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Governor



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May 19, 2009

The Honorable James Hargrove
Washington State Senate
P.O. Box 40424
Olympia, WA 98504-0424

The Honorable Ruth Kagi
Washington State House of Representatives
P.O. Box 40600
Olympia, WA 98504-0600

Dear Senator Hargrove and Representative Kagi:

Thank you for your work this legislative session to ensure that case-carrying social worker positions at the Department of Social and Health Services (DSHS) Children's Administration were not cut in the budget, and to develop and pass 2SHB 2106, which relates to improving child welfare outcomes through performance-based contracts. I am committed to continuous quality improvement of our state's child welfare system: assessing what is not working well, piloting new approaches, and measuring results. I also believe that a strong child welfare system can only be achieved through collaboration with community partners. 2SHB 2106 outlines a process by which we can test new models of business in a responsible manner.

As you know, I signed 2SHB 2106 largely intact, with just a few section vetoes to address clear bill drafting or fiscal issues as outlined in my veto message. However, as we discussed yesterday, many groups and individuals have identified additional issues that need further work. I appreciate the commitment that you have given me to address the issues described below, either through clarifying legislation next year, through the work of the Child Welfare Transformation Design Committee, or through some other mechanism.

A number of our state's Indian Tribes have contacted me to express concern about this bill. Some Tribes have expressed frustration about working with contractors in other human services arenas, and they are concerned that their ability to work with the state to address issues of concern not be hindered by having to work through intermediaries. We are all in agreement that the recent work of the Racial Disproportionality Committee has shown that we have much work to do to improve outcomes for our Native American children who come into contact with our child welfare system. I understand the Tribes' strong interest in ensuring the state continues to work with them on these important issues in a government-to-government manner, and I appreciate your commitment to helping devise an appropriate process through which to do this.



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The Washington Federation of State Employees has expressed two major concerns with this bill. First, they are concerned that their members not lose their jobs. With this in mind, they have concerns with the broad exemption of case management contracts in Section 4 of the bill from the contracting out employee bidding process as is currently outlined in chapter 41.06 RCW. They have indicated that they agree that a limited exemption for the purposes of a demonstration project is acceptable. However, if, after the evaluation of the project is complete in 2015, the decision is to further expand the use of contracted case management, WFSE believes that employees should have an appropriate opportunity to bid on the contracts. Thank you for joining with me to ensure that the approximately 225 case-carrying social work positions proposed for elimination in the initial House and Senate proposed budgets this session were restored in the final budget. Also, as we agreed, legislation next session should amend the second paragraph of Section 4, and possibly Section 6 of this bill, to ensure that, if the state makes greater use of case management contracts after the demonstration projects are complete, state employees have an opportunity to fairly compete for the work.

In addition, the Federation remains concerned that the demonstration of contracted case management services be designed in such a way that evaluators may fairly assess outcomes from the demonstration sites relative to a comparable control group. I agree that it is important the evaluation consider such factors as community service capacity, costs, caseload acuity, and workloads as well as outcomes. Because the Washington State Institute of Public Policy will be evaluating the demonstration sites, we agreed that the Institute should be asked to provide input to the Child Welfare Transformation Design Committee as to design features that will facilitate a fair evaluation.

The Department of Social and Health Services, and its attorneys, raised concerns during the legislative process about a potential risk to our state's eligibility for federal Title IV-E foster care and adoption support matching funds if our child welfare case management services are provided by private contractors. Under Title IV-E rules, responsibility for the placement and care of a child for whom the state is claiming matching federal support funding must be with the state agency or another public agency. DSHS interprets the federal guidance on this issue to mean that, to remain eligible for IV-E funding, the state cannot simply monitor contracts, it must also monitor and review each individual case that a contractor works. You included a new section in the final version of this bill, Section 5, with language intended to address this concern. However, the language in Section 3 of the bill is not as clear about the role of the state agency in monitoring individual cases. We agreed that the Child Welfare Transformation Design Committee would ensure that the final design of the contracted case management demonstrations will enable the state to remain eligible to claim federal Title IV-E matching funds for foster care and adoption support payments.

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Finally, the bill amends several sections of existing law to extend the department's child welfare powers to 'supervising agencies.' The intent is to ensure that, when case management services are contracted out in the demonstration sites, the contractor will have many of the powers currently assigned solely to the department. However, DSHS attorneys have pointed out that, given that 'supervising agency' is defined in the bill as any entity with a performance-based contract to provide child welfare services and the definition of "child welfare services" is a broad category of services, and given that all contracts are to be 'performance-based' contracts by January 2011, the bill may unintentionally endow a whole range of contractors with new powers. We agreed that the definitions in the bill should be refined in clarifying legislation.

2SHB 2106 represents a significant commitment to explore different ways of providing child welfare services in order to improve outcomes for children. There remain many issues that will need to be carefully worked through as we proceed and I thank you for your commitment to working together to carefully address the issues outlined above, as well as other issues that may arise as implementation proceeds.

Thank you once again for your continued work on behalf of our state's children and their families.

Sincerely,



Christine O. Gregoire
Governor