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SPECIAL POINTS OF INTEREST

- If passed, SQ 744 would require school spending to rise to the per pupil average of the six surrounding states.
- We project that spending on Common Education would have to increase by nearly \$1.7 billion over the three-year phase-in period.
- Given that the state must also replace over \$1 billion in non-recurring revenue in its base budget, passage of SQ 744 would require deep spending cuts to the rest of state government, substantial tax increases, or both.
- The measure also suffers from unclear language, lacks mechanisms to ensure improved educational quality, and would hand authority for Oklahoma's budget over to legislators and courts in other states.
- SQ 744 should lead us to reconsider what we must do to ensure an adequate investment in education and our other state priorities.

STATE QUESTION 744: THE WRONG SOLUTION

BY DAVID BLATT, DIRECTOR, OKLAHOMA POLICY INSTITUTE

I. Overview

Many Oklahomans are dissatisfied with the state's investment in public education. According to recent data, Oklahoma ranks 49th in per pupil expenditures for K-12 education, spending only 75 percent of the national average on elementary and secondary education and falling steadily further behind our neighboring states.¹ The state fiscal crisis has now led to two consecutive years of shrinking education budgets, forcing school districts across the state to lay off teachers and staff, increase class sizes, and eliminate programs and services. Even before the downturn, the ability or willingness of Oklahoma legislators to provide adequate funding for education through the normal appropriation process was widely questioned.

These concerns have generated willingness among some to consider constitutional change as a solution to Okla-

homa's school funding challenges. State Question 744 is a ballot measure that, if approved, would amend the state Constitution so as to peg the annual education budget in Oklahoma to the regional average per pupil expenditure in Oklahoma's six bordering states. SQ 744 appear on the general election ballot in November 2010.



There is no question that passage of SQ 744 would lead to a massive increase in spending on education in Oklahoma over the coming years. However, once carefully thought through and understood, **it becomes clear that SQ 744 represents the wrong approach to the problems it aims to solve.** Since

the measure does not provide for any new revenues, passage of **SQ 744 would ensure a severe funding shortage for all other functions of government**, particularly over the upcoming phase-in period and whenever revenues falter. In addition, the measure would bind our budget to funding decisions made in different economic and fiscal circumstances by politicians and courts in neighboring states; create ongoing legal uncertainties about interpretation; and provide inadequate mechanisms for ensuring that additional education dollars are spent effectively.

The fundamental fallacy of SQ 744 is the idea that we can solve our education funding problems in isolation from the rest of the state budget. **In reality, the challenges faced by common education in Oklahoma are shared**

For a 1-page summary of this brief and related materials,; www.okpolicy.org/sq-744

across the full spectrum of state government. In addition to common education, we also rank low in funding for public health, social services, transportation, and higher education, which contributes to outcomes in these areas that fall far short of many of our goals for creating a prosperous, safe and healthy state. Oklahoma already ranks in the bottom fifth of states in total state and local per capita expenditures, and the state fiscal crisis has slashed budgets and forced painful cuts across all agencies and functions of government. In the coming years, we will face the acute short-term challenge of replacing the substantial non-recurring revenues used in this year's budget, along with such long-term challenges as funding the health care costs of an aging population and keeping our public pension systems solvent. By mandating huge spending increases for common education without ensuring an overall expansion of state revenues, we create the strong likelihood of setting the state further behind in all the other areas of public investment that Oklahomans, including our schoolchildren and teachers, rely on.

This issue brief begins by summarizing the language of SQ 744. It then sets out the arguments made by the supporters of SQ 744 in favor of the initiative as a way to ensure that Oklahoma's children will not be short-changed through underfunding of common education. We then proceed to examine four arguments against the measure:

- If passed, SQ 744 would ensure

the severe underfunding of *all* other areas of state government;

- Budget policies should not be decided by constitutional formulas;
- The language in SQ 744 is unclear and does not reflect the reality of how we fund education;
- SQ 744 is not the best means of achieving the goals of improving educational quality and educa-

“ By mandating huge spending increases for common education without ensuring an overall expansion of state revenues, we create the strong likelihood of setting the state further behind in all the other areas of public investment that Oklahomans, including our schoolchildren and teachers, rely on.

tional outcomes in Oklahoma.

Our conclusion is that SQ 744 would cause real and serious harm to the state of Oklahoma. However, the measure should serve as a starting-point for an urgent and honest discussion of what we can and must do to ensure an adequate investment in a quality education for our children and our other state priorities in a fiscally responsible manner.

II. The Language of SQ 744

SQ 744 would amend the Oklahoma Constitution to require that Oklahoma's annual state per pupil expenditure be at least equal to the regional average per pupil expendi-

ture in six surrounding states - Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas.²

If approved, SQ 744 would work as follows:

- Each December, the State Board of Equalization would calculate and legally certify the average of the most recently determined annual per pupil expenditures from the six surrounding states. For the purposes of this paper, we refer to this number as the annual Oklahoma Per Pupil Expenditure (OPPE).³
- The annual Oklahoma Per Pupil Expenditure, multiplied by the number of pupils in the state based on the total statewide enrollment for the preceding year, would “define the minimum amount of funds the Legislature shall designate and provide each year.”
- The requirement that Oklahoma's Per Pupil Expenditure be at least equal to the regional per pupil average in the six surrounding states would be phased in over three years following the fiscal year in which the measure is passed.
 - Assuming passage in November 2010

(State Fiscal Year 2011, FY '11), the three-year phase-in period would occur between FY '12 and FY '14.

- The measure provides a formula for determining the minimum required funding increase in Year 1 and Year 2 (see the discussion that follows). By Year 3 – FY 2014, which begins July 1, 2013 – and in all subsequent years, the Oklahoma Per Pupil Expenditure would have to be at least 100 percent of the regional average per pupil expenditure.
- The annual OPPE is subject to a “hold harmless” provision, which means that should the average annual per pupil expenditure in the surrounding states decline from one year to the next, the OPPE would remain at the higher level.
- The measure requires the Education Oversight Board and the Office of Accountability to publish an annual report on the expenditure of common education revenues, including expenditures for classroom expenditures and administrative costs, and an annual report on student achievement and the overall performance of common schools.

SQ 744 does not specify or enact any new revenue source to fund increased expenditures on com-

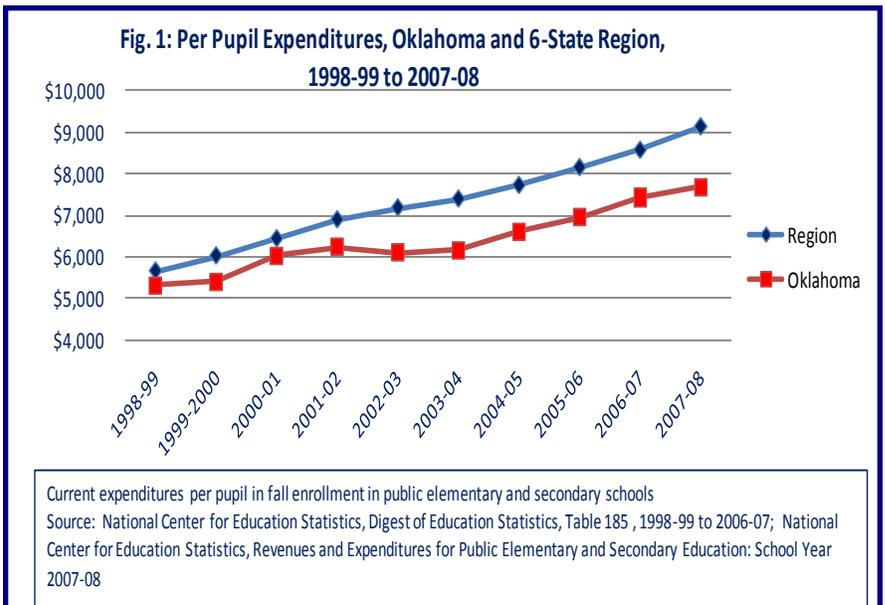
mon education or to maintain funding for other state agencies.

SQ 744 will be on the state ballot on November 2, 2010 and will take effect if approved by a simple majority of voters. One complicating factor is that Oklahomans will be voting at the same time on SQ 754, a legislative referendum intended to negate SQ 744 by asserting that “that the Oklahoma State Legislature cannot be required to make expenditures for any function of government using a predetermined formula of any kind or by reference to the expenditure levels of any other state government or any other entity.”⁴ Should SQ 744 and SQ 754 both pass, it is believed that the measure that receives the greater number of affirmative votes would prevail.⁵

III. The Case for SQ 744

The main argument made by supporters of SQ 744 in materials

posted on their official website (www.yeson744.com) is that Oklahoma has been shortchanging children, schools, and teachers by consistently underfunding common education.⁶ They point to the substantial gap in per pupil funding between Oklahoma and our surrounding states, as well as the national average. According to data from the National Education Association (NEA), Oklahoma’s per pupil expenditure in FY '09, \$8,006, is 20.3 percent (\$1,627) below the surrounding state average of \$9,663 and 21.4 percent (\$2,187) below the national average of \$10,193. Although proponents do not cite this, the funding gap between Oklahoma and its neighboring states has grown in recent years. Using data from the National Center for Education Statistics (see Figure 1), Oklahoma’s annual per pupil expenditures have fallen from 94 percent of the regional average in 1997-98 to just 84 per-



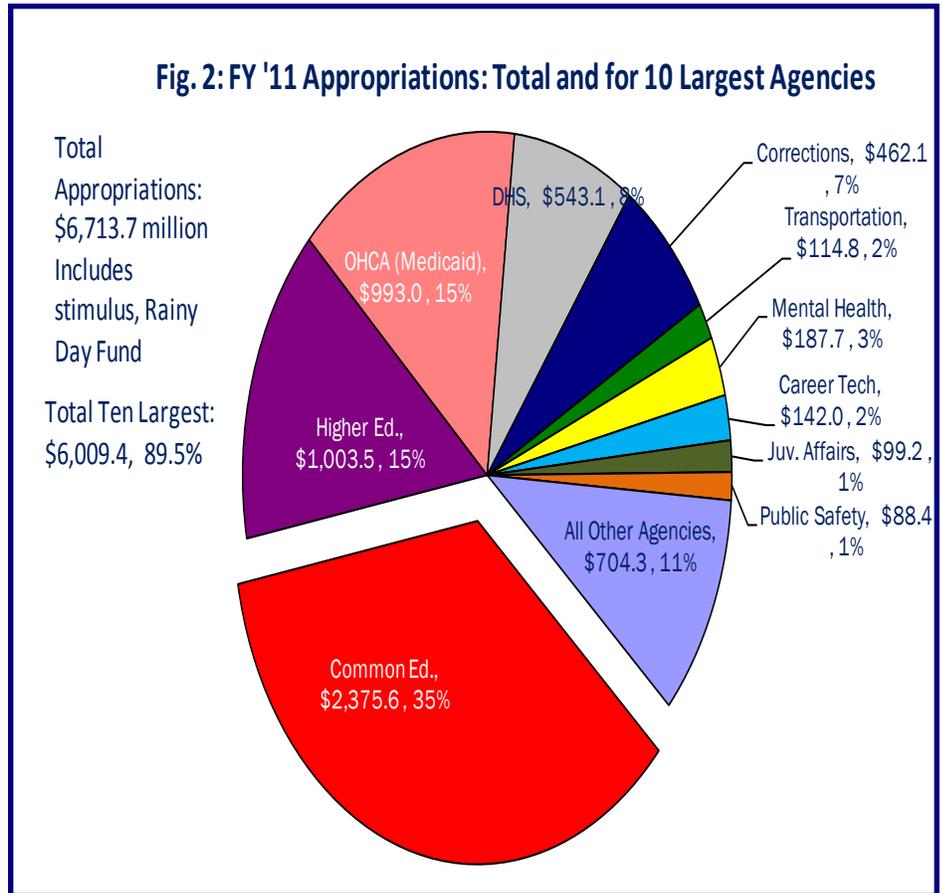
cent in 2007-08.

Supporters of SQ 744 argue that inadequate funding hampers our ability to pay enough to recruit and retain top quality teachers and leaves schools unable to afford up-to-date materials and supplies for the classroom. The funding discrepancy shortchanges Oklahoma's children and denies them the educational foundation to excel and compete in the new economy.

Passage of SQ 744, it is argued, would give schools the resources necessary to recruit and retain top quality teachers, reduce class sizes, offer expanded student support services like career counseling and library programs, and purchase up-to-date textbooks and technology. Supporters point to Arkansas as an example of the benefits of increased funding, arguing that Arkansas invests almost 30 percent more per child than does Oklahoma, and has seen a boost in test score as a result. Supporters also assert that SQ 744 provides accountability, oversight, and transparency through its requirements of annual reports of school spending and student performance.

IV. The Case Against SQ 744

Although school funding issues are far more complex than can be captured by the data on average state per pupil expenditures or any other single indicator or ranking, Oklahoma does spend considerably



less on common education than most states, which has an impact on our ability to attract and reward the best teachers and provide a top-quality education to all children. However, in several fundamental ways, SQ 744 represents a misguided approach to fixing the problem. There are four major arguments against SQ 744:

1. *SQ 744 would ensure the severe underfunding of all other areas of state government*

The crux of the debate over SQ 744 does not involve education at all; rather it involves the impact SQ 744 would have on funding for other functions of state government. For FY '11, Common Educa-

tion is slated to receive state appropriations of \$2.376 billion out of a total state budget of \$6.714 billion, which amounts to just over one-third - 35.4 percent (see Figure 2).⁷ While Common Education is by far the single largest recipient of state appropriated dollars, 65 percent of the state budget currently goes to other functions of government, including higher education, health care, social services, transportation, public safety, economic development, consumer protection, natural resources, and the three branches of government.

Without a new revenue stream to pay for it, SQ 744 sets up a zero-sum game where the additional

dollars earmarked for common education are unavailable for the rest of the state budget. This might not be an insurmountable problem if other functions of government were already especially well funded, or if the cost of providing services for the rest of government were not expected to rise in coming years, or if state revenues were projected to rise at such a pace as to be able to meet the funding obligations of SQ 744 while also meeting the core costs of other public services. However, none of these situations apply.

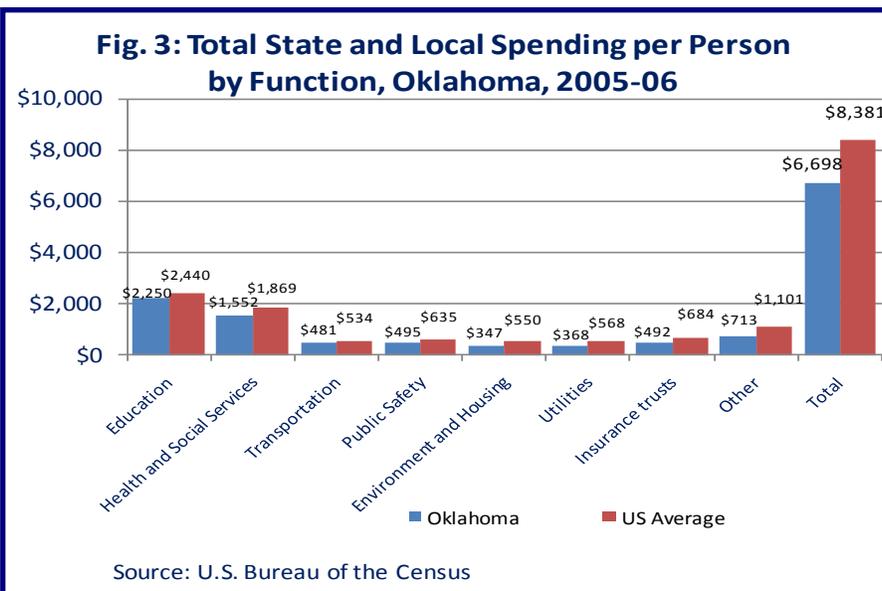
If funding for education in Oklahoma lags behind national and regional averages, the same is true for virtually every public service and for our total spending. Figure 3, based on data collected by the U.S. Census Bureau for FY '06, shows that combined state and local government spending in Oklahoma, is \$6,691 per person, which is 20.5 percent below the

national average of \$8,381 per person. Our combined state and local spending on education, which represents about one-third of total government spending, is about 8 percent less than the average state. **The gap is greater in every other area of government reported by the Census Bureau:** we spend 10 percent less per person on transportation, 17 percent less on health and social services, 22 percent less on public safety, and over 25 percent less in the other categories (environment and housing, utilities, insurance trusts, and other expenditures).⁸

For a whole host of reasons, the baseline costs of funding non-education agencies are certain to rise in the years ahead, even in the absence of any decision to create new programs or expand services. Most, if not all, agencies must deal with increased operating expenses such as utilities and transportation; increased contributions for

employee health care and retirement benefits, and populations and caseloads that grow from year to year and over time. In particular, the Oklahoma Health Care Authority (the state's Medicaid agency) and other agencies that purchase and provide health care must confront the rapidly rising costs of medical care, which is likely to be exacerbated in coming years with an aging population. As a result of more stringent sentencing guidelines and other factors, our inmate population remains on an upward slope, which requires annual appropriation increases to fund our correctional facilities. And like other states, Oklahoma is likely facing the need to significantly increase the money it devotes to meeting its growing pension obligations for its public employees and teachers in the years ahead.⁹

This still leaves the question of whether state revenues could grow rapidly enough to allow the state to meet its new constitutionally-mandated funding obligations to common education under SQ 744 while also being able to fund the provision of core services in other areas of government. To answer this, we compare projections of the additional funding that would have to be allocated to the K-12 budget in each of the next three years according to SQ 744's formula to our projections of the total growth revenue that will be available for appropriation during



this period. Our analysis focuses on the three-year phase-in period between FY '12 and FY '14 because this presents the most immediate fiscal challenge; however, once fully implemented, SQ 744 would continue to pose ongoing problems for the state budget.

Our analysis proceeds in two stages. First, we calculate how much spending on common education would have to increase in Oklahoma over the three-year phase-in period to reach the regional average by FY '14. For this analysis, we calculate the Oklahoma Per Pupil Expenditure (OPPE) using the National Center for Education Statistics' 2007-08 current expenditure per pupil in fall enrollment in public elementary and secondary schools.¹⁰ It shows Oklahoma's annual per pupil expenditures of \$7,683, which is \$1,465 per pupil less than the regional average of \$9,148.

The language of SQ 744 makes absolutely clear that the regional per pupil expenditure in the funding formula is pegged to annual expenditures in the surrounding

states for the most recently available year, rather than being a fixed number – therefore, Oklahoma will continue to chase after a moving target. We cannot know how much the regional per pupil expenditure of the surrounding states will increase in future years. For our scenario, we assume that the Re-

“The regional per pupil expenditure in the funding formula is pegged to annual expenditures in the surrounding states for the most recently available year, rather than being a fixed number – therefore, Oklahoma will continue to chase after a moving target.

gional Per Pupil Expenditure will grow by 5 percent each year. This may be a conservative assumption: over the course of the ten-year period from 1998-99 to 2007-08, regional per pupil expenditures have grown at an average annual rate of 5.5 percent.

According to the formula set out in SQ 744, Oklahoma's mandated per pupil expenditure during the phase-in is based on the state's

prior year expenditures plus an additional expenditure calculated as a percent of the regional per pupil expenditure.¹¹ This yields the Oklahoma Per Pupil Expenditure (OPPE) for each year. We then multiply the OPPE by the projected number of pupils.¹¹ This produces the minimum expenditure the Legislature shall designate and provide each year, which is set out in Table 1..

Given these assumptions, Oklahoma's total expenditures for Common Education will need to increase by a total of \$1.695 billion over the three-year implementation period of SQ 744. The Legislature would need to designate and provide an additional \$392.1 million in Year 1 (FY '12), \$414.8 million in Year 2 (FY '13), and \$888.8 million in Year 3 (FY '14) to bring Oklahoma's per pupil expenditure fully up to the regional average. After the phase-in period, Oklahoma's Per Pupil Expenditure must remain at least 100 percent of the regional average – should the regional average grow by 5 percent for FY '15, for example, Common Education funding would need to increase by an addi-

	Oklahoma Per Pupil Expenditure	Regional Per Pupil Expenditure (5% Growth)	Pupils	Expenditures	Increase (annual)	Increase (Total)
YR 0 (FY '11)	7,683		658,242	\$ 5,057,271,079		
YR 1 (FY '12)	8,232	9,148	661,994	\$ 5,449,452,621	\$392,181,542	\$ 392,181,542
YR 2 (FY '13)	8,808	9,605	665,767	\$ 5,864,212,032	\$414,759,412	\$ 806,940,954
YR 3 (FY '14)	10,086	10,086	669,562	\$ 6,752,980,637	\$888,768,605	\$ 1,695,709,559

tional \$338 million.

The second stage of the analysis considers how much additional revenue is likely to be available to the Legislature for appropriation over this period. In June 2010, the Board of Equalization certified \$5.442 billion in projected collections in FY '11 for the General Revenue Fund and HB 1017 Fund. We take this amount as our baseline revenue.¹³ For our scenario, we assume that revenues will grow by 10.5 percent each year between FY '12 and FY '14. That is an aggressive assumption: over the period from 1982-2009, General Revenue collections grew at an average annual rate of 4.7 percent.¹⁴ However, there is a good chance that the implementation period of SQ 744 would coincide with a period of robust revenue growth emerging out of the state's deep fiscal slump, so the assumption of 10.5 percent annual revenue growth is not unrealistic.¹⁵

Figure 4 presents our findings: if state revenues grow by 10.5 percent per year between FY '12 and FY '14 while Regional Per Pupil Expenditures grow by 5 percent per year, the Legislature will have \$1,901 million in additional reve-

million over three years can be expected to fall far short of the funding needed to preserve core services in Medicaid, corrections, higher education and the 74 other non K-12 appropriated state agencies. (Over the past three years, appropriations to the Oklahoma Health Care Authority alone have increased by \$278 million). But two additional factors would make the impact of SQ 744 even more unmanageable.

First, agencies will be approaching the FY '12 – FY '14 period from a considerably deflated base after two years of deep cuts. Substantial additional funding will be needed during the recovery years to restore funding to core services and cover three to five years of population growth and increases in non-discretionary costs.

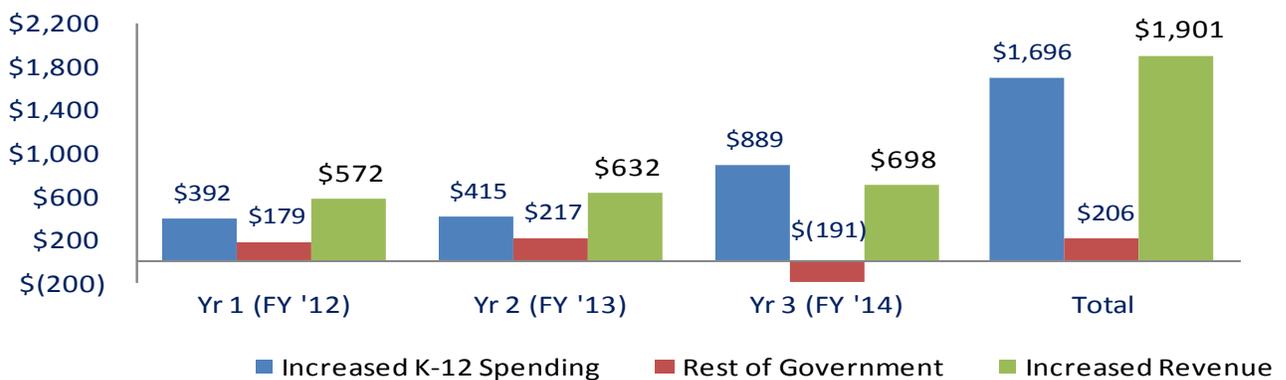
Secondly, we must bear in mind that the state would enter the implementation period of SQ 744 needing to dig out of a deep reve-

“Agencies will be approaching the FY '12 – FY '14 period from a considerably deflated base after two years of deep cuts. Substantial additional funding will be needed during the recovery years to restore funding to core services...”

nue to appropriate. Of this total , \$1,696 million, or 89 percent, would be absorbed to fulfill funding obligations to Common Education under SQ 744. This leaves a total of just \$206 million over three years to be allocated among all other state government agencies.

Even if all else were equal, \$206

Fig.4: Annual Mandatory Increase in K-12 Funding vs. Increased Revenues, FY '12 - FY '14 (in \$ millions) under SQ 744 Formula



Assumes 10.5% annual revenue growth; 5% increase in Regional Per Pupil Expenditure in FY '13 and FY '14

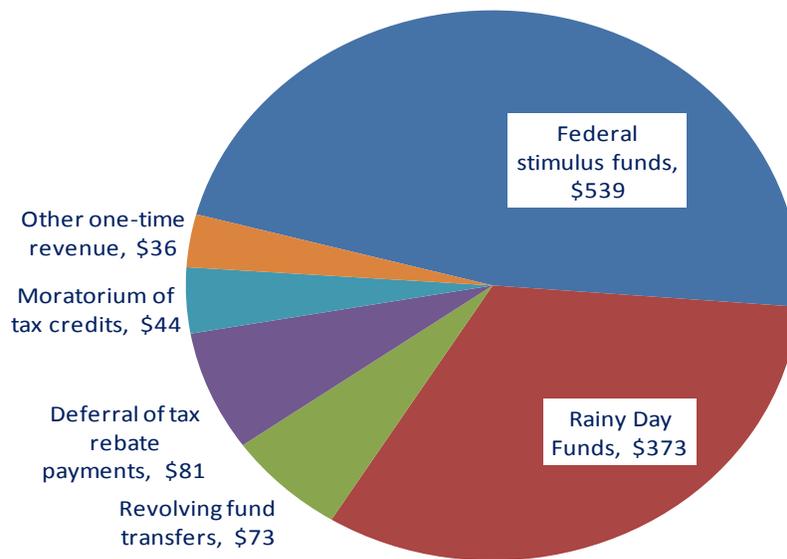
nue hole. As we see in Figure 5, the baseline FY '11 budget includes well over \$1 billion in non-recurring revenues from the federal Recovery Act (\$539 million), Rainy Day Fund (\$373 million) and assorted one-time revenue enhancements (roughly \$230 million).¹⁶ Even without new fund-

ing obligations imposed by SQ 744, **the reliance on over \$1 billion in non-recurring revenues in FY '11 means the state will require substantial revenue growth and new revenue sources just to dig out of its budget hole and avoid enacting deeper cuts to agency budgets over the coming years.**

Just looking at FY '12, there is no apparent way that \$572 million in projected revenue growth in our scenario could make up for the loss of over \$1 billion in non-recurring revenues AND meet the obligation of a \$392 million increase in funding to Common Education. The same holds true in FY '13, while in FY '14, the final year of the phase-in to the regional average, the spending increase mandated by SQ 744 becomes especially overwhelming.

Our analysis strongly contradicts

Fig. 5: Non-Recurring Revenue in FY '11
Budget Total Budget = \$6,714 million; Total Non-Recurring Revenues= \$1,145 million)



expect revenues to grow each year. What happens the next time the state economy hits a downturn and revenue collections begin to fall? **The impact of SQ 744 on funding for non-education agencies will be especially punishing in a downturn,** for two reasons.

the claim that revenue growth over the phase-in period of SQ 744 will suffice to provide adequate funding for other core functions of state government, even assuming very robust growth in state revenue collections during the three-year implementation growth. Instead, the obligation to increase funding for Common Education by close to \$1.7 billion while also replacing the \$1.1 billion in non-recurring revenue in the baseline FY '11 budget ensures that revenues will fall far short of meeting existing spending obligations for state government. **The consequences will necessarily have to be deep spending cuts to the rest of state government, substantial tax increases, or both.**

We have focused on the immediate phase-in period for SQ 744 over a period of time when we can

The first is SQ 744's hold harmless provision, which mandates that Oklahoma's per pupil expenditure could never decrease from one year to the next, even if there were less available state revenue and even if average regional per pupil expenditures were to decline. This means that once SQ 744 is fully phased in, the full impact of any and all revenue shortfalls would have to be borne by the ever-dwindling share of the state budget not earmarked under SQ 744 for Common Education.

Secondly, in addition to the hold harmless provision, the formula would be affected by the fact that there is a four to five year time lag in the availability of education funding data. Once SQ 744 is in effect, the annual change in the Oklahoma Per Pupil Expenditure will be based on changes in edu-

cation funding in the surrounding states that occurred several years before, in what may have been entirely different economic and budgetary circumstances. Oklahoma might find itself in a period of declining revenues, yet subject to a mandated increase in education spending based on spending growth at the height of the previous economic cycle. If, for instance, SQ 744 had been fully in effect for the upcoming year, FY '11, the Legislature would have been required to increase spending by \$420 per student, or some \$275 million, to keep pace with the growth in the regional average in the most recent year for which data was then available (2006-07) (Figure 6). This \$275 million increase would have been required even though available state revenues were plummeting due to the economic downturn.

2. *Budgets should not be determined by constitutional formula*

If SQ 744 passes, annual appropriations for Common Education would be determined not by Oklahoma's legislators and Governor but by a rigid constitutional formula. Funding levels would be certified each year by the Board of Equalization based exclusively on school enrollment and average per pupil expenditures in surrounding states. Our popularly-elected officeholders in the Legislature and Governor's Office would have no authority to weigh funding deci-

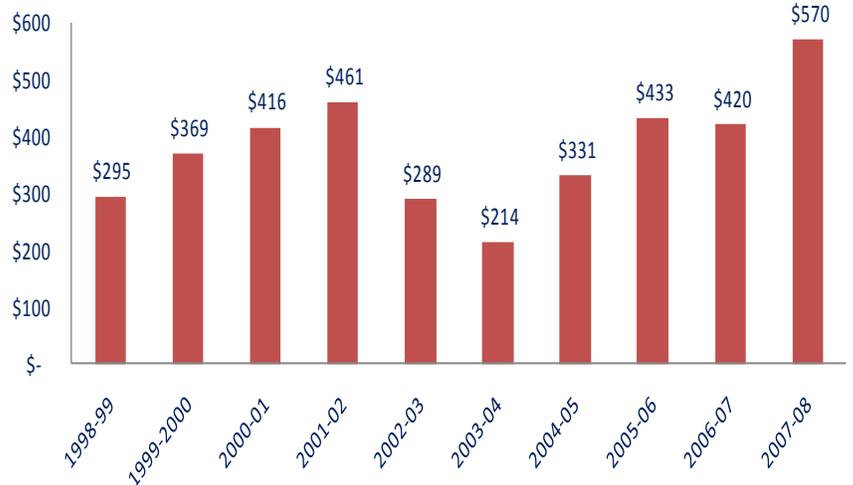
sions about common education against other obligations of state government based on their understanding of the needs and priorities of the state at given times, or make adjustments based on emergencies or exceptional circumstances.

Ultimately, not just the Legislature and Governor but the citizens of Oklahoma will lose influence once the authority to make appropriations decisions is invested in a constitutional formula. Furthermore, SQ 744 would bind funding levels in Oklahoma to the decisions and priorities of legislators, voters, and judges outside our borders, in Texas, Arkansas and the other neighboring states.

Experiences in other states reveal

that budgeting by constitutional amendment creates a slippery slope that can throw the entire political process into turmoil. In Colorado, passage of the TABOR initiative, which tied overall budget growth to a formula, led to subsequent passage of a second constitutional amendment exempting common education funding from the main TABOR limits. This left all other government functions competing for even tighter resources.¹⁶ In California, the combination of the Proposition 13 tax limit and supermajority budgeting and revenue requirements have led to a succession of ballot initiatives that create constitutional funding requirements for various causes and purposes. These include a guarantee that common education and

Fig. 6: Growth in 6-State Regional Average Per Pupil Expenditures, \$ Change from Prior Year, 1998-99 to 2007-08



Current expenditures per pupil in fall enrollment in public elementary and secondary schools
 Source: National Center for Education Statistics, Digest of Education Statistics, Table 185, 1998-99 to 2006-07;
 Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2007-08

community colleges get no less than 40 percent of the budget, along with requirements that funding be earmarked for after-school programs, stem cell research, mental health services, and many other purposes. This in turn has made annual budget deliberations even more difficult and contributed to California's increasingly intractable fiscal nightmares.¹⁸

A credible case can be made that SQ 744 is itself a response to constitutional constraints on the Oklahoma Legislature's ability to make revenue and spending decisions by majority vote, namely SQ 640, which requires a three-quarters vote of both legislative chambers or a vote of the people for any tax increase. Some would argue that SQ 640 has made it impossible to raise enough revenues to provide for adequate funding of schools and other public priorities, and leaves supporters without viable legislative channels to promote their goals. Yet it is far from certain that passage of SQ 744 would lead to a reconsideration of SQ 640. A likelier result would be for other interests to push for their own constitutional earmarks, creating a patchwork of funding mandates. Such a situation might protect those with the organizational clout and deep pockets to mount a successful ballot campaigns, but where would it leave those, such as human service clients, with less money and influence?

3. *The language in SQ 744 is unclear and does not reflect the reality of how we fund education*

Even if one puts aside objections to determining funding levels by constitutional formula as a matter of principle, the actual language of SQ 744 raises a host of questions, concerns and problems that would ensure that implementation of the law would be beset by uncertainty and confusion and likely lead to litigation. The questions raised by the measure's language include:

“Even if one puts aside objections to determining funding levels by constitutional formula as a matter of principle, the actual language of SQ 744 raises a host of questions, concerns and problems that would ensure that implementation of the law would be beset by uncertainty and confusion and likely lead to litigation.

- *What numbers will be used to calculate what surrounding states spend?* The language states that the “State Board of Equalization shall obtain annually from each of the surrounding states the most recently determined per pupil expenditure from that state.” There is nothing to ensure that the most recent data provided by each state will all be from the same year or that the states will all provide consistent and comparable data. While there is national data on per pupil

expenditures for each state compiled and published by different organizations, including the National Education Association (NEA) and the National Center for Education Statistics (NCES), these numbers vary considerably. For example, for 2006-07, the NEA showed the gap between Oklahoma and surrounding states in per pupil public elementary and secondary school expenditures to be \$1,559. The NCES showed the gap that same year to be \$1,148 per pupil in fall enrollment and \$1,226 per pupil in average daily attendance.¹⁹

- *Does SQ 744 move all control of education funding to the state level?* The language of SQ 744 gives the state Legislature the responsibility each year to “designate and provide” funding for common education equal to or above the Oklahoma Per Pupil Expenditure. There is a strong tension, at the very least, between this language and the shared financial responsibility for common education between multiple levels of government. According to an Oklahoma State Senate staff publication, in FY '07, state appropriations accounted for 56 percent of total funding for common schools. The remaining 44 percent was divided between local and county gov-

ernment (23 percent); state dedicated (non-appropriated) funds (12 percent); and federal funds (9 percent).²⁰ It is far from clear in the language of SQ 744 what role local and county government and the federal government would play in common education funding following passage of SQ 744. On what basis would the relative contribution of state, local and federal government be determined? If the Legislature is required to “designate and provide” full funding for common education, what would prevent local governments from abolishing or reducing their support for public schools? This ambiguity suggests that the funding obligations imposed on state government by SQ 744 may in fact be significantly greater than they initially appear.

- *Will school districts still be required – or allowed – to share some funding responsibility for local schools?* Section F of the proposed constitutional amendment declares that, “Nothing herein shall be construed as limiting any particular school district to the annual State Per Pupil Expenditure.” While this appears to suppose that each school district would be funded *at least* at the State Per Pupil Expenditure, nowhere is that stated or clarified. How would such an

obligation be met given the variations in per pupil support from federal funds and local funds?

Given these questions, and others that might only arise after the measure’s passage, SQ 744 might leave Oklahomans echoing the assessment of one careful observer of the initiative petition process in California:

“Proponents cannot correct errors or omissions once circulation of a signature petition begins unless the initiative specifically allows legislative amendment. This is important because many problems stem from poor initial drafting. Initiatives are often ambiguous, vague, overreaching, under-inclusive, contradictory, and sometimes unconstitutional. These defects cause unexpected interpretations, unforeseen consequences, misleading electoral campaigns, litigation, legislative inaction, judicial invalidation, and voter confusion and resentment.”²¹

4. *SQ 744 is not the best means to achieve the goals of improving educational quality and outcomes*

SQ 744 is not the first attempt to provide a major increase in funding for common education in Oklahoma. In 1990, the Legislature adopted HB 1017. Over the next five years, the Legislature in-

creased funding for common education by \$540 million, which represented more than a 60 percent increase – comparable to, if somewhat less than, the increase in state appropriations that SQ 744 would bring about if approved. But HB 1017 differed from SQ 744 in that it raised taxes to pay for its funding increases so as to protect the budget of other government functions. Just as significantly, increased funding in HB 1017 was tied to a number of specific education reform policies that were spelled out in the law: reduced class sizes; increased minimum teacher salaries; greater funding

“If the Legislature is required to “designate and provide” full funding for common education, what would prevent local governments from abolishing or reducing their support for public schools?”

equity across school districts; early childhood programs for kindergarten and 4-year olds; a fund for school deregulation and consolidation; and the creation of the Office of Accountability.²²

We know that twenty years later, a new movement for school reform has gained broad support that spans the ideological spectrum and party lines. At the federal level, both the Bush and Obama administrations have pushed

states to adopt a broad set of policies to improve failing schools, encourage and reward high quality teaching, expand parental school choice, and improve data collection and oversight. In Oklahoma, efforts at both the state and district levels have embraced those goals and have pursued innovative strategies to improve school performance and ensure a high-quality education for all children. Most recently, Oklahoma passed SB 2033 as part of its efforts to win funding under the Obama Administration's Race to the Top initiative: the bill allows districts to develop a merit-based teacher pay incentive program based on test scores and other factors and establishes a new statewide system of teacher evaluation. If successful, Oklahoma could be eligible for \$175 million in federal Race to the Top funds.²³

By the standards of either HB 1017 or recent education initiatives, SQ 744 falls far short. **It would provide huge, automatic, and irreversible increases in education funding without goals or mechanisms for improving educational quality.** The sole nod to education performance involves the requirement that the Education Oversight Board and Office of Accountability publish an annual report on expenditures of education funds and another report on student achievement results and the overall performance of common schools. It provides no guidance

on how funds should be allocated; no goals for schools and districts to aim for; no standards for measuring success; no incentives for innovation, and no sanctions or rewards for failure and success. Even those Oklahomans most supportive of more money for schools are likely to want much stronger assurances that increased funding will be tied to better educational results.

“Chronic underfunding of services, now exacerbated by the ongoing state fiscal crisis, and the huge obstacles to raising revenues created by the supermajority requirements of State Question 640 have created an understandable sense of frustration among many Oklahomans over the prospects of boosting spending to the levels needed to meet our goals as a state.

V. Conclusion

Our analysis leads us to the conclusion that SQ 744 represents a misguided quick fix approach to boosting funding for schools that would create real and serious damage to the state of Oklahoma. However, while we believe that the voters of Oklahoma should reject SQ 744, we must acknowledge that the initiative does resonate with real and heartfelt concerns. Chronic underfunding of services,

now exacerbated by the ongoing state fiscal crisis, and the huge obstacles to raising revenues created by the supermajority requirements of State Question 640 have created an understandable sense of frustration among many Oklahomans over the prospects of boosting spending to the levels needed to meet our goals as a state. This frustration has been manifested not only in SQ 744 but in the ROADS initiative that put into law a binding formula, albeit a less extreme and non-constitutional one, for increasing spending for transportation.

The real and ongoing challenge Oklahoma faces is to align our revenues with the necessary cost of providing core public services. If we fail at this more fundamental task of ensuring our ongoing fiscal future, the result is likely to be continued efforts like SQ 744 that make an end-run around the Legislature with earmarked funding and spending formulas. If passage of SQ 744 would leave the state budget in ever-more dire and unmanageable circumstances, defeat of SQ 744 should serve as a starting-point for a serious and urgent discussion of what we can and must do to ensure an adequate investment in a quality education for our children and our other state priorities in a fiscally responsible manner.

A Note About Data on Education Spending

There are three sources of data on state per pupil expenditures that appear to correspond to the language of SQ 744:

- National Education Association (NEA). Per Pupil Expenditures. Most recent data: 2008-09 (FY '09). Available at: <http://www.yeson744.com>
- National Center on Education Statistics (NCES). Current expenditure per pupil in fall enrollment. Most recent data: 2007-08 (FY '08). "Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2007-08", May 2010 at: http://nces.ed.gov/programs/digest/d09/tables/dt09_185.asp Historical data : *Digest of Education Statistics*, Table 185 , at: http://nces.ed.gov/programs/digest/2009menu_tables.asp
- National Center on Education Statistics (NCES). Current expenditure per pupil in average daily attendance. Most recent data: 2006-07 (FY '07). *Digest of Education Statistics*, Table 186, at: http://nces.ed.gov/programs/digest/d09/tables/dt09_186.asp

The last year for which there is data from all three sources is 2006-07 (FY '07). The data sources differ as follows:

Per Pupil Public Elementary and Secondary School Current Expenditures, 2006-07, Oklahoma and Surrounding States				
Organization	Measure	Oklahoma	Surrounding States Average	Difference
National Center for Education Statistics	Current expenditure per pupil in fall enrollment in public elementary and secondary schools	7,430	8,578	1,148
National Center for Education Statistics	Current expenditure per pupil in average daily attendance in public elementary and secondary schools	7,968	9,194	1,226
National Education Association	Estimated Per Pupil Public Elementary and Secondary School Current Expenditure	7,084	8,643	1,559

ENDNOTES

¹ National Center on Education Statistics, Current expenditure per pupil in fall enrollment, 2007-08; see box above.

² The full language is available at: https://www.sos.ok.gov/gov/proposed_questions.aspx#sq744

³ This designation is created for the purposes of this paper and does not reflect actual language in the ballot measure.

⁴ Ballotpedia, *Oklahoma State Question 754*, at: http://ballotpedia.org/wiki/index.php/Oklahoma_State_Question_754_%282010%29

⁵ Barbera Hoberock, "State voters to consider dueling ballot measures," *Tulsa World*, July 4, 2010.

⁶ This section is based on "How SQ 744 Supports Our Kids and Schools"

at: http://www.yeson744.com/?page_id=9 and "Frequently Asked Questions about SQ 744" at: http://www.yeson744.com/wp-content/uploads/2010/06/SQ744_FAQ.pdf Accessed June 23, 2010

⁷ This share has declined slightly from a peak of 38.0 percent in FY '95 following full implementation of 1990's HB 1017, but has varied only minimally over the past decade.

⁸ Oklahoma Policy Institute, *How State and Local Government Spending Compares*, Online Budget Guide, Oct. 2010, at: <http://www.okpolicy.org/online-budget-guide/expenditures/how-oklahoma-spending-compares>

⁹ See The Pew Center on the States, *The Bill Coming Due: A Trillion Dollar Gap*, February 2010; at: http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf

¹⁰ See box above on data sources.

The NCES fall per pupil expenditure shows a smaller gap between Oklahoma and the regional average than the other measures, which produces a more conservative estimates of the amount of additional funding needed to bring Oklahoma to the regional average.

¹¹ The formula states that in Year 1 and Year 2, the OPPE will be the previous year's state per pupil expenditure plus an additional expenditure equal to 6 percent of the regional state per pupil expenditure for the previous year. In Year 3, the OPPE must be 100% of the regional state per pupil expenditure

¹² The number of students is based on actual K-12 enrollment for FY '10, inflated by the average annual rate of enrollment growth of the past decade (0.57 percent). This may be a conservative estimate of enrollment growth. After remaining fairly stagnant in the early part of the 2000s, enrollment has grown by 0.78 percent per year

the past five years. Data supplied by State Department of Education

¹³ We use the General Revenue Fund and the HB 1017 Fund because they receive the great majority of the revenues from tax collections. FY '11 collections are projected to be \$4,888.6 million to GR and \$553.7 to 1017

¹⁴ Calculated by the author based on data from the Office of State Finance and Executive Budgets.

¹⁵ Following the last downturn of 2002-03, revenues for the four-year period from FY '04 – FY '07 grew at an annual average rate of 9.1 percent.

¹⁶ See Oklahoma Policy Institute, FY '11 Budget Highlights, June 2010, at: <http://okpolicy.org/files/>

[FY11Highlights.pdf](#) and Oklahoma Policy Institute blog, "New certification: Law changes led to \$305 million of revenue enhancements for next year", June 2010, at: <http://okpolicy.org/blog/budget/new-certification-law-changes-led-to-305-million-of-revenue-enhancements-for-next-year/>

¹⁷ See the Bell Policy Center's website for information on TABOR: <http://www.thebell.org/node/1196>

¹⁸ See, for example, Pamela M. Prah, "The path to California's fiscal crisis," Stateline.org, May 15, 2009, at: <http://www.stateline.org/live/details/story?contentId=400337>

¹⁹ See "A Note About Data on Edu-

cation Spending," this brief (page 13)

²⁰ Oklahoma Senate, *Overview of State Issues*, Report by Senate Staff, September 2008, p. 62

²¹ Robert Stern, "Democracy by Initiative: Shaping California's Fourth Branch of Government," at: http://www.healthvote.org/index.php/site/article/democracy_by_initiative

²² Oklahoma Senate, *Overview of State Issues*, Report by Senate Staff, September 2008, pp. 70-1.

²³ Andrea Eger, "Oklahoma seeks \$175 million in education in Race to the Top", Tulsa World, June 1, 2010.

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