

In another landmark decision regarding school finance in Arkansas, the Arkansas Supreme Court has again declared that the state has retreated from its obligation to adequately fund public education, just as it decided in 2004 (*Lake View School Dist. No. 25 v. Huckabee*, 355 Ark. 617, 142 S.W.3d 643). Earlier this year, 49 school districts had requested the Court to recall its mandate and reappoint Special Masters to reopen the *Lake View* case and evaluate the state's efforts to improve the adequacy of Arkansas' school finance system (see Policy Brief 17). The court granted this request on June 9, 2005, and the Masters filed their report on October 3, 2005, finding that "the state has not lived up to the promise made by the 84th General Assembly Regular and Extraordinary Sessions of 2003 to make education the state's first priority" (see Policy Brief 18). On October 24, 2005, the plaintiffs filed a motion requesting the Court to adopt the Special Masters' recommendations, to call upon the Governor to convene a special session of the General Assembly, and to retain jurisdiction of the case to assure compliance.

On December 15, 2005, the Court concluded that it has jurisdiction to recall its mandate and address the motions filed by the 49 school districts. In a 5-2 decision, the Court ruled that the Legislature failed to make education spending its top priority in this year's regular session and "grossly underfunded" school building repairs and construction. The state now has until December 1, 2006, to "correct the constitutional deficiencies." Highlights from the Court's ruling are as follows:

- The court agreed with the Special Masters' finding that "the linchpin for achieving adequacy in public education is the General Assembly's compliance with Act 57 of the Second Extraordinary Session of 2003." The General Assembly failed to comply with Act 57 in the 2005 regular session and, by doing

so, retreated from its prior actions to comply with this court's directives in the *Lake View* case.

- Education needs were not funded first, as required by Act 108 of the Second Extraordinary Session of 2003. Rather, foundation funding aid, as well as categorical funding, "were established based upon what funds were available – not by what was needed." The court stated that new funds may be necessary to meet some or all of the "unfunded mandates" created by the legislature.
- The General Assembly could not have provided adequate funding for the 2005-2006 and 2006-2007 school years, because it made no effort to comply with Act 57 and to determine what adequate funding should be. Furthermore, the General Assembly failed to consult the state Department of Education for any information before or during the 2005 regular session, and the court "has no doubt that the decision to freeze the previous year's figure of \$5,400 for purposes of 2005-2006 is a direct result of this lack of information."
- Appropriations for the repair and construction of safe, dry, and healthy facilities were grossly underfunded and, thus, inadequate. The Court observed that Immediate Repair Program funding equaled only one half (\$20 million) of the \$40 million needed, and only \$120 million was appropriated for Priority One facilities, despite an estimated need of over \$205 million.

- The Court did not direct the General Assembly to appropriate a specific increase in foundation or categorized funding amounts, as requested by the school districts. “Whether an increase is necessary is for the General Assembly to determine, after its compliance with existing legislation and its assessment of the relevant information necessary for fixing funding levels in the current biennium, including available revenues, surplus funds, and expenditures by the school districts,” the Court states.
- In his dissent, Chief Justice Jim Hannah argued that by keeping the *Lake View* case open, the constitutional “separation of powers is simply ignored by the majority.” Associate Justice Jim Gunter joined Hannah in the dissent.

The complete text of the Arkansas Supreme Court’s decision and dissenting opinions can be found online at:
<http://courts.state.ar.us/opinions/20051215.htm>

Additional policy briefs and other education policy information may be found on the website of Office for Education Policy at the University of Arkansas at <http://www.uark.edu/ua/oep> or may be ordered by contacting the Office at (479) 575-3773.