

Basic Education, *McCleary* and Funding Challenges

Jack Archer
Senior Fiscal Analyst
August 2012

Constitutional Foundation

- Washington’s constitutional provision on support of common schools is distinctive for its strength.

Article IX, Section 1. “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.”

Article IX, Section 2. “The legislature shall provide for a general and uniform system of public schools . . .

- “The ‘paramount duty’ and ‘ample provision’ language places a priority on education not found in most state constitutions.” (OSPI)

Doran and Basic Education

- These provisions were the basis for a set of court decisions in the 1970s-'80s, called *Doran*, that established the state obligation for funding basic education.
- *Doran* legal principles:
 - The Legislature must define a program of basic education and fund that program through “regular and dependable tax sources.”
 - Once a program is defined as “basic education,” the funding level may not be reduced due to state revenue problems.
 - The basic education funding formula is not “cast in concrete.” The Legislature has a continuing obligation to review the formula as the education system evolves.

Recent Legislative Activity

- Basic Education Task Force (2007-08) – Recommended revised definition of basic education and funding enhancements.
- ESHB 2261 (2009) -- Adopted new definition of basic education and new funding methodology.
- SHB 2776 (2010) -- Made major commitments to enhance basic education funding over a phase-in period, culminating in 2017-18 school year.

ESHB 2261, 2009 Session

- Revised definition of basic education
 - Increase in minimum instructional hours and high school graduation requirements.
 - Highly Capable added to program of basic education.
- Intent that redefined program of basic education and funding be fully implemented by 2018.
- New structure for distribution of basic education funds for staff and non-staff costs, based on “prototypical schools.”
- Quality Education Council to recommend on implementation of new program of basic education and funding.

-- Joint Task Force on Education Funding

SHB 2776, 2010 Session

- Set specific values for new prototypical school funding formula (average class size by grade, allocations for specific types of staff, specific non-staff costs, etc.)
- Required specific funding enhancements to basic education on schedules set in law:
 - K-3 class size reduction
 - New Pupil Transportation funding formula
 - Phase-in of full-day kindergarten, statewide
 - Materials, supplies, operating costs (MSOC).

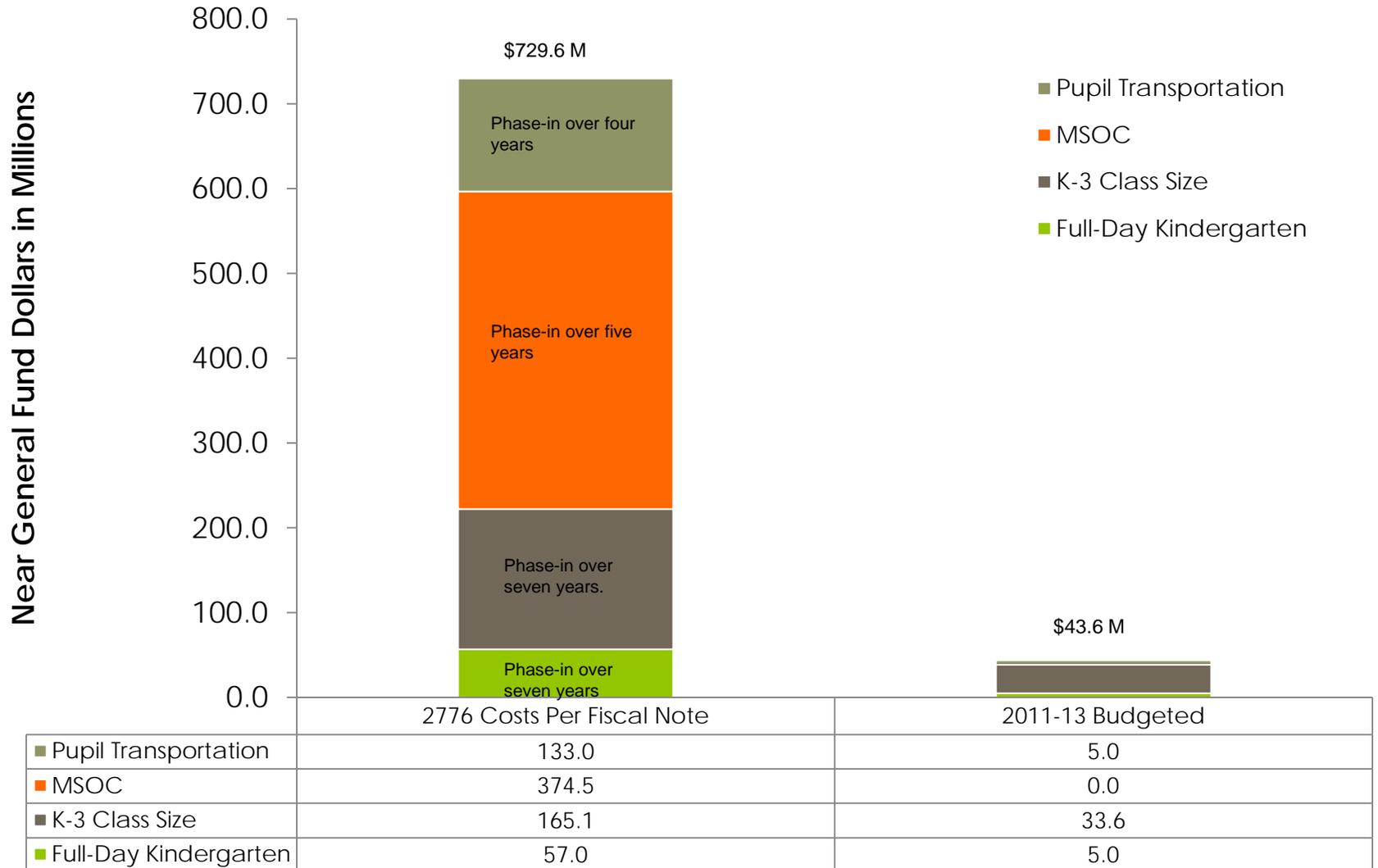
-- Joint Task Force on Education Funding

SHB 2776

Major Funding Enhancements: What is Required, and When?

Transportation	K-3 Class Size	Kindergarten	MSOC	Intent
<p>"The phase-in shall begin no later than the 2011-2013 biennium and be fully implemented by the 2013-2015 biennium."</p>	<p>"During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year."</p>	<p>"During the 2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year."</p>	<p>"During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation."</p>	<p>"It is the intent of the legislature that specified policies and allocation formulas adopted under this act will constitute the legislature's definition of basic education under Article IX of the state Constitution once fully implemented."</p>

SHB 2776: What is funded in the current budget?



McCleary v. State of Washington

- *January 2007* – Plaintiffs alleged the state is violating article IX, section I of the state constitution by failing to adequately fund the K-12 school system.
- *February 2010* – Trial court found in favor of plaintiffs, concluding that state funding is not ample, stable, or dependable.
- *January 2012* – State Supreme Court found for plaintiffs on appeal.

McCleary, Court's Conclusion

- The state has failed to meet its duty under article IX, section 1 by consistently failing to provide districts with a level of resources that falls short of the actual costs of the basic education program.
- The legislature recently enacted sweeping reforms to remedy the deficiencies and is currently making progress toward phasing in those reforms.
- We defer to the legislature's chosen means of discharging its article IX, section 1 duty, but the judiciary will retain jurisdiction over the case to help ensure progress in the State's plan to fully implement the reforms.

-- Office of the Attorney General

McCleary, Court's Remedy

- The state identified the problem and then identified the solution through ESHB 2261 and SHB 2276.
- The 2011-13 budget made minimal progress toward the full implementation goal. The Court has the responsibility to ensure the enacted reforms are not “unfulfilled promises.” Therefore the judiciary will retain jurisdiction to monitor implementation of reforms.

-- *Office of the Attorney General*

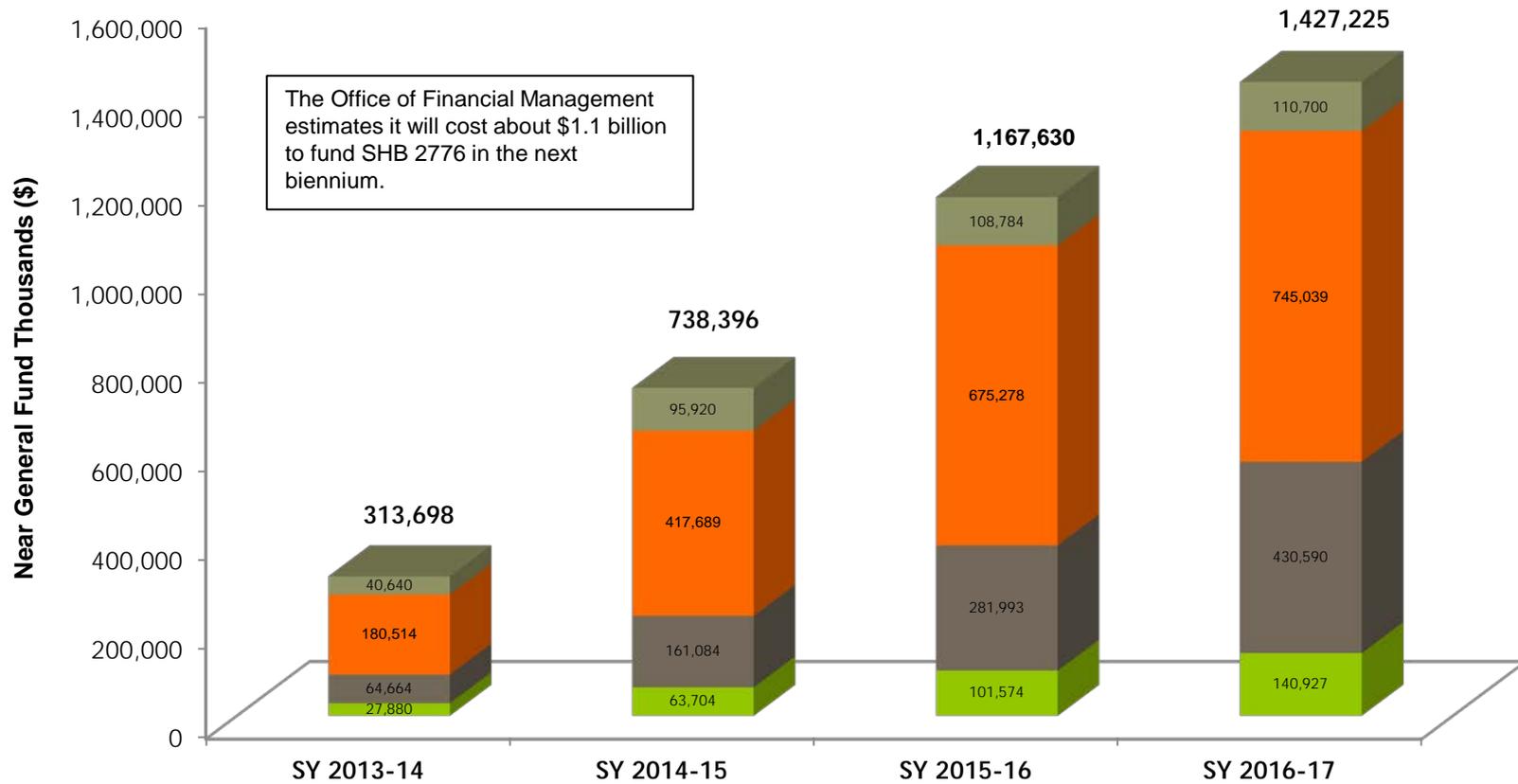
- Court declined to appoint a special master to oversee case. Will rely on periodic reports from legislature on implementation of reforms.

Joint Education Funding Task Force

- Created by HB 2824, 2012 Session. Eight legislators, three governor appointees.
- “Shall make recommendations on how the legislature can meet the requirements outlined in Chapter 548, Laws of 2009 and Chapter 236, Laws of 2010.”
- “Shall develop a proposal for a reliable and dependable funding source to support basic education programs.”
- Report due December 31, 2012.

SHB 2776 Costs of Implementation

■ Full-Day Kindergarten
 ■ K-3 Class Size
 ■ Materials, Supplies & Operating Costs
 ■ Transportation



OFM Budget Outlook -- August 2012

- Forecast revenues for 2013-15 exceed estimated “baseline” expenditures by \$1.0 billion.
- Does not include estimated \$1.1 billion for funding of SHB 2776 basic education enhancements in 2013-15.
- Does not include potential added costs for employee health benefits, state salary or vendor rate increases, higher education financial aid, or other policy enhancements.
- Projected \$492 million in state “rainy day fund.”

Questions

What “funding mechanism” will be identified to support the new requirements for funding of basic education?

How much flexibility will the Court permit the Legislature in making progress toward implementation of 2261/2776?

What accountability for results should the public expect for increased state resources for K-12 education?

Other questions?