

VETO MESSAGE ON ESSB 6002

April 4, 2014

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 103(11); 106, lines 13-16 and lines 22-28; 116(5); 125(14); 126; 135(9); 138(3); 140(3); 146(10); 202(15); 205(1)(1); 219(30); 220(3)(e); 502(21); 505(12); 505(13); 705, page 257, lines 23-24; 805, page 267, lines 32-38, and page 268, line 1; 805, page 268, lines 11-38, and page 269, lines 1-15; 805, page 270, lines 12-16; 917; and 919, Engrossed Substitute Senate Bill No. 6002 entitled:

"AN ACT Relating to fiscal matters."

**Section 103(11), page 7, Joint Legislative Audit and Review Committee, Study of Medicaid Dispensing Methods**

This proviso directs the Joint Legislative Audit and Review Committee to conduct an analysis of the assumed budget savings as a result of the state's change to dispensing a one-year supply of contraceptive drugs for Medicaid recipients under Section 213, Chapter 4, Laws of 2013, 2nd Special Session. Individuals need convenient access to contraceptive drugs, as these drugs prevent unintended pregnancies and reduce Medicaid births. For this reason, I have vetoed Section 103(11).

The Health Care Authority will track savings resulting from dispensing a one-year supply of contraceptive drugs, and will report savings to the Office of Financial Management.

**Section 106, page 8, lines 13-16 and lines 22-28, Office of the State Actuary, Actuarial Analysis of State Medicaid and PEB Programs**

Funding is provided to the Office of the State Actuary to improve the Legislature's access to independent and objective health care actuarial analysis for the state Medicaid and Public Employee Benefits programs. The funding provided includes federal funds that cannot be used for this purpose. For this reason, I have vetoed Section 106, page 8, lines 13-16 and lines 22-28.

However, I recognize the importance of legislative review and access to actuarial analyses. Therefore, I am directing the Health Care Authority to collaborate with the Office of Financial Management, the Office of the State Actuary, and legislative staff on the establishment of health care rates. The Health Care Authority is further directed to include a

requirement in actuarial services contracts that will require the vendor to provide information in response to questions from the Office of Financial Management, the Office of the State Actuary, and legislative staff.

**Sections 116(5), page 17, Office of the Governor, Transfer of Special Education Ombuds**

The appropriation in this section increases funding to the Governor's Office of the Education Ombuds (OEO) for special education ombuds services currently provided by the Office of the Superintendent of Public Instruction (OSPI). Funding for the special education ombuds is removed from the OSPI budget in Section 505(12). OSPI is required to provide special education ombuds services to comply with federal law. Therefore, the transfer of funding for this function would result in a reduction in funding to OSPI without a corresponding reduction in responsibilities and workload. In addition, this section requires OSPI to enter into an interagency agreement with OEO to provide support for additional special education ombuds services using federal funds. OEO services are not an allowable use of federal funds. For these reasons, I have vetoed Section 116(5).

**Section 125(14), page 27, Office of the Attorney General, Medical and Recreational Marijuana (E3SSB 5887)**

This proviso provides appropriation authority for the implementation of Engrossed Third Substitute Senate Bill 5887, medical and recreational marijuana. E3SSB 5887 did not pass, so this subsection is unnecessary. For this reason, I have vetoed Section 125(14).

**Section 126, page 27, Caseload Forecast Council, Self-Insurance Premiums**

This section reduces appropriations to the Caseload Forecast Council (CFC). Statewide adjustments for self-insurance premiums submitted to the Office of Financial Management (OFM) mistakenly included a \$78,000 reduction for CFC. These premiums were already adjusted in the 2012 supplemental budget. As CFC is a small agency, the reduction is too large for the agency to absorb. For this reason, I have vetoed Section 126.

I am directing OFM to work with CFC to adjust allotments to levels consistent with the supplemental budget excluding the self-insurance premium reduction.

**Section 135(9), page 44, Department of Revenue, Study of State Revenue Impact**

This proviso directs the Department of Revenue (DOR) to consult with counties affected by the United States Open golf championship to estimate the additional state sales tax

revenue attributable to the event. Large events around the state generate sales tax revenues for the state and local governments. This proviso establishes an unwise precedent of attempting to identify only state sales tax revenue attributable to a particular event. Further, no additional appropriation was provided to complete the study. As DOR must absorb more than \$267,000 of implementation costs for various revenue-related measures passed by the 2014 Legislature, the agency cannot be expected to absorb additional costs for this study. For these reasons, I have vetoed Section 135(9).

**Section 138(3), page 46, Office of the Insurance Commissioner, Insurance Company Solvency (SHB 2461)**

This proviso provides appropriation authority for the implementation of Substitute House Bill 2461, insurance company solvency. SHB 2461 did not pass, so this subsection is unnecessary. For this reason, I have vetoed Section 138(3).

**Section 140(3), page 47, Liquor Control Board, Medical and Recreational Marijuana (E3SSB 5887)**

This proviso provides appropriation authority for the implementation of Engrossed Third Substitute Senate Bill 5887, medical and recreational marijuana. E3SSB 5887 did not pass, so this subsection is unnecessary. For this reason, I have vetoed Section 140(3).

**Section 146(10), page 53, Department of Enterprise Services, Small Agency Services and Printer Rates**

This proviso directs the Department of Enterprise Services (DES) to revise central services rates charged to state agencies to reflect a transfer of Small Agency Client Services to the Office of Financial Management (OFM), the elimination of funding for Small Agency Human Resource Services, and establishment of the Print and Imaging program rates at levels sufficient to fully recover costs. I understand the legislative intent was not to eliminate services for small agencies, but to provide such services with a smaller budget. I am concerned about the unnecessary disruption of services for small agencies as a result of this proviso. For this reason, I have vetoed Section 146(10).

However, to fully and responsibly capture the assumed budget savings for small agency services and accomplish the policy goal of setting printer rates at levels sufficient to recover all costs, I am directing DES and OFM to take the following actions:

DES will provide both finance and human resource services to current small agency customers within the \$1.845 million provided to OFM in the operating budget. DES may not use any other fund sources or projected fund balances from any of its operating accounts to provide small agency services. To

maximize the use of limited resources, DES and OFM shall convene a meeting of small agency customers to receive their input on the structure, service offerings, and rates for small agency services in light of the reduced budget.

DES shall immediately set its rates for the Print and Imaging program to fully recover costs for the services provided to prevent any operating loss for the current and future fiscal years. By June 1, 2014, DES must submit to OFM a comparative rate sheet showing rates for the program as of April 1, 2014, and the new rates along with a long-term financial plan for the Print and Imaging program.

**Section 202(15), page 63, Department of Social and Health Services, Children's Long-Term Inpatient Program Placement Waitlist**

This proviso provides appropriation authority for a rate add-on paid to residential facilities providing behavioral rehabilitation services (BRS) to youth who have been assessed as needing mental health services through the children's long-term inpatient program (CLIP). I am concerned that a rate add-on for this population will create an incentive to send youth served by BRS to CLIP, thereby driving up costs in CLIP and placing foster youth in unnecessarily restrictive settings. For this reason, I have vetoed Section 202(15).

However, I recognize the need to review the level of funding provided to BRS agencies serving youth with psychological and psychiatric needs. Therefore, I am directing the Children's Administration and the Behavioral Health and Integrated Services Administration to work with BRS providers over the interim to examine this issue and determine viable solutions.

**Section 205(1)(1), pages 82-83, Department of Social and Health Services, Report from Developmental Disabilities Administration**

This proviso directs the Department of Social and Health Services to meet with stakeholders and report to the Legislature by January 1, 2015, on fourteen key areas related to developmental disabilities. No funding was provided to the Department for this work. For this reason, I have vetoed Section 205(1)(1).

The Developmental Disabilities Administration will be working with stakeholders in the development of the Individual and Family Services waiver and the Community First Choice Medicaid state plan revision. Therefore, many of the areas identified in the proviso will be discussed and addressed.

**Section 219(30), page 139, Department of Health, Medical and Recreational Marijuana (E3SSB 5887)**

This proviso provides appropriation authority for the implementation of Engrossed Third Substitute Senate Bill 5887, medical and recreational marijuana. E3SSB 5887 did not pass, so this subsection is unnecessary. For this reason, I have vetoed Section 219(30).

**Section 220(3)(e), page 149, Department of Corrections, Expanding Categories of Offenses Eligible for Community Parenting Alternative Program Within Department of Corrections (SB 6327)**

This proviso provides appropriation authority for the implementation of Senate Bill 6327, expanding the categories of offenses eligible for the community parenting alternative program within the Department of Corrections. SB 6327 did not pass, so this subsection is unnecessary. For this reason, I have vetoed Section 220(3)(e).

**Section 502(21), page 205, Office of the Superintendent of Public Instruction, Federal Forest Revenue (E2SHB 2207)**

This proviso provides appropriation authority for the purpose of Engrossed Second Substitute House Bill 2207, federal forest revenue. E2SHB 2207 partially eliminates the current state offset to state general apportionment funds for federal timber revenues paid to school districts. The calculation for the timber revenue offset includes federal funding allocated to school districts through the federal Secure and Rural Schools and Community Self-Determination Act (SRSA). Federal authority to make SRSA payments expires at the end of federal fiscal year 2014.

Because the original 2013-15 state operating budget assumes no federal SRSA payments after September 30, 2014, underlying general apportionment appropriations are sufficient to fully fund apportionment payments to school districts without any offset for potential SRSA timber revenues to districts. Therefore, if the federal government reauthorizes SRSA beyond September 30, 2014, eligible school districts will receive the benefits of increased combined state and local funding under E2SHB 2207, and state general apportionment appropriations in this budget bill will be more than sufficient to fully fund state general apportionment without the appropriation provided in this subsection. The appropriation in this subsection is redundant. For this reason, I have vetoed Section 502(21).

**Section 505(12) and Section 505(13), page 211, Office of the Superintendent of Public Instruction, Special Education Ombuds Services**

Section 505(12) reduces appropriations for special education ombuds services at the Office of the Superintendent of Public Instruction (OSPI). Section 116(5) provides an increased appropriation to the Governor's Office of the Education Ombuds

(OEO) for these services. OSPI is required to provide the special education ombuds services to comply with federal law. Therefore, the transfer of funding for this function would result in a reduction in funding to OSPI without a corresponding reduction to responsibilities and workload. Section 505(13) requires OSPI to enter into an interagency agreement with OEO to provide support for additional special education ombuds services using federal funds. OEO services are not an allowable use of federal funds. For these reasons, I have vetoed Sections 505(12) and (13).

**Section 705, page 257, lines 23-24, Disaster Response Account**

This line item reduces General Fund-State appropriations into the Disaster Response Account by \$1.5 million in fiscal year 2015 based on a projected excess fund balance. Earlier this year, it appeared the account would not need these funds. However, the tragic mudslide that occurred in Oso on March 22, 2014, will greatly strain these resources. The Military Department has activated the State Emergency Operations Center, and other state agencies are engaged in rescue and recovery efforts. For these reasons, I have vetoed Section 705, page 257, lines 23-24.

**Section 805, page 267, lines 32-38, and page 268, line 1; Section 805, page 268, lines 11-38, and page 269, lines 1-15; Office of the State Treasurer, Revenue Transfers to Life Sciences Discovery Fund**

These sections together transfer a total of \$20 million from the Tobacco Settlement Account and the Life Sciences Discovery Fund to the Education Legacy Trust Account. As a result of these transfers, funding for the Life Sciences Discovery Fund Authority (LSDFA) is effectively ended for the remainder of the 2013-15 biennium. The LSDFA has helped make Washington a global innovation leader in life sciences research. Returning this funding to the LSDFA will allow for the issuance of more than \$15 million of new grants in the 2013-15 biennium on top of the nearly \$92 million in grants already made, continue support for the Global Health Technologies and Products program, and cover necessary administrative costs. For this reason, I have vetoed Section 805, page 267, lines 32-38, and page 268, line 1; Section 805, page 268, lines 11-38, and page 269, lines 1-15.

I am aware that this veto reduces revenue to the Education Legacy Trust Account. However, this veto will not affect any education spending as there are sufficient resources in the budget to cover any projected shortfalls in the Education Legacy Trust Account in the 2015 supplemental budget.

I am not vetoing the legislative intent language for transfer of the strategic tobacco contribution payments in 2015-17 as it has no impact on returning \$20 million to the LSDFA in

2013-15. The actual use of the 2015-17 strategic tobacco contribution payments will be made in the 2015 legislative session. We look forward to working with the Legislature to continue some level of funding for the LSDFA into the future so we do not lose the value of this important and innovative research.

**Section 805, page 270, lines 12-16, Office of the State Treasurer, Energy Freedom Account**

Section 805 increases the transfer from the Energy Freedom Account to the state General Fund by \$500,000 in fiscal year 2014 and by \$500,000 in fiscal year 2015. The enacted biennial budget transfers \$1 million from the Energy Freedom Account to the General Fund in each fiscal year. I am concerned about the uncertainty of when revenues will be deposited into the Energy Freedom Account. Current deposits are lower than anticipated. Vetoing the additional \$1 million transfer in this section will ensure the account's ending fund balance remains positive. For this reason, I have vetoed Section 805, page 270, lines 12-16.

**Section 917, page 281, Transfer of Strategic Contribution Payments**

This section authorizes the transfer of strategic contribution payments from the Tobacco Settlement Account to the Education Legacy Trust Account. As I have vetoed the transfers to the Education Legacy Trust Account in Section 805, the authority provided in this section is unnecessary. For this reason, I have vetoed Section 917.

**Section 919, page 282, Account Transfers from Life Sciences Discovery Fund**

This section authorizes the transfer of balances in the Life Sciences Discovery Fund to other state funds or accounts in the 2013-15 biennium. Because I have vetoed the transfers to the Education Legacy Trust Account in Section 805, the authority provided in this section is unnecessary. For this reason, I have vetoed Section 919.

I am not vetoing Section 123(2), which appropriates \$300,000 from the State Auditing Services Revolving Account for a contract with a private firm to conduct an audit of the use of the state's higher education accounts. However, I am concerned that the short time frame and lack of sufficient funding for such a comprehensive audit may act as a disincentive for firms to bid on the contract, thereby limiting the information the audit can provide for policy makers and budget writers. Unfortunately, a veto would eliminate the funding entirely and no audit would occur. I have therefore asked the State Auditor to use this limited funding and time frame to focus on the

state's largest public four-year institution and conduct a focused audit that meets the requirements of the proviso.

For these reasons I have vetoed Sections 103(11); 106, lines 13-16 and lines 22-28; 116(5); 125(14); 126; 135(9); 138(3); 140(3); 146(10); 202(15); 205(1)(1); 219(30); 220(3)(e); 502(21); 505(12); 505(13); 705, page 257, lines 23-24; 805, page 267, lines 32-38, and page 268, line 1; 805, page 268, lines 11-38, and page 269, lines 1-15; 805, page 270, lines 12-16; 917; and 919 of Engrossed Substitute Senate Bill No. 6002.

With the exception of Sections 103(11); 106, lines 13-16 and lines 22-28; 116(5); 125(14); 126; 135(9); 138(3); 140(3); 146(10); 202(15); 205(1)(1); 219(30); 220(3)(e); 502(21); 505(12); 505(13); 705, page 257, lines 23-24; 805, page 267, lines 32-38, and page 268, line 1; 805, page 268, lines 11-38, and page 269, lines 1-15; 805, page 270, lines 12-16; 917; and 919, Engrossed Substitute Senate Bill No. 6002 is approved.

Respectfully submitted,  
Jay Inslee  
Governor