests two possible rationales for the exception. First, when the exclusion was enacted in 2012, the legislature had enacted specified statutory enhancements to K-12 formulas (ESHB 2261 and SHB 2776) to be implemented by 2018, but it had not enacted any phase-in schedule for the statutory enhancements, so there was no reasonable basis for determining ensuing biennium costs. Second, the legislature did not know (and still does not know) what if any future expenditure obligations the court might impose in the course of its *McCleary* oversight. To date, the *McCleary* court has determined that the state must enact legislation to achieve full *state* funding of salaries for the state's program of basic education, but it has not ruled that any particular spending levels or policies are required.

**2. Council's questions relating to 2016 legislative actions.** At the April 26 meeting, members of the Council asked whether the express *McCleary* exclusion was in any way modified or countermanded by any 2016 enactments of the Legislature. Two acts of the Legislature may fall into this category.

The first act is section 515 of the 2016 Supplemental Operating Budget, which contains several legislative declarations relating to the scheduled expiration of current state statutory policies on local school district levy capacity, an event commonly known as the "levy cliff." The second act is Engrossed Second Substitute Senate Bill 6195 (chapter 3, Laws of 2016), which commits the Legislature to eliminate school district dependency on local levies to fund the program of basic education. Both bills direct the legislature to take action on the specific topic in the 2017 legislative session.

**a. Levy cliff budget language.** The first of these two acts, section 515 of the 2016 Supplemental Operating Budget (chapter 36, Laws of 2016 1st sp. sess.), provides in its entirety:

NEW SECTION. Sec. 515. A new section is added to 2015 3rd sp.s. c 4 (uncodified) to read as follows:

**K-12 PUBLIC SCHOOL FUNDING AND LOCAL LEVIES**

(1) The legislature confirms its obligation, as expressly recognized in chapter 3, Laws of 2016 (E2SSB 6195), to provide state funding in the 2017 legislative session for competitive compensation to recruit and retain competent common school staff and administrators, while eliminating school district dependency on local levies for implementation of the state's program of basic education.

(2) In order to facilitate budget and personnel planning by local school districts for the 2017-18 school year, and to minimize any disruption to that planning, the education funding task force established by chapter 3, Laws of 2016, shall by April 1, 2017, either:

(a) Determine that the legislature will meet its obligation under subsection (1) of this section and that such legislative action will be completed by April 30, 2017; or

(b) Introduce legislation that will extend current state levy policy for at least one calendar year, with the objective of enacting such legislation by April 30, 2017.

**b. E2SSB 6195 and 2017 legislation.** E2SSB 6195, contains a declaration of legislative intent that recites that "The state is fully committed to funding its program of basic education as defined in statute and to eliminating school district dependency on local levies for implementation of the state's program of basic education." The legislation also established an Education Funding Task Force and authorized the retention of professional consulting services for the purpose of collecting and analyzing data relating to school district compensation policies and the sources of funding, with recommendations and supporting legislation due from the Task Force by January 9, 2017.

E2SSB 6195 concludes with the following declaration: "Legislative action shall be taken by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education."

**3. Must these 2016 requirements be reflected in the Outlook?** No. First, absent a set of specified assumptions, there is no reasonable basis for quantifying any state obligations under these laws. Both of these related acts (the 2016 Supplemental Operating Budget and E2SSB 6195) contain similarly broad legislative commitments for future legislative acts to address the requirements of ESHB 2261 and the *McCleary* decision. However, the nature of those future legislative acts remains unspecified and does not appear to provide the specific guidance or legislative mandate that the Economic Revenue and Forecast Council would need, on a practical basis, to incorporate "actions required by law" into its calculation of



estimated ensuing biennium expenditures under RCW 82.33.060(2)(a) (quoted above). Likewise, the future costs of subsequent judicial rulings remain unknown.

Second, neither 2016 law revises the *McCleary* exception in the Outlook. , This means that the *McCleary* exception continues to apply. Neither of these 2016 acts include reference to, or amendment of, the 2012 statute that requires the exclusion of *McCleary*-related costs in the calculation the state budget's projected maintenance level or the preparation of the four-year budget outlook, RCW 43.88.055(2)(b). In the absence of any indication of legislative intent to modify the express provisions of the balanced-budget act and Outlook, it is difficult to conclude that the existing methodology for calculating the Outlook has been modified by the 2016 Legislature.

**4. Optional inclusion and alternative Outlooks.** This memorandum does not express any views on the fiscal merits of including or excluding *McCleary*/ESHB 2261 costs in the Outlook, and the Council may very well choose to reflect those costs in its calculation as a matter of fiscal policy. For example, in 2015 the Council chose on an optional basis to include the remaining K-3 class increment in ensuing biennium costs, even though the *McCleary* exception meant that the Council was not required to do so.

It is also relevant to note that the 2012 legislation establishing the balanced-budget requirement expressly provides for the preparation of alternative Outlooks at the request of any member of the Council:

A councilmember who does not cast an affirmative vote for approval of the official economic and revenue forecast or the state budget outlook may request, and the supervisor shall provide, an alternative economic and revenue forecast or state budget outlook based on assumptions specified by the member including, for purposes of the state budget outlook, revenues to and expenditures from additional funds. RCW 82.33.010(5).

We hope that this analysis is responsive to your request. Please let us know if any additional information is required.

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To: Economic and Revenue Forecast Council  
From: State Budget Outlook Work Group  
Subject: Enacted 2016 Supplemental Budget Outlook

At the April 26, 2016 Outlook methodology meeting, members of the ERFC requested cost ranges regarding the cost of K-12 compensation as it related to McCleary.

Local school levies are collected and expended for a number of different basic education and non-basic education activities. The total statewide local levies collected for the 2014-15 school year was \$2.23 billion.

In order to develop an estimate regarding McCleary compensation costs, there are many policy questions that would need to be addressed related to K-12 funding. Additionally, the individual fiscal year costs are also dependent implementation assumptions.

The chart below shows estimated statewide costs of legislative proposals related to K-12 compensation from the 2015 legislative sessions. The legislative proposals below address various policy changes and implementation timeframes. The chart shows the biennial costs at full implementation at the time the fiscal estimate was prepared.

<b>Estimated Statewide Cost from 2015 session (NGFS)</b>	<b>State Biennial Full Implementation Cost</b>
Rep Hunter Proposal	\$ 3.6 billion
SB 6104 Sen Rolfes, et al	\$4.8 billion
SB 6109 Sen Dammeier, et al	\$4.0 billion
SB 6130 Sens Dammeier, Rolfes, Rivers, Hargrove	\$3.5 billion

E2SSB 6195 established the Education Funding Task Force (EFTF) to continue the work of the Governor's informal work group on implementing the program of basic education. Among other provisions, the EFTF must review compensation and labor market data and analysis provided by a contracted consultant. It directs the Legislature to take legislative action by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education.