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**This Sine Die Part II Special Edition provides an update of legislative actions as the first Special Session concludes. A “final” special edition TWIO will be released when the 2017 Legislature adjourns for the year. TWIO is posted on WASA’s website at [www.wasa-oly.org/TWIO](http://www.wasa-oly.org/TWIO).**

NOTE: WASA staff is currently preparing our annual End of Session report. It will contain full details of the 2017–19 Operating Budget and the 2017–19 Capital Budget, along with a comprehensive review of any adopted Education Funding Plan and the many education-related bills the Legislature addressed this session. It will be emailed to all TWIO subscribers as soon as it is completed.

## Special Edition: Sine Die, Part II

Yesterday, the 2017 Legislature adjourned its Special Session, “Sine Die.” The main objectives—and requirements—of the extra session remain unfinished: the Legislature has not yet adopted a 2017–19 Operating Budget or an Education Funding Plan to comply with the Supreme Court’s *McCleary* decision. So, as anticipated, the 30-day Special Session was simply the *First* Special Session of the 2017 Legislature and (at least) one more session will be required.

Just before the Legislature adjourned the Session, [Governor Inslee announced](#) he would be immediately calling the Legislature back for a Second Special Session. The House and Senate both convened at 11:30 a.m. yesterday and adjourned the First Special Session by about 11:45 a.m. The few legislators that showed up for the closing of session stayed on-hand for the opening of the Second Special Session about fifteen minutes later; however, both houses adjourned for the day shortly after. Yesterday, then, was Day 30 of the First Special Session and Day 1 of the Second Special Session. This prompted questions about whether legislators would be eligible for two days of per diem. (It turns out the answer is “No,” but it is just a bit distressing that the question even needed to be asked.) Following the uneventful closing and reconvening of the sessions, the Legislature returned to a “rolling recess” wherein most rank-and-file legislators will remain at home until they are called back into active duty. The House is scheduled to hold an official Floor session tomorrow, acting on a series of bills (more on that below), while, for the time being, the Senate will continue to have “Pro Forma” Sessions, beginning on Friday.

Following the Legislature’s adjournment (and reconvening), Governor Inslee held a [media availability](#) to provide an update on budget progress (including a series of offers back and forth between the houses recently) and his expectations for the Second Special Session. Earlier in the day Inslee met with budget negotiators and he announced that he will be calling budget-writers to his office “in the coming days,” implying that Inslee will attempt to take a leadership role in negotiations. The governor talked about the need to be “make real, hard decisions based on reality.” This includes making necessary compromises, and he laid out a series of “guidelines” to help spur progress towards a compromise. He clearly stated that he understood a final budget will not include the same level of funding for social services as he (or House Democrats) have proposed, but it must have more than proposed by the Senate Republicans. He noted that there needs to be an openness to “some kind of levy reform” as well as an “ample” increase in

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K–12 funding—clarifying “ample does not mean skimpy.” He added that new resources will be necessary and firmly noted he will not sign a budget that “fully funds education by making damaging cuts to the most vulnerable people in the state of Washington.” Inslee noted that Republicans have proposed a “very large increase” in the state property tax, while the Democrats have proposed a new Capital Gains tax and flatly stated that neither option, as is, will have the necessary support to be adopted by both houses.

During questions from the assembled media, Inslee was asked if he would be open to a “small statewide property tax increase.” Inslee clarified that a plan that has “some portion associated with the property tax is not something that would be unacceptable,” and later clarified that, while he strongly supports a Capital Gains tax, that plan is effectively off the table. He also mentioned additional options that might still be viable, including the Internet sales tax (“Marketplace Fairness”), a Carbon tax (new legislation is in the works), and reform of the Real Estate Excise Tax or REET (as proposed by the House Democrats).

### **First Special Session Review**

What will occur in this Second (and hopefully final) Special Session is the most important issue; however, a review of what occurred (and did not occur) in the First Special Session to set the stage for actions in the new session is in order.

#### **Budget Negotiations**

The main priority of the 2017 Legislature, as noted above, is adoption of a new two-year Operating Budget, along with an Education Funding Plan to resolve the *McCleary* decision. At the conclusion of the Regular Session, characterizing budget negotiations as being at impasse does not adequately describe the scenario. Both the Senate and House had adopted their respective proposals, but negotiations were not at an impasse, they were non-existent, as both sides refused to negotiate with the other side. Senate Republicans refused to negotiate on a compromise budget until the House Democrats adopted a “complete” budget proposal. They continued to criticize the House for adopting a “spending” plan with no way to pay for their budget. House Democrats continued to refuse to adopt their proposed revenue package until a budget compromise is completed, so they will know how much additional revenue is needed to fund the budget. What little talking that was occurring was between budget-writers and the press and the public, rather than budget-writers to budget-writers. Twitter has become the weapon of choice as both sides attack the other in 140-character sound-bites. (In the last few days, the [Senate Republicans](#) and both the [House Democrats](#) and [Senate Democrats](#) have been pumping out budget-related tweets at a pretty fast clip.)

Two things need to be clarified about budget negotiations and/or the lack of budget negotiations. First, there is a debate about whether Education Funding Task Force (EFTF) negotiations on an Education Funding Plan are “budget negotiations.” Democrats are complaining that Senate Republicans refuse to negotiate on the budget (as noted above), while Senate Republicans have begun to accuse Democrats of mischaracterizing the [state of budget negotiations](#). EFTF members have been meeting regularly for weeks and Senate Republicans rightly state that the K–12 finance reforms “need attention first.” Yet, interestingly enough, Senate Republicans actually note, “We have no interest in putting our balanced budget proposal up against a House plan built on ‘ghost dollars’—meaning revenue from new taxes that are only assumed.” They have every right to take that stance... but it does sound like they are refusing to negotiate. Certainly, K–12 and an Education Funding Plan will (or at least should) comprise a major portion of

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any final 2017–19 Operating Budget; however, even if (hopefully “when”) these negotiations are completed, it is only one piece (albeit a major one) of the puzzle. Negotiations on the rest of the budget must begin and be completed in order to have an “omnibus appropriations act.” [Why can't we all just get along?](#)

Second, although Operating Budget negotiations were non-existent for much too long, budget-writers have begun talking. It is our understanding that informal talks have been occurring for a while, although it appears that was more relationship building and maintaining connections between the parties and not anything one would normally describe as “negotiations.” Recently, however, those informal conversations have become more regular and there has been a series of exchanges of budget offers. It appears that those offers have been on specific pieces of the budget as opposed to full budget offers. That said, it doesn't appear any of the offers have included any major compromises—and it appears each offer presented has been rejected. These baby-steps, however, are more positive and productive than no steps.

**Bill Action**

Most of what little action occurred during the First Special Session was behind-the-scenes, as most rank-and-file legislators were away from Olympia. On one day during the 30-day session, however, there was a flurry of activity as both the House and Senate held Floor sessions. On May 2, each house met to re-adopt a series of bills previously adopted. Remember, at the end of any session (regular or special), all bills adopted by one house, but not acted upon by the opposite house, revert to their original house. The House re-adopted 19 bills, including four K–12 bills:

- [HB 1046](#), which would “de-link” state assessments (English Language Arts, Mathematics, and Science) from high school graduation requirements;
- [HB 1508](#), which would require schools to implement a Breakfast After the Bell program;
- [HB 1600](#), which would establish a pilot project to promote work-integrated learning experiences for students; and
- [HB 1886](#), which would establish a legislative task force to provide recommendations regarding the appropriate roles and responsibilities of OSPI and the State Board of Education.

While the House was meeting, across the Rotunda Senators were also re-adopting a series of bills they previously adopted. The Senate acted upon 15 bills (and confirmed four Gubernatorial Appointments). Only one of the bills was education-related:

- [SB 5891](#), which would DELAY (not de-link) the current biology assessment from high school graduation requirements.

**Committee Action**

While the full Legislature stayed away from Olympia—excepting the full day of activity on May 2—several legislative committees held meetings. Three Committees held substantive meetings of interest to educators. On May 17, the Senate Commerce, Labor & Sports Committee held a work session on state labor contracts. The focus of the meeting was on the state employee Collective Bargaining Agreement negotiated with the governor this past summer. The CBA is a key piece of the 2017–19 Operating Budget process. The Legislature must approve or reject the agreement, with no opportunity to re-negotiate. While the state employee CBA does not directly impact school districts or school employees, there are a few connections. First, the CBA is fairly large, impacting the overall

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state budget by about \$700 million dollars. Second, many legislators want to alter the current negotiation process. One option is to amend current law to allow the Legislature to directly negotiate the Collective Bargaining Agreement, rather than the governor's office. Part of the reason this option is discussed is because the bargaining sessions are private. Legislators believe, if they are only allowed to accept or reject a final CBA, they should be either involved in the process, or at least be allowed to witness the process. And "witnessing the process" is another option that continues to be discussed. Many legislators have expressed their desire to require state employee collective bargaining sessions to be open; however, when this option is discussed, it is usually broadened to include ALL public employee negotiations—including school district negotiations with teachers and other education staff. We have seen legislation in the past to require open collective bargaining and after watching this Committee's work session, it is clear this will continue to be on the table for discussion (although it appears unlikely to occur this year).

The House Finance Committee, on May 2, held a public hearing on two bills of interest: [HB 2145](#) and [HB 2146](#). Both bills focus on the current tax preference the state has provided for "a significant aerospace firm in this state"—that is, Boeing. HB 2145, sponsored by House Democrats, would require Boeing to meet minimum annual employment levels in order to take advantage of its current preferential B&O tax rates and B&O tax credits. If Boeing fails to meet the required employment levels, the resulting increase in the state General Fund (due to the loss of the current tax preference, and, therefore, an increase in state tax receipts) would be deposited in the Education Legacy Trust Account and a newly created small business tax credit account (revenues would be split evenly between these two accounts). The new revenue in the Education Legacy Trust Account would not be specifically directed; however, funds in this account are dedicated to education—both K-12 and Higher Education.

The second bill, HB 2146, sponsored by House Republicans, would require specific employment levels at Boeing to retain its tax preferences after July 1, 2024. (In 2013, the Legislature extended Boeing's tax preferences from 2024 to 2040; this bill would only impact the tax preferences during this extended period.) If Boeing fails to meet the required employment levels, the resulting increase in the state General Fund would be split between the State Need Grant program (30 percent), a new Small Business Tax Credit Account (30 percent), a new Career and Technical Education Account (30 percent), and a new Worker Readjustment Account (10 percent). Businesses that are eligible for the new Small Business Tax Credit would receive credits based on the number of employees that are graduates of a CTE program within the previous 12 months.

The Committee meeting that was the most directly related to the 2017-19 Operating Budget and, therefore, the most impactful to K-12 education, was a public hearing in the Senate Ways & Means Committee. On April 26, the Committee heard testimony on [SB 5929](#). This Republican-sponsored bill is a carbon copy of the House Democrat's tax package, [HB 2186](#), which would raise around \$3.0 billion for the 2017-19 Operating Budget. As discussed above, House Democrats are waiting to act on their bill until budget negotiations are complete (or at least underway). Senate Republicans, however, do not believe the bill has the necessary support in the House and, even if there was, wanted to clearly show there was not the necessary support in the Senate. The hearing lasted over four hours with hundreds of people on-hand to testify (mostly in support of the bill); however, the bill has not moved to executive session and there was never an intention to adopt the bill.

## Second Special Session Preview

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With the Legislature resuming a “rolling recess” with most rank-and-file legislators remaining in their home districts, this “new” session will, at least initially, be more of the same. The full House is scheduled to be in session tomorrow, so there will be a bit of activity right out of the gate; however, most of the bills they have placed on their Order of Consideration are bills they adopted during the Regular Session, then re-adopted in the First Special Session. It doesn’t appear there will be many surprises as these bills get re-adopted, again (re-re-adopted?). As stated before, remember that all bills adopted by one house and not acted upon by the opposite house are returned to their original house at the end of any session (regular or special). Three of the K–12 bills re-adopted on May 2 (and discussed above) are back on the list: HB 1046 (assessment de-link), HB 1508 (Breakfast After the Bell), and HB 1600 (career and college readiness). The “missing” bill is HB 1886, establishing a task force to review and provide recommendations about the role and responsibilities of OSPI and SBE. This bill is technically “Necessary to Implement the Budget,” as it is embedded in the House’s budget proposal. At this point, it is unclear if its exclusion from the list is an oversight, if the bill will be replaced by a budget proviso, or if legislators have agreed to drop the issue for this year.

### Budget Negotiations

Of course, negotiations on a final, compromise 2017–19 Operating Budget and a final Education Funding Plan will continue to be the main focus of the Legislature during this Second Special Session. With budget negotiations apparently creeping towards the starting line and education funding negotiations continuing, the hope is the Legislature can adjourn before the end of this 30-day Second Special Session. The timing of the end of this session is interesting, however—June 21 is the last allowed day of this Special Session. There has been much talk about waiting for the June Revenue Forecast update before finalizing a budget (some believe the Legislature should wait until the update to even begin), but that update arrives on June 20—leaving only one day to make any necessary changes to the budget. As a side note, it seems a bit silly to wait for the June Forecast anyway. The final two-year budget will appropriate around \$44 billion and even a substantial increase (or decrease) in forecasted revenues will essentially be a drop in the bucket. In fact, while there is evidence Washington’s economy is continuing to grow, it certainly is not moving at breakneck speeds. In the two monthly revenue collection reports since the March forecast, the state received an increase of approximately \$44 million above projections. Certainly positive, but does anyone truly believe an extra 0.1 percent of revenue will help break the negotiating logjam?

Day 30 of the Second Special Session is also nine days before the end of the Fiscal Year. A 2017–19 Operating Budget must be adopted and signed by the governor by midnight, June 30, or we face a partial shut-down of state government. Given the continued slow pace of negotiations, there has been increasing talk about what happens if the Legislature cannot meet the June 30 deadline. The governor’s budget office, the Office of Financial Management, has already begun preparing their agencies for the possibility of a shut-down. At the end of April, David Schumacher, OFM Director, [notified agency heads](#) that they need to begin contingency planning (or more specifically, update their contingency plans). In his e-mail, Schumacher reviews the constitutional and statutory constraints on the state absent appropriations. In short, an agency is precluded from expending any money (or incurring any debts) unless the Legislature has provided an appropriation—with the added note that this provision only applies to funds that require an appropriation (some agencies have fees and other non-appropriated

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revenues which they are allowed to expend without explicit legislative authority). He also notes, however, there are federal and state constitutional obligations that must be maintained, even without an operating budget. One of those constitutional obligations may be K–12 education. This is still an open question. The memo says, “Expenditures for K–12 education may be included” and with the understanding the Supreme Court continues to monitor legislative activities, via *McCleary v. State*, “the failure to appropriate any funds for basic education may call the question of what remedies the Court may entertain to enforce the constitutional obligation.”

No one in the Legislature really wants to see a shut-down—even a partial shut-down—of government, so there is also an increasing discussion about other options. Washington’s laws do not include any specific allowance for a “Continuing Resolution” like the federal government uses when they reach the end of a fiscal term without a budget resolution; however, there is a belief other options could be utilized. A few years ago, the Legislature reached the end of the line and prepared a stop-gap measure that would have funded state government on a month-to-month basis, but fortunately that was not required. Another possibility it to re-adopted an updated version of the 2015–17 Operating Budget, which would maintain state government at currently funded levels. A third option is to adopt a “bare bones” budget, just to get over the June 30 hump, with the expectation that budget negotiations would continue and a “full” budget would be adopted at some later point. A variation of this option would be to adopt a new 2017–19 Operating Budget, but leave a *McCleary* solution until later. Of all the possibilities, this seems the least likely because EFTF negotiators appear to be making progress and Leadership in both houses appear to want *McCleary* resolved before the overall budget package. Additionally, this option could put the Legislature in a bind, given the Supreme Court’s continued jurisdiction in *McCleary*. If a partial budget were to be adopted, presumably they would have to file a brief with the Court explaining that they adopted a budget, absent *McCleary*, and ask for more time. The Court’s patience has been worn thin and this type of scenario could prompt an aggressive response.

## **CALL TO ACTION**

During the Special Session(s), we strongly encourage administrators to continue—if not ramp up—your advocacy activities. With only a few legislators making budget decisions (both on the overall budget and on a *McCleary* plan), those non-budget folks need to be hearing from you. Especially on the education front, it doesn’t appear that those negotiators have the authority to speak for their caucuses, so once they reach a compromise, it will likely have to be accepted by rank-and-file members. It will be impactful to have those negotiators’ peers send a message for you. For example, if negotiators agree to eliminate the Salary Allocation Model and they take that to their caucuses, it would be very powerful if the majority of each caucus pushed back, explaining that they heard from their local superintendents (and other administrators) that this is a bad idea.

You’ve seen the [Education Funding Recommendations](#) from the Local Funding Workgroup, WASA’s [Essential Ingredients of a \*McCleary\* Solution](#), and other tools we have provided—and we encourage you to continue using them—but we have further refined and focused our message as it turns to crunch time. Ensuring a final Education Funding Plan includes “bumpers” on collective bargaining and includes some type of salary allocation structure and staff mix are crucial.

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We encourage you to continue regular and frequent communications with your local legislators from both the House and Senate and share specifics of your local school district's situation in relation to the following questions:

1. If teacher-base pay is increased and parameters are not set for TRI packages, the total cost to the district would go up due to inflated per diem rates. What do you anticipate as potential implications of this to your district's staffing and programming without limitations to TRI bargaining?
2. What might be potential implications for your district should the following policy decisions occur:
  - a. Elimination of a teacher salary schedule
  - b. Elimination the staff mix factor in relation to the core teacher salary schedule (not with regard to categorical program staffing)

We still have a tall hill to climb, so be sure to continue to "tell your story." Thank you in advance for your efforts.



**Dan Steele, Government Relations** [dsteeler@wasa-oly.org](mailto:dsteeler@wasa-oly.org)  
**Washington Association of School Administrators** 825 Fifth Ave SE | Olympia, WA 98501  
P: 800.859.9272 360.489.3642 | F: 360.352.2043 | [www.wasa-oly.org](http://www.wasa-oly.org)