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Rating the Special Masters

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SPECIAL MASTERS REPORT

After the 85th General Assembly adjourned in April 2005, the Rogers School District, along with 48 other districts, filed a motion to the state Supreme Court to reopen the landmark *Lake View* school funding case, accusing the legislature of failing to increase school funding for the 2005-06 school year (see *Policy Brief 17*). The Supreme Court agreed and on June 9, 2005, reappointed former Justices Bradley D. Jesson and David Newbern as Special Masters to assess the plaintiffs' claims. The Masters issued their report on October 3, 2005, concluding 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."*

REPORT SUMMARY

The Special Masters' decision that the state "failed" seems to be primarily based on the legislature's failure to increase the foundation-funding amount of \$5,400 for the 2005-06 school year. They write: *"It is apparent that an atmosphere of satisfaction prevailed among state officials. They seemed satisfied that the supreme court had approved what they had done in 2003 and that they could simply rest upon the laurel bestowed by the court when it released its mandate after our initial report."*

In addition to not increasing the foundation amount or the amount for categorical funding, the Masters note that the 85th General Assembly created several new costly spending requirements for districts, including the hiring of certified music and art teachers (Act 245), vision-screening personnel and equipment (Act 1438), duty-free lunch periods for teachers (Act 1881), forty-minute preparation time for teachers (Act 1943), an increase in teacher salaries (Act 2130), and an increase in districts' teacher-retirement contributions (Act 1968).

In reading through the report and media coverage of the report over the last few weeks, the Office for Education Policy (OEP) recognized that a thorough review of the arguments made within the report could be valuable. That is, we believe that all of the arguments made within the report are not equal, and some are simply not persuasive or justified.

The following "report card" on the Masters' report provides a summary of arguments as well as our

assessments of those arguments. Evaluations of the Masters' arguments are rated as "strong" or "weak" criticisms of the state's efforts. We contend that "strong" criticisms are those instances where the state neglected to appropriately address a legitimate concern, while "weak" criticisms are instances where the Masters indicted the state without justification or questioned state policies not directly related to the Constitutional mandate of providing a "general, suitable and efficient system of free public schools equally available to all".

In short, we focus our "report card" on the Masters' report on eleven key concerns noted in the report. We conclude that the *Report* highlights two strong and legitimate criticisms: (1) the state did not provide cost-of-living increases for 2005-06, particularly in light of escalating salary and textbook expenses, and (2) the amount of money given to fix facilities across the state was insufficient to meet emergency and general maintenance needs. However, we were less persuaded with the remaining arguments expressed in the report as evidence of the state's failure to fulfill its constitutional obligation. Many of these arguments were not persuasive and painted an unfair picture of the work done by the state over the past several years.

In the end, this report should not distract us from the great strides the state has taken in terms of providing resources for education over the last two years – *the state has added upwards of \$600 million in new annual resources to the state's schools in addition to the 2003-04 level of \$6,722 per student*. While the headlines read "system ruled inadequate", people must understand that, with a little tinkering—perhaps simply a fair inflation adjustment—Arkansas continue on the path to building an adequate and equitable education system.

One straightforward solution would be for the legislature to appropriate the additional \$100 per pupil to address the reasonable concerns about inflation. Then, the judges and the legislature can leave the rest of the work to those in the schools, who face the formidable task of figuring out how to best use the resources – the old and then new – so that all schools can succeed and all kids can learn.

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“RATING” OF THE ARGUMENTS MADE BY THE SPECIAL MASTERS

Argument	Quality	Justification
<i>The legislature did not provide for cost of living increases in formula for either foundation funding or for categorical funding.</i>	Strong	If it were true that \$5,400 represented the foundation necessary to deliver an adequate education in 2004-05, then it would also be reasonable to claim that some additional dollars would be required to deliver the same level of resources in subsequent years due to cost of living increases.
<i>The legislature’s appropriation of \$120 million for school facility improvements is inadequate.</i>	Strong	The initial Facilities Assessment Report listed Priority 1 “Mission Critical” costs to be nearly \$87,000,000. The state provided \$120,000,000 for facilities improvements through the Facilities Commission, which should cover the immediate needs of schools. The state, however, did not provide additional resources to meet other specific needs outlined in the legislatively-mandated Facilities report (e.g., enrollment projections, “Impact Functioning”).
<i>The legislature did not comply with Act 57’s requirement to re-evaluate funding adequacy during each interim.</i>	Strong	The plaintiffs contend that the state was to submit another adequacy report (of some form) to the House and Senate Interim Committee on Education; by not doing so, the state did not meet the specific requirements of Act 57. The state contended that it was in the process of commissioning an “implementation” study to assess how the new funds were being employed and that this information was required to understand “adequacy”.
	Weak	The Special Masters claimed that this objective could have been accomplished by simply asking superintendents how the money was being spent and how they would be affected by cost increases. This last point is <u>not</u> persuasive; it would not make sense to simply ask the superintendents whether they needed more funds to continue to deliver an adequate education. <i>What would any of us say in that position?</i> Instead, as the state argues, an outside voice would be most useful here.
<i>The legislature created several unfunded mandates.</i>	Neutral	The state provided numerous increases in state funding and passed numerous mandates (such as certified art and music teachers) to ensure that Arkansas children are receiving an adequate and equitable education. Further, the legislature passed laws requiring increased “bonuses” for teachers – duty-free lunches and increased retirement contributions. Plaintiffs viewed these as unfunded mandates; the state responded that the foundation level of \$5,400 is adequate to cover the costs of all mandates.
<i>The legislature did not make education a “top priority.”</i>	Weak	The state greatly increased education funding and spent an entire Special Session on education reforms. In 2003-04, Arkansas increased the total state appropriation for elementary and secondary education by \$400 million to \$1.84 billion – a 24% increase over the previous year. Additionally, 45% of Arkansas students attend a school where the per-pupil spending is equal to or higher than the national average. Furthermore, the constitution requires a “general, suitable, and efficient system of public schools” not to make education a “top priority.”

Argument	Quality	Justification
<i>The 98% local tax collection rate does not seem appropriate.</i>	Weak	This argument is against the state policy, which computes the amount of local revenue based on a 98% collection rate. Only anecdotal evidence is provided to indicate that some districts do not collect at least 98% of the tax revenue that is owed. What is unclear is if the inability of local authorities to collect local tax revenue should be viewed as an indictment of the state funding formula, or if districts should be held accountable for collecting a determined rate.
<i>Some districts are losing students and thus receive fewer state dollars.</i>	Weak	The state is charged with providing an “adequate and equitable” education for all students <i>in the schools and districts</i> . The funding formula is based on the number of students attending school in the prior year; thus, the formula technically “over-funds” districts that are losing enrollment by providing state funds for more students than actually attend school in the districts in a given year. The state is responsible to provide money to students; if districts lose students, then they should reasonable expect to lose money because there is less costs.
<i>The state had surplus revenue in the summer of 2005 that should have been allocated to education.</i>	Weak	The Supreme Court’s ruling mandates that school funding be based on providing an adequate education, rather than what resources are available. Thus, the presence of available funding should technically be viewed as irrelevant as long as the state meets the court’s mandate.
<i>Due to growth in local property values, local districts have shouldered a greater fraction of the foundation funding and the state responsibility has decreased in 2005-06.</i>	Weak	The report highlights that the reassessments based on property value growth resulted in a \$39 million decrease in the state’s responsibility for foundation funding. It is true that the burden of the state is reduced by this change in property value, but it is <u>not</u> at all clear why this situation should lead the Special Masters to indict the state for providing inadequate funding. The Supreme Court mandated that the overall foundation level be provided to school districts, but it did not mandate the state (or the local) branch to provide a predetermined fraction of the total foundation funding.
<i>The state failed to address “serious inefficiencies” due to having more than 250 school districts.</i>	Weak	There is no indication regarding the success of the consolidation effort. The state altered the educational structure for nearly 60 districts – nearly 20% of all districts in the state. Time will tell whether these changes were enough or if further changes are needed.
<i>The state funded \$35 million in 2005 for teachers’ health-insurance premiums, but “its effect upon education is indirect at best and does not excuse the failure to fund educational resources adequately.”</i>	Weak	The money appropriated for teacher insurance is part of the total compensation package for teachers. As “benefits”, such as insurance, increase, the salary may stay the same, but the compensation for being a teacher has increased. If teacher compensation is viewed as having an impact an education by attracting high quality teacher applicants, then this allocation should similarly be viewed as being influential. Furthermore, teachers also received a guaranteed annual step raise based on educational attainment (Act 2130), as well as duty-free lunch periods (Act 1881), prep periods (Act 1943), and increased retirement contributions (Act 1968).