

**ARKANSAS EDUCATION REPORT**  
*Volume 9, Issue 4*

**EDUCATIONAL ADEQUACY IN ARKANSAS:  
FUNDING**



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**October 31, 2012**

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## I. EXECUTIVE SUMMARY

The public education system in Arkansas has undergone a significant transformation over the past ten years as a result of several factors including:

- 1) The passage and implementation of federal legislation known as the No Child Left Behind Act,
- 2) The ruling by the Arkansas Supreme Court in the *Lake View* case, and
- 3) The legislation and executive decisions in the wake of *Lake View* to create an equitable and adequate system of public education in the state.

This summary addresses reviews and analyzes the decisions and actions that were precipitated by the court's identification of the following as reasons for constitutional deficiency:

- Department of Education's failure to conduct an adequacy study or to define adequacy;
- "Abysmal" Arkansas educational rankings;
- Low benchmark scores;
- Need for Arkansas' student remediation in college;
- Teacher salaries not comparable to surrounding states;
- Disparities in teacher salaries within the state;
- Recruitment and retention of quality teachers;
- Need for school districts in low-income areas (for improved and advanced curriculum, quality teachers, and adequate facilities, supplies, and equipment); and
- Need for school districts in high enrollment growth areas.

After years of litigation, a number of steps have been taken to ensure that the state is indeed providing an adequate and equitable education that fits with Arkansas' constitutional mandate. Since the *Lake View* ruling and the court's identification of constitutional deficiency, the state has taken the following steps in response to the court's ruling:

- *The General Assembly conducted an adequacy study with a follow-up recalibration study by the same consultants and adequacy has been defined.*
- *Arkansas has moved up in some rankings, especially in terms of teacher salaries, and has received positive national attention of rankings published by Education Week where the state ranked fifth in the 2012 Quality Count ranking--see note with asterisk below.*
- *Benchmark scores in many areas are improving across the state.*
- *Remediation rates continue to be high in the state's four-year and two-year institutions.*
- *Salary rankings for teachers have improved both at entry and average levels.*
- *Disparities continue to exist, although averages across the state are higher. It continues to be difficult to recruit and retain teachers in rural areas of the state.*
- *In addition to federal funding for low-income students, the state has provided supplemental funding for both low-income and ELL students.*
- *It is not possible to comment on the curriculum; quality teachers continue to be an issue in some areas; and additional funding has been made available for facilities, supplies and equipment.*
- *Supplemental funding is available for districts experiencing significant growth.*

We continue to search for ways to innovate and change the state's educational funding system, particularly at a macro-level, so that Arkansas' students have access to the best possible education the state has to offer. Indeed, the task to ascertain what constitutes adequate and equitable education is ongoing, and will continue to be an important burden for lawmakers in the state to revisit each year.

## II. A NOTE FROM THE AUTHOR

The year 2001 brought about a number of changes in my life. First, I was appointed Dean of the College of Education and Health Professions at the University of Arkansas, Fayetteville and started my tenure in May of that year. And, shortly after assuming this position, I was appointed to the Arkansas Blue Ribbon Commission on Public Education by State Senator David Malone. The Commission was created following the ruling by Judge Collins Kilgore in 2001 of the lack of educational adequacy and equity in the public schools in Arkansas. The Commission members included superintendents, teachers, education advocates, past and present legislators, higher education administrators, state education board members, and leaders from business and industry (Arkansas Blue Ribbon Commission on Public Education, 2002).

This experience had a major impact on my understanding of public education in Arkansas and the variety of factors involved in the court's declaration of the education system as unconstitutional in regard to adequacy and equity. The Commission conducted public hearings in Little Rock where we heard from a variety of individuals and organizations interested in public education. And, we reviewed a number of documents and conducted additional public hearings across the state. This culminated in a final report submitted to Governor Mike Huckabee and the General Assembly for their consideration in preparing legislation and taking steps to improve public education in the state.

During the years since 2001 I have followed the events surrounding public education and attempted to assess the progress that we are making to meet the mandates of the courts and the intent of the General Assembly in developing legislation to improve our school districts and schools. Following my retirement as Dean I have continued to examine decisions and actions following the ruling by the Court in the *Lake View* case. This involved reviewing legislation by the General Assembly and the implementation by Governors Mike Huckabee and Mike Beebe and the executive branch, especially the Arkansas Department of Education under the leadership of Dr. Ken James and Dr. Tom Kimbrell.

This review was made possible by the availability of a number of reports, most of which have been posted on the internet and are available for everyone to review. I am particularly grateful for the work conducted by my colleagues on the Blue Ribbon Commission that helped me to better understand the issues faced by the state. The documents from the Arkansas Supreme Court and the subsequent reports from filed by former Justices and Special Masters Brad Jesson and David Newbern were invaluable on understanding the number and variety of issues involved. The reports from Picus and Associates were important to understanding the plan adopted by the General Assembly and Governor to meet the requirements of the court. And the reports and studies completed by the Bureau of Legislative Research provided the basis for the updates on the progress from *Lake View* forward. I am especially appreciative of the extensive work that went into the preparation of all of these studies and reports and of the assistance that enabled me to prepare the following reviews.

### III. INTRODUCTION

The public education system in Arkansas has undergone a significant transformation during the past ten years. This has come about as a result of several factors including the passage and implementation of federal legislation known as the No Child Left Behind Act, the ruling by the Arkansas Supreme Court in the *Lake View* case, and the legislation and executive decisions resulting from the efforts to create an equitable and adequate system of public education in the state.

The origins of the *Lake View* case started with the filing of a suit by the Lake View School District in Phillips County alleging unconstitutional disparities in public school funding for wealthy and low-income school districts. A series of suits and court actions began in August, 1992 and ended in May, 2007. The suits were heard in the Pulaski County Chancery Court.

Judge Annabelle Clinton Imber found the system of finance for public education inequitable and unconstitutional. A subsequent suit settled in May 2001 resulted in Judge Collins Kilgore finding the funding system to be constitutionally inequitable and inadequate (Bureau of Legislative Research, 2007).

The state appealed Judge Kilgore's finding and the Arkansas Supreme Court supported Judge Kilgore and delayed issuing its mandate until January, 2004. The litigation continued through the Supreme Court with several reports from Special Masters appointed by the Supreme Court with the last reports filed in 2007. The Supreme Court adopted the last report from the Special Masters and declared the public school funding system constitutional.

This review address reviews and analyses of the decisions and actions that were precipitated by the court's identification of the following as reasons for constitutional deficiency:

- 1) Department of Education's failure to conduct an adequacy study or to define adequacy;
- 2) "Abysmal" Arkansas educational rankings;
- 3) Low benchmark scores;
- 4) Need for Arkansas student remediation in college;
- 5) Teacher salaries not comparable to surrounding states;
- 6) Disparities in teacher salaries within the state;
- 7) Recruitment and retention of quality teachers;
- 8) Needs of school districts in low-income areas (for improved and advanced curriculum, quality teachers, and adequate facilities, supplies, and equipment); and
- 9) Needs of school districts in high enrollment growth areas.

The court finds that it is the state's responsibility to:

- 1) Define adequacy;
- 2) Assess, evaluate and monitor the entire spectrum of public education; and
- 3) Know how state revenues are spent and whether true equality in education is being achieved. (Bureau Legislative Research, 2007, pp. 1-2)

## IV. CONCEPT OF EDUCATIONAL ADEQUACY

The deliberations of the courts and the work of the General Assembly concerned two issues that were paramount in the decisions made by the Supreme Court. For a number of years lawsuits and decisions by the courts involved the issue of *equity in funding and spending* and usually addressed disparities between richer and poorer school districts. The essential argument of the *Lake View* case concerned the differences in the funding available, and subsequent quality of educational programming, between districts such as Lake View located in a small and poor community in the Mississippi Delta area of Arkansas and districts such as those in the more affluent region of Northwest Arkansas. More recent lawsuits called attention to the concept of *adequacy* in addition to equity. As indicated in a report prepared by two former justices of the Arkansas Supreme Court at the request of the Court:

*The court and the General Assembly have condensed the constitutional adjectives "general, suitable, and efficient" into the single adjective, "adequate." The Constitution of Arkansas, so interpreted, thus requires "substantial adequacy" of educational opportunity. The court's primary concerns with respect to the education of Arkansas students are, first, finding a definition of "adequacy" as it applies to educational opportunity and the equality of educational opportunity and, second, deciding whether adequacy, as so defined, has been achieved (Jesson & Newbern, 2004, p. 3).*

Key elements of the Special Masters' position include "opportunity" and "equality" and some determination of the achievement of educational adequacy. The Supreme Court required that the state adopt a definition and a plan to then achieve adequacy prior to releasing the state from the oversight of the court. The General Assembly entered into a search for an adequacy study that would yield both the definition and methods for achieving adequacy and created the Joint Committee on Educational Adequacy. The Joint Committee adopted the following "official" definition of adequacy for the state:

*The Committee's definition of educational adequacy is:*

- a. The standards included in the state's curriculum frameworks, which define what all Arkansas students are to be taught, including specific grade level curriculum and a mandatory thirty-eight (38) Carnegie units defined by the Arkansas Standards of Accreditation to be taught at the high school level;*
- b. The standards included in the state's testing system, which include a definition of what would be considered a proficient score for each test. The goal is to have all, or all but the most severely disabled, students perform at or above proficiency on these tests.*
- c. Sufficient funding to provide adequate resources as identified by the General Assembly (Bureau of Legislative Research, 2010, p. 5).*

So, the definition of adequacy for the public schools of Arkansas includes teaching what is required by the curriculum standards, assessing to see if all of the students (with one categorical exception) are learning the curriculum at the desired level, and the funding to achieve adequacy is available according to the matrix adopted by the state.

Another way to approach the adequacy issue is through an examination of the actions of the Joint Adequacy Evaluation Oversight Subcommittee and the General Assembly in regard to the requirements that are examined prior to each regular session of the General Assembly. The General Assembly has required the Bureau of Legislative Research (BLR) to prepare an annual report that addresses reviews of:

- 1) Funding received by the public schools
- 2) Curriculum frameworks
- 3) Testing, assessment and accountability program
- 4) Fiscal, academic and facilities distress programs
- 5) State's standing under the No Child Left Behind Act
- 6) School improvement process
- 7) Expenditures from special categories of state funding
- 8) Disparities in teacher salaries
- 9) Expenditure analysis and resource allocations
- 10) Comparisons of teachers' salaries to other states
- 11) Re-calibrating the system of funding if necessary using evidence-based method
- 12) Adjusting components of the funding system for inflation or deflation
- 13) Conduct other studies at the request of the Education Committees  
(Bureau of Legislative Research, 2010, p. 1)

These reviews include the funding that has been provided to improve and build facilities across the state through a state partnership program. As can be seen from this list, the General Assembly has an interest in far more than the elements included in the adequacy study conducted for the legislature by Picus and Associates (Odden, Picus & Fermanich, 2003). They are examining a number of reports that track school district expenditures among other things and requesting special studies of topics of interest to them in education. The BLR conducts studies in addition to presenting reviews to the Education Committees of the General Assembly and summaries of each of these are presented later in this report.

## V. COURT RULINGS ON EDUCATIONAL ADEQUACY

The concept of educational adequacy has been addressed in court cases in a number of other states where similar suits such as the one in Arkansas have been filed and settled, sometimes in favor of the adequacy plaintiffs and sometimes not. West and Peterson (2007) edited a volume published by the Brookings Institution that addressed a number of issues involved in educational adequacy. As West and Peterson indicated:

*Rather than simply asking for fiscal equity, [advocates for poor school districts] argued that spending on education must be adequate to provide all students with an education guaranteed by their state's constitution... Having set aside the simple, readily justifiable standard of fiscal equity, plaintiffs now had to give specificity to educational adequacy, a much more ambiguous concept (West & Peterson, 2007, p. 5).*

West and Peterson (2007) provided a listing of many of the significant school finance judgments from 1971 through 2005 by type of case, level of the court, year and outcome. Some of these cases involved equity issues, others adequacy, and some both types. Thirty-eight states had at least one case involving adequacy and several had multiple cases focused on equity and/or adequacy. So, lawsuits in pursuit of educational adequacy have been increasingly common in state courts across the nation over the past thirty years. The Arkansas Supreme Court ruled in *Lake View* and filed its opinion on November 21, 2002. In their ruling they addressed both issues of equal educational opportunity and adequacy:

- 7) *Education -- equal educational opportunity -- basic to society. -- Education becomes the essential prerequisite that allows citizens to be able to appreciate, claim; and effectively realize their established rights; the right to equal educational opportunity is basic to our society.*
- 8) *Education -- requirement of general, suitable, & efficient system of free public schools -- State has absolute duty to provide adequate education. -- Education has always been of supreme importance to the people of Arkansas; the General Assembly recognized this in Act 1307 of 1997, when it acknowledged that the State is constitutionally required to provide a general, suitable, and efficient system of free public schools, and that the Arkansas courts have held that obligation to be a "paramount duty"; the requirement of a general, suitable, and efficient system of free public schools places on the State an absolute duty to provide the school children of Arkansas with an adequate education. (Arkansas Supreme Court, 2002, pp. 2-3).*

In section 11 of their opinion the court stated: "...the critical point was that the State has an absolute duty under the Arkansas Constitution to provide an adequate education to each school child..." The court opinion continued to specify that it was the state's responsibility to determine what constituted an adequate education and to "...determine whether equal educational opportunity for an adequate education is being substantially afforded to the school children of the state;..." (Arkansas Supreme Court, 2002, p. 3).

The court identified substantially equal curriculum, facilities, and equipment as well as discrepancies in teacher pay across districts and found that the state failed to meet its responsibilities in these areas. The court gave the state until January 1, 2004 to implement appropriate changes. Given this finding the state was then set on a course to address the findings of the court and to develop remedies to the unconstitutional system of public education in the state--and to do this required a definition of adequacy and the development of funding mechanisms to achieve educational adequacy.



## VI. SPECIAL MASTERS OF THE SUPREME COURT

The Supreme Court appointed former justices Bradley D. Jesson and David Newbern to serve as special masters for the *Lake View* case to provide a report to the Court in relation to ten questions posed to the masters concerning: the adequacy study and its implementation; assessment of curricula; assurance of equal curricula; assessment of facilities and equipment; teacher salary disparities between poorer and wealthier districts; accountability and accounting measures to monitor actual expenditures; student performance accountability system; funding system to provide adequate education and equal educational opportunities between wealthy and poor districts; and priority of funding for education by the General Assembly (Jesson & Newbern, 2004, p. ii).

Jesson and Newbern were appointed as Special Masters at three different times to conduct reviews for the Court: April, 2004, June, 2005 and November, 2006. They conducted hearings before submitting their reports for the first two and requested a joint report from both the state and the "movants" prior to their final reports (an interim report was filed in March, 2007 prior to their final report as a part of the last review filed in April, 2007).

### A. Special Masters Report: April 2004

The Masters were directed to "examine and evaluate legislative and executive action taken since November 21, 2002, to comply with this court's and the constitutional mandate....are authorized to examine and evaluate any other issue they deem relevant to compliance with this court's November 21, 2002 opinion and to report to this court accordingly " (Jesson & Newbern, 2004, page 2). Since the Masters had a rather broad directive, they could examine a number of issues they thought relevant and report back to the Court both their opinions and findings of fact.

Jesson and Newbern's report included sections on adequacy, closing the funding gap between poor and wealthy districts, adequacy and equity, consolidation, and early childhood education. They concluded that legislation and regulations had been put in place with more on the way; that it would take longer than January, 2004 to reform the system; that substandard buildings would take time to repair and/or replace; that both school districts and others suggested that the court retain jurisdiction; that a plan for action by the General Assembly beyond FY2005 was not in place; and that the required actions would not be easy or quickly accomplished.

### B. Special Masters Report: October 2005

Following the report of the Masters in April 2004 the Court released its mandate. However, in April 2005 the Rogers School District filed a motion to recall the mandate and was later joined by some forty districts (Jesson & Newbern, 2005, p. 2). They contended that the General Assembly had not met its obligations and had underfunded the schools. So in June 2005 the masters were again appointed to examine these issues. The masters reviewed a number of school funding issues: foundation funding, 40% pullback, educational adequacy trust fund, educational excellence trust fund, categorical funding, professional development, student growth funding, alternative learning environment, vocational education, English language learners, students from lower income families, and school facilities. The Masters reported 102 findings of fact and concluded:

*From the largely uncontradicted evidence presented by the movants, we must conclude 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. Without exception, the school superintendents who testified before us were of the opinion that regression in state-aid funding, costly unfunded new education mandates, and the*

*General Assembly's failure to take inflation sufficiently into account had adversely affected their efforts to provide an "adequate" education to their students." (Jesson & Newbern, 2005, p. 72)*

### **C. Special Masters Reports: March and April 2007**

An interim report was published in March focused on the work of 85th General Assembly and state officials on solving problems, and in particular dealt with efforts for school building facilities. It cited the earlier creation of the Joint Committee on Educational Facilities, a task force of experts in facilities, and \$10 million to fund a facilities assessment. The final Masters Report in April 2007 covered in detail the work that had been conducted by the General Assembly and state officials to address public school facilities, foundation funding aid, growth funding, categorical funding for special needs students, teacher salaries, and other issues. The Masters concluded their report with the following:

*Our hope is that the "awakening" to the vicissitudes inherent in support for public education will assure the State's continued vigilance. The framework for a much-improved Arkansas public education system is now in place. The funds to support it are now at hand. We have no doubt that a successful future for Arkansas's public schools will depend, in large measure, upon the continuous financial and standards review that the General Assembly has undertaken at this point. Meeting the challenge of using the support, which is in place, and that which will ensue, to give adequate education to Arkansas's children now passes to the local school districts. They should have the means to meet the challenge if the State remains committed to the all-important practice of funding education first (Jesson & Newbern, 2007, p. 24).*

The final Special Masters report listed an appendix of 36 legislative acts dating from 2007 that addressed a number of issues ranging from the funding formula to teacher compensation.

### **D. Acceptance of Educational Adequacy**

With the acceptance of educational adequacy by the Supreme Court and the General Assembly, Arkansas has a legal definition of adequacy and a number of legislative acts passed and implemented to achieve what the Supreme Court had essentially mandated. The documentation by the Special Masters provided a comprehensive review of what had been accomplished and their recommendation to accept the state's efforts was accepted by the Supreme Court. A series of major educational reforms, reviews and reports were set in place.

## VII. ARKANSAS STUDIES OF EDUCATIONAL ADEQUACY

### A. Lawrence O. Picus and Associates Study

A major step taken by the General Assembly in response to *Lake View* was to appoint a special Joint Committee on Educational Adequacy in 2003 to study the state's educational system and assess how it can offer an adequate education to all public school students in Arkansas. First on their agenda was the need to conduct an adequacy study.

Through its education committees, the General Assembly chose Picus and Associates (Odden, Picus & Fermanich, 2003) as consultants. The methodology used by Picus and Associates is known as the evidence-based approach, i.e. the identification of individual elements found to be effective through research in achieving important educational outcomes. The assumption underlying this method is that diverse elements found to be successful can be combined into a comprehensive framework to achieve adequacy across multiple school districts such as those found in Arkansas. And, costs associated with these elements may be determined so that a linkage between essential elements for an adequate education may be assessed to have a particular cost within a comprehensive statewide strategy.

Picus and Associates developed an adequacy model that included a matrix with the elements specified and costed-out. This matrix included elements such as instructional facilitators and technology. Their method used a hypothetical school size of 500 as the base (schools with larger enrollments use multipliers based on their enrollments).

The adequacy study identified "...a set of ingredients that are required to deliver a comprehensive set of elements of a high quality instructional program, and then determines an adequate expenditure level by placing a price (an appropriate salary level) on each ingredient and aggregating to a total cost." The elements included (1) pre-school, (2) full day kindergarten, (3) school size, (4) class size, (5) principal, (6) instructional facilitators/school-based coaches/mentors, (7) planning and preparation time/collaborative professional development, (8) strategy for struggling students, (9) gifted and talented students, (10) student support/family outreach, (11) intensive professional development, (12) technology, (13) other resources--librarians, substitute teachers, instructional materials, etc., and (14) benchmarking teacher salaries in an adequate school finance system (Odden, Picus & Fermanich, 2003, p. 14).

Recommendations from the Adequacy Study to the Joint Committee on Educational Adequacy included a number of elements with associated costs based on the evidence-based approach. These recommendations were built around the matrix for three levels of schooling: elementary schools (K-5), middle schools (6-8) and high schools (9-12) and addressed the following:

***School characteristics:*** class size, full-day kindergarten, pre-school, length of teacher work year, percent disabled, percent poverty (free and reduced lunch), percent English language learners, and percent minority

***Personnel Resources:*** principal, instructional facilitators/mentors, teachers, specialist teachers, instructional aides, teachers for struggling students, teachers for ELL (English language learner) students, teachers for ALE (alternative learning environment) students, teachers for students with moderate disabilities/speech/hearing, program for students with severe disabilities, teachers for gifted students, aides for categorical students, pupil support staff, librarians/media specialists, technology resource teachers, and substitutes

***Dollar Per Pupil Resources:*** professional development - \$50; technology, instructional materials, equipment, students activities - \$250; extra duty funds - \$120 only for high

schools; and supervisory aides, e.g., lunch, playground, buses - \$35 (Odden, Picus & Fermanich, 2003, p. 14).

*Matrix Elements.* The evidence-based matrix developed by Picus and Associates included a number of elements that would cost an additional \$224.6 million annually to provide an adequate education. As indicated by the authors: "All educational initiatives included in the recommendations, and their funding, are backed by research evidence on their effectiveness. Every Committee recommendation is supported by evidence that each will have an impact on student performance." (Odden, Picus & Fermanich, 2003, p. ii)

*Pre-School Funding.* The recommendation of the Subcommittee was to fund pre-school for three and four years olds whose families had incomes below 200% of poverty for a total cost for the adequacy model of \$100.0 million (the Supreme Court did not include preschool programs in its mandates).

*Teacher Compensation.* The committee recommended increases in teacher compensation including a performance based pay system that would reward teachers who used research-based knowledge and skills that improved student performance. The three broad categories of increases for teachers were: \$277.0 million for a 15 percent increase across the board; \$45 million to lengthen teacher contracts by five days; \$4.0 million for a teacher performance assessment system; and \$30.0 million for performance bonuses for a total of \$356.0 million.

*Needs-Based Funding System.* Also, the report called for a needs based funding system that would require a \$167.7 million property tax transfer or direct state funding to meet the needs of the funding formula. This would be required to fully fund the matrix and increase teacher salaries.

*Total Funding Required.* The matrix would require \$224.6 million plus pre-school funding of \$100.0 million plus teacher compensation of \$356.0 million plus needs-based funding at \$167.7 million for a total of \$848.3 million of new funding.

The Joint Committee on Educational Adequacy Report included in their executive summary the following statement:

*The importance of transforming the adequate resources identified above into powerful and effective instructional strategies that boost student achievement cannot be overstated. If the resources identified above are to have more than just marginal impacts on student learning, schools need to:*

- 1) *Use the dollars to purchase and implement effective curriculum programs in all content areas.*
- 2) *Help principals organize schools so they have the instructional leadership research shows is so important to successful learning.*
- 3) *Develop leadership to help teachers create a professional school culture that focuses on continuously improving the instructional program and have teachers take responsibility for the impacts of their instruction practice.*
- 4) *An intensive and effective professional development program needs to operate in ways to continually improve the instructional program.*
- 5) *The resources described above are necessary for these actions to take place. The above adequate resources plus the performance pay program recommended in the accompanying report and these leadership actions include the necessary and sufficient conditions for having schools teach Arkansas students to its rigorous performance standards (Odden, Picus & Fermanich, 2003, pp. xii and xiii).*



## **B. Picus and Associates Study Recalibration**

The General Assembly authorized a recalibration of the original work completed by Picus and Associates published in August 2006 (Odden, Picus & Goetz, 2006) following a special session of the Assembly. The study was conducted to "recalibrate the existing school funding model and provide estimates of the amount of money needed to fund the system for the 2007-08 school year" (Odden, Picus & Goetz, 2006, p. 1). Their report reviewed each element of the funding model with recommendations for the recalibration as indicated in Table 1.

The final foundation funding, excluding professional development but including transportation, was \$6,150 per student for the 2007-2008 school year. The authors estimated the additional costs to be \$220 million for the added funding over the original matrix calculated in the 2003 report. The recalibration also addressed categorical funding for "struggling students" offering options to serve students from low-income families using funds provided through the National School Lunch Act (NSLA), those who needed alternative learning environments (ALE), and English language learners (ELL).

## VIII. REVIEWS OF PROGRESS ON EDUCATIONAL ADEQUACY

The progress toward educational adequacy is assessed by BLR in their biannual report to the Joint Committee on Educational Adequacy of the General Assembly. Three reports were filed in March 2006, September 2008 and September 2010. The first report was in response to the findings of the Supreme Court in December, 2005 while the other two were based on legislation requiring reviews of the public education system prior to each regular session of the legislature. The numbers in Table 1 below represent the estimated number of personnel by category, and the cost per-pupil to fund these positions for a K-12 school of 500 students in fiscal year 2008.

*Table 1. Estimated Per Pupil Funding for FY2008 K-12 School of 500 Students Recalibrated Funding Matrix by Resource*

	Number of Personnel	Cost Per Pupil in Dollars
Principal	1.0	\$172.33
Secretary	2.0	\$139.00
Kindergarten Teachers	2.0	\$216.76
Teachers	39.6	\$2,252.81
Specialist Teachers (PAM)	4.2	\$450.56
Instructional Facilitators/Asst. Principals	2.5	\$270.95
Special Education Teachers	2.9	\$314.31
Librarian	1.0	\$108.38
Pupil Support Staff	2.5	\$270.95
Professional Development	N/A	\$50.00
Technology	N/A	\$250.00
Instructional Materials	N/A	\$160.00
Formative Assessment	N/A	\$25.00
Extra Duty Funds	N/A	\$98.35
Supervisory Aides	2.0	\$98.70
Substitutes	N/A	\$67.94
National School Lunch A	N/A	\$542.00
English Language Learners	N/A	\$542.00
Alternative Learning Environment	N/A	\$6,774.00
Operations and Maintenance	N/A	\$594.00
Central Office	N/A	\$591.00
Transportation	N/A	\$286.00

Source: Odden, Picus & Goetz (2006) *Recalibrating the Arkansas school funding structure, final report*, p. 77-79

### A. Bureau of Legislative Research Report: 2006

The House and Senate Interim Committees on Education held a series of public hearings on issues raised before the *Lake View* opinion of December 2005 beginning in February 2006 (Bureau of Legislative Research, 2006). A report was prepared and submitted to the entire General Assembly by the BLR in March 2006 and revised and adopted by the Assembly on April 7, 2006 during the First Extraordinary Session of 2005 (Bureau of Legislative Research, 2006) hereafter referred to as the 2006 BLR Report. This report covered: foundation funding, categorical funding, funding education first, teacher salaries, health insurance, unfunded mandates, funding for academic facilities, dedicated foundation funding for facilities maintenance, facilities wealth index, debt service funding, and funding for growth districts. The

report represented the General Assembly's response to the *Lake View* opinion and reflected the position of the legislature as:

*"...during the legislative sessions in 2003, 2004 and 2005, the General Assembly solidified the state's dedication to education by providing new funding for schools and a new method for distributing the funds. As a result of the legislative examination to determine how to provide an adequate education to the children and to otherwise improve the educational system, the General Assembly implemented the following reform measures:*

- *Increased teachers' salaries;*
- *Made teacher salaries more equitable across the state;*
- *Developed and funded the first statewide plan to improve academic facilities;*
- *Standardized and improved curriculum requirements;*
- *Implemented school accountability measures;*
- *Improved the state standards for education; and*
- *Increased the state funding to school districts."*

(Bureau of Legislative Research, 2006, p. 11)

This report reflected a process that was conducted by the House and Senate Interim Committees on Education that began in February 2006 consisting of a series of public hearings to gather information and data regarding issues raised by the Supreme Court. Testimony by state officials, legislators, educators and others was provided to the Interim Committees on "...disparities in teacher salaries; the high cost of public school employee health insurance; the General Assembly's commitment to fund education first; academic facilities; foundation and categorical funding needs; fund balances and reserves; debt service funding; and other relevant and timely issues." (Bureau of Legislative Research, 2006, p. 12)

The report was adopted on March 16, 2006 and revised with the final edition adopted by the 85th General Assembly on April 7, 2006. This review reflects a summary of the 2006 BLR Report.

### **Foundation Funding**

The Public School Funding Act of 2003 established the formula for public school funding through the establishment of foundation funding for school districts, i.e. "...an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student" (Bureau of Legislative Research, 2006, p. 14). The Act provided \$5,400 per student for FY2006 and \$5,497 per student for FY2007. Foundation funding was built around the matrix created by Picus and Associates that incorporates the key staffing such as teachers required for adequacy and equity (see Table 2).

### **Categorical Funding**

In addition to the foundation funding, there are legislative provisions for special categories of students who require additional funding to meet adequacy and equity standards and funding for these is based on a per student level.

*Alternative Learning Environment (ALE) Students.* Every school district must establish an alternative learning environment program for students who are not able to benefit directly from a regular school environment. Districts can do this themselves, join others in providing a shared school or contract with an educational service cooperative to provide the services. The Alternative Learning Environment students represent those who "... need smaller classes, more individualized and specialized instruction, and additional services that are integrated into their academic expectations" (Bureau of Legislative Research, 2010, p. 52).



*National School Lunch Act (NSLA) Students.* These students are funded on the basis of their eligibility for the federal free and reduced-priced meals program due to their families' lower income levels. Funding is provided on a per student basis and is used to cover approved programs and purposes that provide for classroom teachers; before and after school programs; prekindergarten programs; tutors, aides, etc; parent education; summer programs; early intervention; and materials and supplies (Bureau of Legislative Research, 2006, p. 24).

*English-language Learners (ELL).* Because of the increased services and costs involved, categorical funding is also available for students considered to be English-language Learners (ELL) and many of the ELL students are also eligible for NSLA funding. Assessments of verbal, reading and writing proficiency provide the information for program eligibility.

*Professional Development (PD).* In addition the state provides funding on a per student basis to support professional development for educators. The state requires districts to have a professional development plan beginning with FY2005 and each educator must complete 60 clock hours of professional development annually. In addition a statewide online professional development program funded through this category is delivered by the Arkansas Educational Television Network.

### **Other Funding**

*Gains and Losses in Students.* The General Assembly made provisions for districts experiencing changes in school enrollment that drive foundation funding based on per pupil funding strategies. School districts that have declining enrollment receive the same foundation funding as for the previous year allowing them time to make adjustments in budgets.

*Isolated Schools.* Districts with isolated schools often have declining enrollment or face difficulties providing an adequate education with current funds and specialized funding is available for them if they meet the eligibility requirements specified by the General Assembly.

*Inflation Adjustment.* The General Assembly used inflation adjustment measures to calculate the increased costs of maintaining an adequate education. For example, the BLR 2006 Report included inflation adjustments from 0.8565 to 1.0355 (depending on the year) for payroll-related compensation, technology, instructional materials, carry forward and substitute teachers. (Bureau of Legislative Research, 2006, p. 21).

### **Funding Public Education First**

The Educational Adequacy Fund was established through Act 108 in 2003 (the "doomsday act") and revenues for this fund were defined. This act required that if funding for the public school system was not sufficient, then transfers will be made from remaining fund accounts to the Department of Education Public School Fund Account and each account will be reduced proportionately. To sum it up:

*State law gives funding for education a 'super' priority status by providing that education will be the highest priority in Category A. If an economic downturn occurs that causes all of the allocations in Category A to be under-funded, then education will receive funding at the expense of every other Category A allocation if adequacy needs cannot be met (Bureau of Legislative Research, 2006, p. 32. Note: Category A is the highest funding level established by the General Assembly).*

Table 2. Per Student Foundation and Total Funding and Per Student Categorical and Total Funding. FY2005 - FY2011

	2005	2006	2007	2008	2009
<i>Foundation Funding</i>					
Per Student (dollars)	\$5,400	\$5,528	\$5,662	\$5,719	\$5,789
<b>Total Funding (millions)</b>	<b>\$1.7</b>	<b>\$1.8</b>	<b>\$1.8</b>	<b>\$1.8</b>	<b>\$1.8</b>
<i>Categorical Funding</i>					
ALE Per Student (dollars)	\$3,250	\$3,250	\$3,250	\$4,063	\$4,063
<b>Total Funding (millions)</b>	<b>\$19.0</b>	<b>\$14.2</b>	<b>\$14.3</b>	<b>\$20.0</b>	<b>\$20.2</b>
ELL Per Student (dollars)	\$195	\$195	\$195	\$293	\$293
<b>Total Funding (millions)</b>	<b>\$4.2</b>	<b>\$4.6</b>	<b>\$5.3</b>	<b>\$8.5</b>	<b>\$9.1</b>
NSLA Per Student (dollars) A*	\$1,440	\$1,440	\$1,440	\$1,488	\$1,488
NSLA Per Student (dollars) B*	\$960	\$960	\$960	\$992	\$992
NSLA Per Student (dollars) C*	\$480	\$480	\$480	\$496	\$496
<b>Total Funding (millions)</b>	<b>\$147.6</b>	<b>\$141.2</b>	<b>\$149.1</b>	<b>\$154.2</b>	<b>\$157.8</b>
PD Per Student (dollars)	\$50	\$50	\$50	\$50	\$50
<b>Total Funding (millions)</b>	<b>\$22.4</b>	<b>\$22.6</b>	<b>\$22.9</b>	<b>\$23.0</b>	<b>\$23.1</b>

\*A = >90% NSLA students; B = 70-90% NSLA; C = <70% NSLA; PD=Professional Development

Sources Bureau of Legislative Research (2008) *A report on legislative hearings for the 2008 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 33-34 and Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, pp.24-26

## Findings and Recommendations

A number of recommendations were provided by the General Assembly and reported in the 2006 BLR Report to address the findings of legislative hearings and research. Several of the recommendations called for issues to be included in the Adequacy Study Update. At the time of this report the Interim Committees on Education were working with Picus and Associates to complete an update to be presented by September 2006. Each of the findings and recommendations are presented in Appendix 2 (these are based on the 2006 BLR Report findings and recommendations presented on pages 58-70 of that report).

The recommendations included increases in foundation funding and funding for isolated schools. Changes regarding curriculum and operational adjustments, declining enrollment funding, and categorical funding (ALE, NSLA, ELL and Professional Development) were referred to the Adequacy Update Study for recommendations. In addition, issues concerning the 98% collection rate, financial reporting systems, fund balances and reserves, vision screening, the "doomsday law," superintendent contracts, stipends and supplemental pay, and retirement rate contributions were also addressed (see Appendix 2).

## Recommended Legislation and Studies

The 2006 BLR Report reflected the interests of the General Assembly in both legislation and issues to be taken up by the Adequacy Update Study by Picus and Associates and the Academic Facilities Oversight Committee. In summary there were 16 items recommended for further legislation; 13 issues were referred to the ongoing Adequacy Update Study; and six issues were referred to the Academic Facilities Oversight Committee including funding needs for facilities and growth (Bureau of Legislative Research, 2006, pp. 72-73). See Appendix 2 for the listing). In summary tables the report also identified items that had been addressed in the report with the committee's findings, recommendations and new funding required by each category of funding, e.g., foundation, categorical and teacher salaries. Funding recommendations in the category of operation and instruction included coverage of foundation funding, categorical funding, funding education first, teacher salaries, health insurance and unfunded mandates for

a total new funding for the 2005-2007 biennium of \$146.1million for operations and instruction (funding for facilities was recommended at \$50 million).

## **B. Bureau of Legislative Research Report: 2008**

In May, 2007 the General Assembly created the Joint Adequacy Evaluation Oversight Subcommittee to review the adequacy of the public education system for the 2008-2010 biennium. The Subcommittee in turn tasked the BLR to conduct the necessary reviews and studies to determine if the state was continuing to provide an adequate education to students across the state. During the same month, the Supreme Court declared the public school funding system as meeting the constitutional requirements for an adequate and equitable system. The Adequacy Subcommittee met the following September; conducted a series of public hearings; provided a survey of all public school superintendents and 74 principals; requested site visits to 74 schools; and reviewed a number of reports. These were included in the 2008 BLR report and future reports are to be submitted to the General Assembly prior to each regular meeting of the legislature.

### **Public School Funding**

The funding for public schools is reviewed here according to the matrix developed by Picus and Associates and approved by the General Assembly along with other sources of funds disbursed to the public schools. The state continued to support basic foundation funding on a per student basis. Foundation and categorical funding for FY2005 through FY2009 are presented in Table 2 on a per student and total basis.

In addition to foundation and categorical funding disbursements were made through 30 types of funding from the Public School Fund and 25 types of federal funds. For FY2007 these received \$258.7 million from the Public School Fund and \$403.7 million from federal funds. Funding for FY2007 included \$10.9 million for isolated funding; \$345.8 million for special education including \$103.1 million from federal funds; student growth funding of \$40.9 million; \$10 million in declining enrollment funding; and \$286 per pupil for transportation funding.

Also, the legislature provided (1) enhanced funding at the rate of \$51 per pupil for FY2008 and \$87 per pupil for FY2009 or totals of \$23.4 million and \$40.4 million respectively, (2) \$24.2 million for the URT actual collection adjustment for FY2008, and (3) \$14.3 million for FY2009 to be adjusted depending on the actual URT collections. Total funding reported through the six major state funding categories for FY2007 compared FY2005 to FY2009 indicated that total state funding increased by \$308.0 million (see Table 6).

### **Expenditures of Education Funds**

*Matrix-Based School-Level Staffing.* The matrix utilized to calculate the funds available to schools provides for staffing patterns on the basis of a prototypical school of 500 students. The BLR was able to calculate divergence from the matrix on the part of the 74 schools involved in their survey (see Table 3 below). In nine categories of staff, e.g., core academic teachers or instructional facilitators, the results indicated that 56.3% of the schools were above the matrix in school staffing -- the average for staffing in the matrix was 35.7 while the schools reported an average of 55.8. The only area below the matrix recommendation was instructional facilitators where 2.0 staff were recommended and the sample average was 1.9. It should be noted that of the 35.7 staff recommended in the matrix, 27.9 (78.2%) was for teachers and of the 55.8 average number of staff reported in the sample, 36.4 (65.2%) were teachers.

Table 3. School-Level Staffing Numbers. FY2007\*

	Matrix Number	District Avg. (per 500 students)	Difference #	%
<i>Non-Administrative School-Level</i>				
Classroom Teachers - Core	20.8	23.7	2.9	13.9%
PAM/Effective Teachers	4.2	8.9	4.7	111.9%
Special Education Teachers	2.9	3.8	0.9	31.0%
Instructional Facilitators	2.0	1.9	-0.1	-5.0%
Assistant Principals	0.5	0.5	0.0	0.0%
Librarians and Media Specialists	0.8	1.5	0.7	87.5%
Counselors and Nurses	2.5	10.6	8.1	324.0%
<i>Administrative School-level</i>				
Principals	1.0	1.6	0.6	60.0%
Clerical Support	1.0	3.3	2.3	230.0%
<b>Total Staff</b>	<b>35.7</b>	<b>55.8</b>	<b>20.1</b>	<b>56.3%</b>

\*Based on survey of 74 schools.

Source: Bureau of Legislative Research (2008) *A report on legislative hearings for the 2008 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 42

*Matrix-Based Expenditures.* Calculations were also presented on the expenditures per student for technology, instructional materials, extra duty funds, supervisory aides, substitutes, operations and maintenance, and the central office (see Table 4 below). For FY2007 the funding for technology was significantly below the matrix amount: \$58.41 to \$185. The total spent on technology that year was \$26.8 million. Instructional materials came in over the matrix amount--\$201 versus \$160 per student for a total expenditure of \$92.1 million.

Extra duty funds also came in over the matrix amount--\$120.62 versus \$50 per student for a total of \$55.3 million (extra duty covers items such as stipends for coaches or teachers who supervise after-school clubs). The costs for substitutes amounted to \$55.39 per pupil versus \$59 funded by the matrix for a total of \$25.4 million. The matrix calls for districts to dedicate nine percent of their foundation funding for items like custodial, maintenance, repair and renovation activities as well as utilities. This amounted to \$773 per pupil or a total for the state of \$354.7 million. Finally, central office expenditures were about \$376 per student or \$172.2 million for the state as a whole.

Table 4. Matrix-Based Expenditures FY2007

	Matrix Amount	Districts' Actual Expenditures Per Student	Difference
Technology	\$185.00	\$58.41	\$126.59
Instructional Materials	\$268.00	\$201.00	\$67.00
Extra Duty	\$97.00	\$120.62	-\$23.62
Supervisory Aides	\$37.00	N/A	N/A
Substitutes	\$59.00	\$55.39	\$3.61
Operations and Maintenance	N/A	\$773.00	N/A
Central Office	N/A	\$376.00	N/A
Transportation	N/A	N/A	N/A

Source: Bureau of Legislative Research (2008) *A report on legislative hearings for the 2008 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 43

Expenditures for categorical programs shown below in Table 5, included \$143.2 million for NSLA, \$23 million for ALE, \$9.9 million for ELL, and Professional Development expenditures included \$17.5 million administered by the districts: \$38 per student versus \$41.11 funded by the matrix (the remainder of the \$50 per student for professional development was funded to the Arkansas Educational Television Network for an online professional development program for educators).

Table 5. Categorical Expenditures: All School Districts FY2007 (in millions)

	Expenditure Amount (in millions)
National Student Lunch Act*	
Highly Qualified Classroom Teachers	\$32.427
Literacy Specialists, Coaches	\$28.022
Other Activities Approved by ADE	\$17.173
Student Support Specialists	\$14.746
Teachers' Aides	\$12.075
School Improvement Plan	\$11.188
Curriculum Specialists	\$5.763
Pre-Kindergarten	\$4.475
Tutors	\$4.463
Before and After School Programs	\$3.555
Professional Development	\$3.213
Summer Programs	\$2.650
School Improvement Plan	\$1.615
Parent Education	\$1.066
Primarily Local District Defined	\$0.603
Alternative Learning Environment**	\$23.000
English Language Learners***	\$9.900
Professional Development****	\$17.500

\* 245 of 245 districts reported the use of these funds.

\*\* 204 districts reported expenditures in ALE. Source:

\*\*\* 164 districts reported expenditures for ELL.

\*\*\*\* 245 districts reported expenditures for professional development.

Source: Bureau of Legislative Research (2008) *A report on legislative hearings for the 2008 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 46

## Recommendations

Recommendations are spelled out in a letter from the chairs of the Senate and House Interim Committees on Education to the President Pro Tempore and the Speaker of the House on September 2, 2008. This letter includes the list of recommendations regarding the funding of public education for the upcoming biennium and are provided verbatim below:

- 1) *Continue to base the funding matrix on a prototypical school size of 500 students with the following student-teacher ratios: Kindergarten: 20:1, Grades 1-3: 23:1, Grades 4-12: 25:1, P.E., art, and music (PAM)/elective teachers equal to 20 percent of classroom teachers.*
- 2) *Keep the total number of school-level personnel funded by the matrix at 35.665 positions.*
- 3) *Add a 1.6 percent to 2.8 percent cost-of-living adjustment to all school-level salaries.*
- 4) *Add a 1.6 to 2.8 percent cost-of-living adjustment to the following line items: (a) Extra duty funds; (b) Supervisory aides; (c) Substitutes; and (d) Central office.*
- 5) *Keep the matrix funding for technology at \$201 for 2009-10 and 2010-11.*
- 6) *Add 2.25 percent to the current matrix funding for instructional materials.*
- 7) *The issue of whether to change the amount of funding in the matrix for public school transportation is referred to the Education Committees for consideration. The recommendations of the Education Committees will be presented to the legislature by November 1, 2008.*
- 8) *Continue to set the matrix level for operations and maintenance at 9 percent of the total foundation funding, but no less than \$581 per average daily membership.*
- 9) *Adjust categorical funding by 1.6 percent to 2.8 percent, if necessary, upon evidence that schools need an increase or evidence that may come from current categorical fund balance reports.*
- 10) *Continue to supplement as necessary the actual collection rate for the uniform rate of tax that falls below 98 percent.*
- 11) *It is recommended that the Education Committees study the amount of funding needed for public school employee health insurance and report their findings and recommendations by November 1, 2008. This report is the result of months of work by the House Interim Committee on Education, the Senate Interim Committee on Education, and the Joint Adequacy Evaluation Oversight Subcommittee. Testimony, recommendations, advice, and input were received from Arkansas educators, agency personnel, and concerned citizens. In a first for our state, the staff of the Bureau of Legislative Research, with the assistance of the Arkansas Department of Education, conducted a major portion of the primary research for his report and synthesized the findings in the document we respectively present to you today. (Argue, et. al, 2008).*

## C. Bureau of Legislative Research Report: 2010

### Funding from All State Education Funds

This report provides more comprehensive information on both funding and expenditures for submission to the General Assembly prior to its regular session beginning in January 2011. The figures for total state funding by years from FY2005 to FY2009 (see Table 6 below) indicate that the totals increased from \$2.229 billion in 2005 to \$2.510 billion in 2011, an increase of \$308.0 million.

Table 6. State Funding for Public Education by Funding Category, FY2005 - 2009

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
<i>General Education Fund</i>					
Department of Education Fund (in millions)	\$11.841	\$13.536	\$13.434	\$15.799	\$14.769
<i>Educational Excellence Trust</i>					
ADE-Public School Fund (in millions)	\$165.146	\$178.219	\$191.220	\$200.423	\$193.587
<i>Educational Excellence Trust</i>					
Dept. of Education Fund (in millions)	\$0.809	\$0.873	\$0.937	\$0.982	\$0.948
<i>Educational Facilities Partnership</i>					
Fund & DPSAF&T Fund (in millions)	\$20.440	\$54.215	\$90.976	\$502.634	\$21.251
<i>Educational Adequacy</i>					
Fund (in millions)	\$441.873	\$426.506	\$448.450	\$438.731	\$433.090
<i>Department of Education</i>					
Public School Fund (in billions)	\$1.588	\$1.665	\$1.723	\$1.830	\$1.843
<b>Total All Selected Funds (in billions)</b>	<b>\$2.229</b>	<b>\$2.338</b>	<b>\$2.468</b>	<b>\$2.989</b>	<b>\$2.537</b>

Source: Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 23

The following funds were increased by the amount shown from FY2008 to FY2009 (see Table 3):

- *Foundation Funding*. Per student funding by \$70 and total funding by \$0
- *Enhanced Funding*. Per student funding by \$30 and total funding by \$16.8 million
- *URT Actual Collection Adjustment*. Total by \$5.5 million.
- *Categorical Funding*. Total by \$0.2 million
- *Other State Funding*. Isolated funding, special needs isolated funding, student growth funding and declining enrollment total by \$0.1 million.

### Expenditures of Education Funds

The BLR analysis contains information on expenditures in addition to funding and the agency reported that foundation funding made up 55% of districts' total revenues in FY2009. Comparing funding to expenditures allows the legislature to determine if their intended funding support of public education is actually spent in ways to assure adequacy and equity. These data cover FY2009 and are presented in terms of what the matrix calls for on the average and the actual expenditures based on reports from all school districts.

### School-Level Staffing: Matrix vs. Actual, Numbers and Expenditures

*School Level Non-Administrative Staff*. On the average school districts employed staff below the numbers provided in the matrix (see Table 7 below). The matrix provided an average of 33.665 such staff per 500 students and the districts' average was 29.97 a difference of minus 3.695.

Table 7. Matrix vs Actual School-Level Staffing FY2009

	Matrix Number	District Average per 500 Students	Difference
<i>Non-administrative School-level Total</i>	33.67	29.97	-3.70
Classroom Teachers	24.94	23.32	-1.62
Special Education Teachers	2.50	0.72	-1.78
Instructional Facilitators	0.83	1.10	0.28
Librarians and Media Specialists	2.50	1.97	-0.53
Counselors and Nurses	2.00	2.43	0.43
<i>Administrative School-level Total</i>			
Principals	1.00	0.97	-0.03
Clerical Support	1.00	1.46	0.46
<b>Total</b>	<b>35.67</b>	<b>32.40</b>	<b>-3.27</b>

Source: Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 44

*Classroom Teachers.* In the BLR survey of 244 districts, 180 (73.8%) had average salaries and benefits below the matrix average. On a per-pupil basis, the matrix called for funding of teachers at \$2,791 per pupil and actual expenditures were \$2,596 or a difference of minus \$195 per pupil (see Table 8 below). The total spending for classroom teachers was \$1.191 billion. The matrix number for classroom teachers for FY2009 was set at 24.94 teachers per 500 students and the actual number was 23.32 teachers per 500 students or a difference of minus 1.62 teachers. The matrix does provide for a split between core teachers (primary teachers in lower grades and literacy, math, science and social studies for higher grades) and non-core (physical education, art and music (PAM) and other electives). High schools tend to have fewer core teachers than the matrix and more PAM teachers.

*Special Education Teachers.* The matrix called for \$324.53 per student for special education teachers and actual expenditures were \$330.38 for a difference of plus \$5.85 and total of \$151.6 million. Matrix staffing amounts for special education teachers were 2.9 and the average for the state per 500 students was 2.86 for a difference of minus 0.04 teachers. (Special education students make up 11.2% of the total student population or 52,174 students statewide.)



Table 8. Matrix vs Actual Expenditures: Foundation Funding, Per Student (Dollars,) and Total Expended (Millions), FY 2009

	Matrix	District Actual Expenditures	Difference	Total Expended
	Number	Per Student		
Classroom Teachers	\$2,790.99	\$2,596.40	-\$194.59	\$1,191.00
Special Education Teachers	\$324.53	\$330.38	\$5.85	\$151.60
Instructional Facilitators	\$379.77	\$111.38	-\$268.39	\$51.10
Librarians and Media Specialists	\$92.32	\$120.25	\$27.93	\$35.20
Counselors and Nurses	\$279.77	\$215.61	-\$64.16	\$99.00
Principals	\$175.70	\$181.24	\$5.54	\$83.20
School Secretary	\$70.80	\$90.45	\$19.65	\$41.50
Technology	\$201.00	\$138.39	-\$62.61	\$63.50
Instructional Materials	\$163.20	\$165.74	\$2.54	\$76.10
Extra Duty	\$51.00	\$149.63	\$98.63	\$68.70
Supervisory Aides	\$50.35	\$8.01	-\$42.34	\$3.70
Substitutes	\$59.00	\$74.55	\$15.55	\$34.20
Operations and Maintenance	\$581.00	\$681.60	\$100.60	\$312.80
Central Office	\$383.50	\$598.89	\$215.39	\$274.90
Transportation	\$286.00	\$255.66	-\$30.34	\$117.30
Total	\$5,789.00	\$5,718.18	-\$70.82	N/A

Source: Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, p. 44

*Other Staff.* Instructional facilitators (-1.78), counselors and nurses (-0.53), and principals (-0.03) were below the matrix while librarians and media specialists (+0.275) and clerical support (+0.46) were above. Per pupil expenditures compared to the matrix for these groups were instructional facilitators (-\$168.39), counselors and nurses (-\$64.16), principals (+\$5.54), librarians and media specialists (+\$27.93) and clerical support (+\$19.65).

#### Other Elements: Matrix vs. Actual

*Technology.* The matrix provided for considerably more funding of technology than the average expenditures for the districts reflected. This is not the only source of funds for technology since it can be funded through other state programs such as distance education and possibly through programming for students from low income families. Also, federal funds may be used in some instances for technology. Finally, some districts have dedicated millage for their technology program. The BLR conducted school site visits and found that federal stimulus funding had helped districts acquire technology equipment. They also reported that the EAST program was widely used in 179 districts and that 1,079 sections of distance learning were provided to 9,688 students (49 districts did not use distance education). Technology was also used for parent involvement with online tools for communicating with parents and software packages used for grade posting and homework assignments.

*Instructional Materials.* Textbooks, workbooks, pedagogical aides, library materials and reimbursements for out-of-pocket expenses for teachers are typical items covered through this category. The matrix provided \$163.20 per student (2009) and expenditures were \$165.74 for difference of \$2.54. It should be noted that state law requires that textbooks be provided at no cost to students.

*Extra Duty.* The matrix provides \$51.00 per student and expenditures were \$149.63 for difference of \$98.63.

*Supervisory Aides.* The matrix provides for \$50.35 and expenditures were \$8.01 for a difference of minus \$42.34. The purpose of this category of funding is to help students with activities such as greeting and monitoring in the morning when arriving by buses and supervising lunch and recesses. The report noted that most schools do not use this funding but include these activities in the requirement that teachers spend 60 minutes for duty each day.

*Substitutes.* Substitutes were funded at \$59.00 in the matrix and expenditures were \$74.55 for a difference of \$15.55.

*Operations and Maintenance (O&M).* In FY2009 schools spent \$312.8 million on this category for items such as utilities, custodial, maintenance, repair and renovation. The matrix funding was \$581 and expenditures were \$681.60 per pupil for an excess of \$100.60 per pupil. State regulations require the dedication of nine percent of foundation funding for O&M. The report indicated that they could not determine if extra funding was possibly a result of higher utilities.

*Central Office and Other District Level Expenditures.* The matrix funded \$383.50 and expenditures were \$598.89 for an increase of \$215.39 over the matrix. The report included all of the types of full time equivalent personnel funded by the matrix in this category, e.g., superintendent and business manager.

*Transportation.* The matrix funding for transportation was \$286 and expenditures were \$255.66 for a difference of minus \$30.34. The report indicated that the matrix expenditures ranged from \$74.78 to a high of \$842.12 (one outlier district on the low end was excluded). Transportation can also be funded through isolated or special needs isolated funding.

### **Categorical Funding and Expenditures**

District use of categorical funds per student are highlighted below in Table 9.

*Table 9. District Use of Categorical Funding Per Student (Dollars) and Total (Millions) FY2009*

	Per Student Funding	Total Funding (in millions)	Per Student Expenditure	Total Expenditures (in millions)
NSLA Totals*	N/A	\$157.8	\$553	\$145.0
>90%	\$1,488	N/A	N/A	N/A
70-90%	\$992	N/A	N/A	N/A
< 70%	\$496	N/A	N/A	N/A
ALE*	\$4,063	\$20.2	\$6,396	\$31.8
ELL*	\$293	\$9.1	\$453	\$12.5
PD*	\$42	\$21.1	\$453	\$17.5

Notes: Figures are rounded to nearest dollar or .5 million dollars.

\*NSLA funds were provided to 262,274 students in 244 districts; ALE funds were provided to 4,964 students in 210 districts; ELL funds were provided to 4,964 students in 244 districts; and professional development funds were provided to 244 districts. Source: Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, pp.25-26

*National School Lunch Act.* During FY2009 the districts' NSLA expenditures totaled \$145.0M for items such as teachers, instructional facilitators, and tutors and could be used for summer remedial or extended day programs. These funds are used for district-wide programs as well as being targeted toward specific schools with higher incidences of NSLA students. NSLA growth funding was also available and \$934,375 was spent from this category in 34 districts. Adjustments are also made for districts moving up or down in the numbers of NSLA students in their districts and five districts gained \$1.5 million and 14

districts lost \$2.3 million. Funds targeted to help districts with NSLA students also include high priority teacher recruitment and retention funding and college prep enrichment to prepare these students for college entrance exams. Finally, federal funds for these students include Title I ESEA, 21st Century Community Learning Centers and the Education for Homeless Children and Youth Program.

*Alternative Learning Environment.* District expenditures for ALE in FY2009 totaled \$31.8M, or \$6,396 per ALE student. The programs serving these students typically need specially trained teachers and staff and more intensive services. The BLR report noted difficulties in providing these services in many parts of the state, especially in rural areas.

*English Language Learners.* Students qualify for ELL on the basis of proficiency assessments administered for oral, reading and writing proficiency in the fall of each year (Bureau of Legislative Research, 2010, p. 54). In FY2009 district ELL expenditures totaled \$12.5 million to 132 districts serving 27,589 ELL students (87 school districts did not report any ELL students). On average, districts spent \$453 per ELL student compared to the \$293 per ELL student they received. Also, 90.0% of the ELL students are eligible for the NSLA. Federal funding for these students (Title III, ESEA) totaled \$2.8M for 36 districts for FY2009. These students must be tested each year to determine their educational progress for federal funding and for Annual Yearly Progress improvements.

*Professional Development.* Often cited as the major way that educators acquire new knowledge and skills to improve student performance, professional development is an important function to improve education. In Arkansas teachers are required to have at least 60 clock hours of professional development each school year. During FY2009, districts spent \$17.6 million for an average per pupil expenditure of \$40.80, compared with the \$41.33 funded to the districts. A large percentage of the professional development is provided through the educational service cooperatives with limited funding for contractual services. Teachers may be provided such services in connection with their school days through activities such as mentoring by instructional facilitators or attending professional development conferences. The remainder of the \$50 per pupil professional development funding has gone to the Arkansas Educational Television Network (AETN) online program where AETN received from about \$2.9 to \$3.8 million per year. According to the BLR report, AETN had not been spending all of the funds it received for this service.

*Summary.* The BLR survey of 244 districts in FY2009 revealed the following:

- ELL funding provided to 27,589 students in 132 districts
- ALE funding provided to 4,964 students in 210 districts
- NSLA funding provided to 262,274 students in 244 districts
- PD funding provided to 244 districts

#### **Other Funding: State and Federal**

*State Funding.* Other sources of state funds for FY2009 included:

- \$40.3 million for Enhanced Funding
- \$28.9 million for URT Actual Collection Adjustment
- \$7.2 million for Isolated Funding
- \$4.6 million for Special Needs Isolated funding
- \$25.0 million for Student Growth Funding
- \$12.1 million for Declining Enrollment Funding

*Federal Funding.* \$434.4M was provided through federal funds in 26 funds disbursed to the school districts of the state. One time funding from the American Recovery and Reinvestment Act (ARRA)

provided at least \$619.0 million to Arkansas schools broken down into the programming categories listed in Table 10 below. ARRA funds could be used for items normally funded through the matrix including instructional materials, professional development and transportation and it was reported that ARRA funds saved or created 731 education jobs as of December 2009.

*Table 10. Federal Funding American Recovery and Reinvestment Act (in Millions)*

	Funding (in millions)
Schools with High Concentrations of Low-Income Families	\$111.000
Student Achievement in Title I Schools	\$40.197
Education Technology	\$7.126
Special Education	\$112.178
Special Education - Preschool	\$5.566
Homeless Children and Youth	\$0.645
School Lunch Equipment	\$1.249
State Fiscal Stabilization Fund	\$341.091
Total	\$619.143

Source: Bureau of Legislative Research (2010). *A report on legislative hearings for the 2010 interim study on educational adequacy (Act 57 of the Second Extraordinary Session of 2003 and Act 1204 of 2007)*, pp. 28-30

### **Educational Equity**

*District Funding* The BLR also conducted an analysis of the level of equity in FY2009 funding provided by the state by comparing district funding and expenditures (except for building acquisition and debt service expenditures) to see how revenues and spending patterns related to a district's local wealth, racial composition, percent of students in poverty and student test scores. They divided districts into five groups based on districts' property taxes per pupil then examined assessed value per pupil, unrestricted state funds per pupil, state categorical funds per pupil, benchmark testing percentage proficient and above, NSLA percentage and percentage white. They reported:

*The analysis found a high level of equality in the distribution of state education funding. However, when looking at just foundation funding combined with other sources of local funding, districts with higher property wealth are, in general, receiving more funding than districts with lower property values. When categorical funding is added into the analysis, the state-level funding equalizes districts with varying property values (Bureau of Legislative Research, 2010, p. 54).*

*District Spending.* "When comparing school district expenditures per pupil to the property wealth of the district, the BLR analysis concluded that district spending per pupil is not strongly related to property wealth. School districts with a higher percentage of NSLA students are spending more per pupil than a district with a lower percentage of poverty students consistent with the intended use of categorical NSLA funding." (Bureau of Legislative Research, 2010, p. 59). They also found that districts with higher percentages of minority students spent slightly higher than those with lower percentages and smaller districts spent slightly more than larger districts on a per student basis.

## Findings and Recommendations

The education committees reported the following findings and recommendations:

1. *Statewide districts spent, on average, \$70.75 less foundation funding than received.*
2. *Although most districts' needs were adequately met by foundation funding, the state funding was insufficient to meet adequacy needs of about half of the districts (118 spent more than \$5,789 per student on items meant to be covered by foundation funding).*
3. *Districts that spent less foundation funding tended to be ones that could afford to use other types of unrestricted funding (on average, 127 districts that spent less than \$5,789 collected \$289 per student more in property taxes).*
4. *The committees recommended a 2.0% to 2.4% adjustment in all items in the funding matrix and all categorical funds for FY2012 and FY2013.*
5. *In the 2008 Interim Adequacy Study it was found that state funds may be required in order to reach adequacy for some students.*
6. *The committees recommended keeping transportation at the FY2011 level of \$297.50 for the biennium and creating a separate line item for Enhanced Transportation Funding to provide for districts whose costs exceed the current line in the matrix. This special fund was to be resourced by an inflationary adjustment to the transportation item in the matrix.*
7. *The date for submission of the Adequacy Report from BLR was recommended to be changed from September 1 to November 1 of each year prior to the regular session of the General Assembly. (Bureau of Legislative Research, 2010, p. 66)*

## Summary: All Funding Sources

The BLR reports are prepared in the even numbered years and their latest comprehensive report will be available by November 1, 2012 prior to the legislative session in 2013. For more current information about overall funding, a resource that is readily available on the web is the *Annual Statistical Report* (Arkansas Department of Education, 2012). This report is available for the state as a whole and for every school district. Although this introduces a somewhat different methodology in this review, use of this report does provide a more up-to-date picture of public school funding. Table 11 presents the data from the report for Fiscal Years 2006 through 2011. This table provides data on the major sources of funds as well as the subcategories that have been presented throughout this review and the primary classes of expenditures, i.e., instruction, district-level, school-level, and other non-instructional costs. The expenditures are for all sources of funds.

As can be seen in Table 11, expenditures across this six year period have increased from \$4.316 billion to \$5.172 billion, an overall increase of approximately \$856 million (19.8%). Instruction increased by \$277 million (12.4%), district level costs by \$128 million (18.3%), school level costs by \$219 million (38.5%), and other non-instructional costs by \$56 million (28.4%). (*Total instruction* includes regular instruction, special education, workforce education, adult education, compensatory education and other; *district level costs* include general administration, central services, maintenance and operation of plan services, student transportation, and other; *school level services* include student support services, instructional staff support services, and school administrative services; *non-instructional services* include food service operations, other enterprise operations, community operations, and other. *Facilities* acquisition and construction, debt service and other non-programmed costs are included in the total figure.)

## IX. SUMMARY AND CONCLUSIONS

### A. Summary

This review provides an historical picture of the funding initiatives taken to respond to the *Lake View* ruling of the Arkansas Supreme Court in 2002 that the public schools of Arkansas were both inadequate and inequitable. Topics addressed include the concept of education adequacy, court rulings on the same, adequacy studies conducted in Arkansas, court rulings and legislation, and progress reviews published in 2006, 2008, and 2010. The primary area addressed in this report is the adequacy associated with the funding resources required to provide adequate educational opportunities for public school students across Arkansas. This is the third area of the educational adequacy definition adopted by the General Assembly. Subsequent comprehensive studies and reports were completed by the Bureau of Legislative Research to provide periodic updates on the state's progress in continuing educational adequacy for the state.

*Table 11. Total Funding and Expenditures for Arkansas Public Schools Annual Statistical Report. FY2006 to FY2011*

	FY06	FY07	FY08	FY09	FY10	FY11
<i>Major Sources</i>						
State/Local Unrestricted (in billions)	\$3.191	\$3.284	\$3.401	\$3.471	\$3.482	\$3.542
State Restricted (in millions)	\$415	\$470	\$528	\$536	\$570	\$577
Federal Restricted (in millions)	\$462	\$458	\$465	\$515	\$761	\$815
Other Sources (in millions)	\$246	\$265	\$330	\$330	\$254	\$366
<b>Total</b>	<b>\$4.315</b>	<b>\$4.477</b>	<b>\$4.723</b>	<b>\$4.853</b>	<b>\$5.068</b>	<b>\$5.300</b>
<i>Subcategories</i>						
Foundation (in billions)	\$1.766	\$1.811	\$1.792	\$1.766	\$1.741	\$1.777
Enhanced (in millions)	\$0	\$0	\$24	\$30	\$16	\$0
NSLA (in millions)	\$141	\$149	\$154	\$158	\$160	\$170
ALE (in millions)	\$14	\$14	\$20	\$20	\$21	\$21
ELL (in millions)	\$4	\$5	\$8	\$8	\$9	\$9
Professional Development (in millions)	\$19	\$19	\$19	\$19	\$19	\$19
Enrollment Growth (in millions)	\$54	\$41	\$29	\$25	\$29	\$29
Enrollment Decline (in millions)	\$0	\$10	\$13	\$12	\$17	\$10
Isolated Schools (in millions)	\$8	\$11	\$7	\$8	\$7	\$6
<i>Major Expenditures</i>						
Instruction (in billions)	\$2.232	\$2.302	\$2.346	\$2.370	\$2.483	\$2.509
District-level (in millions)	\$701	\$748	\$746	\$748	\$797	\$829
School-level (in millions)	\$569	\$633	\$675	\$693	\$771	\$788
Non-instructional (in millions)	\$197	\$209	\$232	\$240	\$244	\$253
<b>Total Current (in billions)</b>	<b>\$4.316</b>	<b>\$4.532</b>	<b>\$4.657</b>	<b>\$4.710</b>	<b>\$5.057</b>	<b>\$5.172</b>

Source: Arkansas Department of Education, *Annual statistical report*, State district totals, FY2006, p. 254; FY2007, p. 1; FY2008, p. 1; FY2009, p. 1; FY2010, p. 1; FY2011, p. 1.

In summary, this report provides some insight into the accomplishments that have been made to move toward educational adequacy.

The concept of educational adequacy was adopted by the Arkansas Supreme Court in its rulings. This concept has been used in a number of states where litigation has been pursued to extend the requirement that states provide equity in funding to school districts. Although the Supreme Court did not define adequacy for the state, it required the General Assembly to do so and the Court indicated its responsibility to decide whether adequacy had been achieved. The resulting definition captures three elements:

curriculum standards, assessment to insure student mastery of the curriculum, and funding according to the standards set by the General Assembly.

Thirty-eight states have experienced litigation on behalf of schools to seek adequacy in the funding and programming for their public schools and some of these were cited in the Arkansas decision. As this report reveals, there have been major changes in the public education system from the state's perspective with the work that has been done following the *Lake View* ruling. The Court appointed special masters to study the efforts of the state in addressing the issues identified through *Lake View*. These masters were appointed three different times with their final report filed in 2007. Following this report the Court found the state to meet the adequacy requirements sufficient to meet the constitutional mandate for public education. The state has taken a proactive role through the efforts of the General Assembly and the Executive Branch in implementing the legislation.

The work that was done in the state by the General Assembly included an adequacy study completed by Picus and Associates in 2003 followed by a recalibration published in 2006. The funding matrix includes evidence-based elements built around a school enrollment of 500. The elements include staffing requirements such as the number of teachers along with factors such as technology and operations and management. These resulted in a cost figure for foundation funding on a per student basis. In addition, categorical funding for special students such as those from low income families was added depending on the census of the students. The state now has a system for tracking adequacy through the studies conducted by the BLR where the state's school districts performance against the standards of the matrix are examined and reported to the General Assembly. Funding is also available for school districts experiencing gains or losses in enrollment and those with isolated schools. The emphasis by the Supreme Court on the primacy of public education from a constitutional perspective resulted in legislation (the doomsday act) that establishes the highest priority for funding from the state to be for public education.

The amount of funding available to the public education system increased substantially across all funding sources. And, it should be noted that significant funding has been allocated to public school facilities through both state and federal funds. The federal support for facilities has come in the form of economic stimulus funding that has been used for both facilities and programming support, depending on the type of funding.

As can be seen from the preceding reviews covered in this report, the General Assembly adopted additional legislation in order to fine tune its initial responses and to address continuing issues that were raised during public hearings and from members of the Assembly. These issues include the carry-over of funds from year to year by districts -- the question being why the districts did not use the funds to achieve adequacy and equity. Other issues concern how categorical funds could be used, especially for students from low income families. The latter involved the effectiveness of some of the expenditures in meeting the needs of these students, i.e., whether they were targeted toward programming that would actually improve their educational opportunities.

The BLR reports, especially the one for 2010, provide information about both funding and expenditures so that the legislators can determine how well school districts are maintaining the standards associated with the matrix and other accountability measures such as the benchmark testing results. Interested observers can follow the foundation funding designed to provide the base support for every student as well as the categorical supplements designed to improve services for students in alternative learning environments, students from low income families, and English language learners. Earmarked funds have been made available on a short-term basis (enhanced funding) to assist districts in catching up in some areas. Federal stimulus funds have also been made available for a variety of programs to meet the needs of students from low income families and those receiving special education services.

## B. Conclusions

The *Lake View* ruling initiated a flurry of activity in the state with the courts and the legislature. A number of measures were taken to move toward constitutional adequacy and equity. The review presented above is certainly not in-depth enough to understand the nuances of public school funding. However, one has to ask the question that was posed by the court, i.e., do we have an adequate and equitable system of public education. To answer this in part requires going back to the definition that was adopted by the General Assembly.

*The Committee's definition of educational adequacy is:*

- a. *The standards included in the state's curriculum frameworks, which define what all Arkansas students are to be taught, including specific grade level curriculum and a mandatory thirty-eight (38) Carnegie units defined by the Arkansas Standards of Accreditation to be taught at the high school level;*
- b. *The standards included in the state's testing system, which include a definition of what would be considered a proficient score for each test. The goal is to have all, or all but the most severely disabled, students perform at or above proficiency on these tests.*
- c. *Sufficient funding to provide adequate resources as identified by the General Assembly. (Bureau of Legislative Research, 2010, p. 5).*

In short, this definition involves curriculum standards, student proficiency on tests to measure mastery of the curriculum and funding to provide adequate resources. This review has focused on the funding side. In addressing this, the General Assembly turned to private consultants to develop an evidence-based funding system that included key elements associated with effective practices based on research. The legislature adopted a matrix system that involved foundational funding for all districts supplemented by categorical funding for special needs students. In addition, a number of other factors have been funded, e.g., growth funding, to further supplement foundation and categorical funds. And, education committees in the legislature have recommended inflation adjustments to continue the buying power of the school districts.

Has all of this resulted in adequacy and equity? One answer is that it did enough to satisfy the Supreme Court in their ruling in 2007-- unanimous decision by all seven justices of the court. How do we know beyond that? The biannual reports by the Bureau of Legislative Research provide information on how well school districts are using their funding to assure that schools are supported according to all of the laws and regulations that were implemented to assure adequacy and equity.

According to the BLR 2010 report districts, on the average, did not provide the number of non-administrative staffing for 2008-2009 that the matrix called for (matrix = 33.67 and district average = 29.97 per 500 students). The two categories that seem important to providing adequate educational opportunities, classroom teachers and instructional facilitators, were both below the matrix. Less per student was spent on classroom teachers and instructional facilitators (classroom teachers: matrix = \$2790.99 vs actual = \$2,596.40 and instructional facilitators: matrix = \$279.77 versus \$111.38). Categorical funding for students with special needs continued to provide supplements to all school districts with these students. An analysis of funding equity by the BLR revealed equality of state education funding across wealthy and poor districts with the categorical funding being the primary equalizer when added to foundation funding.

Going back to the definition of adequacy calls attention to the first element: curriculum standards. These are not addressed in this report, but attention has been focused recently on national standards proposed by the National Governors Association and the National Council of Chief State School Officers. Arkansas



has adopted these standards and is beginning the process of adapting the state's existing standards to the national proposal. At this time, the author has not been able to study the curriculum materials in sufficient detail to understand clearly what is happening in this area. Also, as mentioned in the Picus and Associates report, the inclusion of elements in the funding matrix is only one part of moving toward adequacy. It is also essential that strong instructional strategies are in place to assure that students are mastering the curriculum.

Another important consideration is the success that students in Arkansas are having in regard to the benchmark examinations that are being given across the state. These examinations have focused on literacy and mathematics but have expanded to include end of course examinations in algebra, geometry, and biology. The trends are positive in the numbers and percentages of students who are moving toward proficiency on these examinations.

Returning to another perspective on the reasons for constitutional deficiency as presented earlier in this report (Bureau of Legislative Research, 2007), we can check progress against some of the issues identified in the *Lake View* ruling. Some of these are based on the author's knowledge of factors not included in this report.

- 1) **Department of Education's failure to conduct an adequacy study or to define adequacy;**
  - *The General Assembly conducted an adequacy study with a follow-up recalibration study by the same consultants and adequacy has been defined.*
- 2) **"Abysmal" Arkansas educational rankings;**
  - *Arkansas has moved up in some rankings, especially in terms of teacher salaries, and has received positive national attention of rankings published by Education Week where the state ranked fifth in the 2012 Quality Count ranking--see note with asterisk below.*
- 3) **Low benchmark scores;**
  - *Benchmark scores in many areas are improving across the state.*
- 4) **Need for Arkansas student remediation in college;**
  - *Remediation rates continue to be high in the state's four-year and two-year institutions.*
- 5) **Teacher salaries not comparable to surrounding states;**
  - *Salary rankings for teachers have improved both at entry and average levels.*
- 6) **Disparities in teacher salaries within the state;**
  - *Disparities continue to exist, although averages across the state are higher.*
- 7) **Recruitment and retention of quality teachers;**
  - *It continues to be difficult to recruit and retain teachers in rural areas of the state.*
- 8) **Special needs of poverty level students, including English-language learners;**
  - *In addition to federal funding for low-income students, the state has provided supplemental funding for both low-income and ELL students.*
- 9) **Needs of school districts in low-income areas (for improved and advanced curriculum, quality teachers, and adequate facilities, supplies, and equipment).**

- *It is not possible to comment on the curriculum; quality teachers continue to be an issue in some areas; and additional funding has been made available for facilities, supplies and equipment.*

**10) Needs of school districts in high enrollment growth areas.**

- *Supplemental funding is available for districts experiencing significant growth.*

The court finds that it is the state's responsibility to:

- 1) Define adequacy;
- 2) Assess, evaluate and monitor the entire spectrum of public education; and
- 3) Know how state revenues are spent and whether true equality in education is being achieved.

*Adequacy has been defined; the legislature through the BLR and other systems is monitoring many educational reports; expenditures against priorities are being assessed; and along some measures equity is being achieved.*

\*Note: Rankings (grades) within the six areas of the Quality Counts system were Chance for Success C-; K-12 Achievement D; Standards, Assessment & Accountability A; The Teaching Profession B+; School Finance C; and Transitions & Alignment A; Overall Grade B-. Arkansas achieved total points resulting in fifth place (81.6 out of 100) while the average state total for the U. S. as a whole was 76.5 points. Education Week (2012)

As indicated at the beginning of this review, there are difficulties in addressing educational adequacy. Most of the attention in the past was given to equity. In a number of court cases prior to *Lake View* adequacy had been introduced by the plaintiffs in order to broaden the scope of the issues addressed by the courts. Adequacy implies that the educational system would be required to meet some type of measure such as adequate opportunities or outcomes.

The Kentucky case (*Rose v. Council for Better Education*, 1989 cited in West & Peterson, 2007) has been cited as precedent setting for adequacy decisions in other states and was cited in the decision rendered by the Arkansas Supreme Court in *Lake View*. The court in Kentucky essentially mandated "fiscal action to achieve an adequate education" (West & Peterson, 2007, p. 7).

This costing-out has been used by education finance specialists to determine the costs associated with the ingredients that would constitute an adequate education (the evidence-based method is only one of several methods that have been used). Hanushek has criticized these methods claiming they lack a scientific basis and do not provide sufficient estimates for costs nor evidence that the funding will result in educational gains for students. As Hanushek (2007, p. 97) concluded "There simply is not any reliable, objective, and scientific method to answer the question of how much it would cost to obtain achievement that is noticeably better than that currently seen." So, the debate goes on about how to approach funding the public schools as well as how to measure the impact of public education.

There are those that advocate for adequacy in terms of results or outcomes of the educational enterprise. Many would agree that this is an important consideration and this is the subject of a companion report to this review. Regardless, there have to be mechanisms for translating the elements of any educational system into costs and it is obvious that considerable work is required to ascertain what works and how it works.

It is clear that significant additional funding has been injected into the public education system of Arkansas in an effort to address what the courts found to be both inadequate and inequitable. The funding

system has been changed with more emphasis on a common matrix of critical elements at the foundational level supplemented by a variety of categorical funding programs and additional funding for a variety of needs. The General Assembly is also providing considerable oversight of public education to determine if it is improving across multiple measures.

The result of the Supreme Court's decision and subsequent legislative action was to (1) move the state to the center of responsibility, (2) increase state funding of the system; (3) give priority to funding the public education system over other state programs, and (4) use state-determined yardsticks to assess the effectiveness of the schools.

We continue to search for ways to innovate and change the system, particularly at a state macro-level, so that our students will have educational opportunities with good outcomes. Yet, it is still a somewhat of a struggle to ascertain what this should cost. In FY2011 expenditures for public education from all sources exceeded \$5 billion annually, up from \$4.3 billion in FY2006. Have we achieved adequacy and equity? And, if not, how much more (or less) will it cost to get there?

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## XI. APPENDICES

### 1. Court Rulings and Legislation

The following chronology is adapted from the information presented in the Bureau of Legislative Research's 2008 and 2010 reports to the General Assembly and the Special Masters Final Report (Bureau of Legislative Research, 2008 and 2010 and Jesson & Newbern, 2007).

- 1992 - Initial lawsuit filed by Lake View School District in Phillips County claiming disparity between funding for wealthy and low-income districts was unconstitutional
- 1998 - Chancery Court Judge Kilgore dismissed case without trial. On appeal Supreme Court reversed lower court and required chancery court to decide whether General Assembly's work had corrected disparities.
- 2001 - Judge Kilgore found funding system to be unconstitutionally inequitable and inadequate. Kilgore's decision appealed to Supreme Court.
- 2002 - Supreme Court upheld Kilgore's ruling and ordered the state to define educational adequacy, examine the state's public education system, and monitor state education funding.
- 2003 - Regular Session -- Act 94 passed to create Joint Committee on Educational Adequacy with the charge to study the state's educational system; determine how to provide adequate education to all public school students; and charged it to conduct adequacy study (Picus and Associates hired and submitted report on 9/1/03).
- 2003 - Second Extraordinary Session -- General Assembly enacted 73 education bills covering new funding formula, student testing and school accountability program, and school consolidation plan. Act 108 required education to be top funding priority and Act 57 made responsibility ongoing for Joint Committee on Educational Adequacy to study education system and report before regular legislative sessions.
- 2004 - April - Special Masters filed their first report.
- 2004 - Supreme Court released state from court supervision noting both successes and deficiencies remaining.
- 2004 - November - School facility assessment report presented by the Task Force to the Joint Committee on Educational Facilities.
- 2005 - Following 2005 legislative session, Supreme Court re-opened the case at request of 50 districts claiming that funding was insufficient to provide adequate education.
- 2005 - October - Special Masters filed their second report.
- 2005 - December - Supreme Court declared funding to be unconstitutionally inadequate; state had not placed public education first; had not conducted adequacy study; and had grossly underfunded repairs and improvements for school facilities.
- 2005 - At roughly same time as Supreme Court decision to re-open the case, the Adequacy Study Oversight Subcommittee started planning interim study on education and hired Picus and Associates to recalibrate their work.
- 2006 - Special Session - April - General Assembly increased foundation funding per pupil, and increased funding for teacher retirement, facilities, school districts with declining enrollment, and isolated schools.
- 2007 - Regular Session - General Assembly refined Act 57 passing Act 1204 on reporting requirements and restated that adequacy study is a key element in the continued constitutionality of the state's system of funding public education. Act 57 established eight areas for review each biennium including the entire spectrum of public education.
- 2007 - March - Interim Special Masters filed their third report.
- 2007 - April - Final Special Masters filed their final report.

2007 - May - Supreme Court declared the public school funding system constitutional and the decision was signed by all seven justices.

## 2. Recommended Legislation and Studies

The 2006 BLR Report reflected the interests of the General Assembly in both legislation and issues to be taken up by the Adequacy Update Study by Picus and Associates and the Academic Facilities Oversight Committee as indicated below.

### Legislation:

- 1) Amend the amount of foundation funding in the Public School Funding act of 2003, Arkansas Code § 6-20-2301 et seq.
- 2) Allow the Assessment Coordination Department to create a uniform statewide set of instructions for reporting county property tax collection information.
- 3) Establish declining enrollment funding for the 2006-2007 school year and fully fund the special needs isolated funding under Ark. Code Ann. § 6-20-604.
- 4) Provide additional positions to assist the Department of Education in the development of technology-based or other enhanced professional development opportunities.
- 5) Authorize school districts to continue to use NSLA funds for classroom teachers until June 30, 2007, but only to the extent they were using them for such purpose as of January 1, 2006.
- 6) Amend the minimum teacher salary schedule.
- 7) Require parity in benefits and employer contribution for employees participating in the public school employees' health insurance program.
- 8) Provide additional appropriation and funding to offset increases in school district employer contributions to the Arkansas Teacher Retirement System.
- 9) Specify that the Arkansas Teacher Retirement System does not have the authority to increase the employer contribution rate to fifteen percent ((15%) effective July 1, 2006.
- 10) Develop detailed uniform reporting requirements for school district fund balances.
- 11) Provide for a study of public school financial accounting and reporting systems.
- 12) Clarify the scope of the requirement that school districts dedicate nine percent (9%) of foundation funding to utilities and costs of maintenance, repair, and renovation activities so that school districts can use the dedicated nine percent (9%) for all public school facilities.
- 13) Provide for the continued existence of the Commission for Public School Academic Facilities and Transportation to the Department of Education.
- 14) Clarify that the Public School Academic Facilities Program and related funding sources are a part of the concept of adequacy and protect the Educational Facilities partnership Fund Account from the doomsday clause of Act 108 of the 2nd Extraordinary Session of 2003.
- 15) Authorize the transfer of unobligated balances in the General Improvement Fund to the Educational Facilities Partnership Fund Account for the Academic Facilities Partnership program and for cost overruns in the Immediate Repair Program and the Transitional Academic Facilities Program.
- 16) Eliminate the statutory cap on a school districts' bonding capability (Bureau of Legislative Research, 2006, p. 71).



### **Issues for the Adequacy Update Study:**

- 1) Schools with Declining Enrollment
- 2) Isolated Schools
- 3) Isolated Schools with Declining Enrollment
- 4) Categorical Funding
- 5) Alternative Learning Environments
- 6) Teacher Salaries
- 7) Uniform Superintendent Contracts
- 8) Educational Facilities Trust Fund
- 9) Stipends and Supplemental Pay
- 10) Health Insurance
- 11) Future Retirement Contribution Rate Increases
- 12) Authority of the Arkansas Teacher Retirement System to Reduce Benefits
- 13) Use of Fund Balances in State Aid Distribution (Bureau of Legislative Research, 2006, p. 72)

### **Issues for the Academic Facilities Oversight Committee**

- 1) Academic Facilities Funding Needs
- 2) Academic Facilities Wealth Index Formula
- 3) Establishing an Extraordinary Circumstances Funding Program for Academic Facilities
- 4) Statewide Transportation Fuel Contracts
- 5) Debt Service Funding
- 6) Facilities funding for Growth Districts (Bureau of Legislative Research, 2006, pp. 72-73)