HANDOUT D2

Research Report

Review of Facilities Partnership Program and Facilities Distress

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THE HOUSE INTERIM COMMITTEE ON EDUCATION AND THE SENATE INTERIM COMMITTEE ON EDUCATION

2019-20 Adequacy Study

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INTRODUCTION

According to Judge Kilgore of the Chancery Court of Pulaski County on May 25, 2001, the State of Arkansas is responsible for ensuring that every school district is "on an equal footing in regard to facilities, equipment, supplies, etc….[and] [u]nder Arkansas Constitution Article 14, §1, Article 2, §§ 2,3, and 18, school districts throughout the state, must provide substantially equal buildings properly equipped and suitable for instruction of students. Denying these facilities based solely on the district's location in a poorer part of the State is not a compelling reason for the State to abandon its constitutional obligations."

The Facilities Partnership Program was one of four facility construction and renovation funding programs established by the Arkansas General Assembly through Act 2206 of 2005. Act 2206 of 2005, authorized the provision of state funding to school districts to fulfill the state's mandate to provide adequate and substantially equal educational facilities for school districts in Arkansas. Two of these funding programs, Immediate Repair and Transitional Programs were temporary initiatives to provide financial assistance to districts for facilities until the third program, the Partnership Program was fully operational. The fourth program, the Catastrophic Program, is still in existence and, as the name implies, it provides funding to districts for emergency facility projects required "due to an act of God or violence" (See Ark. Code Ann. § 6-20-2508). See **Appendix A** for the history of state facility funding since Judge Kilgore's May 25, 2001 decision.

The **Academic Facilities Partnership Program** is the state's main school facilities funding program for ongoing facilities construction needs. The state and the districts share the cost of school facilities construction based on the property wealth of each school district. Under the program, the Division of Public School Academic Facilities and Transportation ("Division") helps schools identify immediate and long-term building needs and distributes funding for a portion of the cost of necessary construction. The Partnership Program funds new construction projects and major renovations, not general repair or maintenance.

PARTNERSHIP PROGRAM FUNDING, SOURCES AND EXPENDITURES

State Partnership Program funding is generally drawn from three funding sources:

1. **General Revenue**: From FY2007 through FY2015, the State allocated about $35 million annually in General Revenue for school district facilities. Beginning in FY2016, the General Revenue allocation for facilities was increased to almost $42 million annually.

2. **Savings from older facilities funding programs being phased out**: Before the Partnership Program was created, the state helped districts with construction through three funding programs: General Facilities Funding, Supplemental Millage Incentive Funding and Bonded Debt Assistance. For two of these programs—General Facilities Funding and Supplemental Millage Incentive Funding—the funding commitments to districts were to be phased out over 10 years (FY2007 through FY2016), resulting in the state paying districts less money each year. The Division of Elementary and Secondary Education (DESE), however, continued to receive level funding of $18.1 million annually for these two programs collectively, resulting in increased funding left over after distribution to the districts. For 8 years, this leftover funding was transferred to the Educational Facilities Partnership Fund to be used for public school facility funding programs. However, beginning in FY2015, Act 1 of the 1st Extraordinary Session of 2013 redirected the transfer from the two programs to support the Public School Employee Health Insurance program. The DESE has continued to receive $18.1 million in appropriation and funding authorized for these two programs through the current fiscal year (FY2020), and the funding is subsequently transferred to the Employee Benefits Division of the Department of Finance and Administration to be used for teacher health insurance.

   The third program, Bonded Debt Assistance, however, remains a funding source for the Partnership Program. As its distributions to districts decrease, the remaining funds are transferred to the Partnership Program. Act 877 of 2019 appropriated a continuing level of $28,455,384 for Bonded Debt Assistance for FY2019-20, and $17.7 million in remaining funds is estimated to be transferred to the Partnership Program for FY2020.

3. **Fund transfers and balances**: The $455.6 million provided in FY2008, as shown in the table below, was provided through a fund transfer from the General Improvement Fund (GIF) and has been a major component of funding for facilities programs. This large transfer from the General Improvement Fund sustained the program for about the first eight years of the Partnership Program. However, those funds began to run short around 2015.

   During the 2014 Adequacy Study, the Facilities Division testified that there were $65 million in facilities needs for the 2015-17 biennium that had not been funded. The Education Committees, in their final Adequacy Study report, recommended providing funding to meet those needs. During the 2015 legislative session, the General Assembly provided the Partnership Program with an additional $40 million in General Improvement Funds. Funding shortages were again an issue during the 2016 Adequacy Study. In a supplement to their 2016 final Adequacy Study report, the Education Committees again recommended providing additional funding to support approved Partnership Program projects, and recommended that the General Assembly provide up to $100 million in new state funding for the 2017-19 biennium.

   Act 1123 of 2017 then authorized the transfer of $60 million from the Rainy Day Fund to the Facilities Partnership Fund Account for grants and aid for public school facility and transportation assistance, and the funds were transferred in February 2018. The Department of Education, now known as the Division of Elementary and Secondary Education (DESE) within the Department of Education, transferred another $30 million from the Public School Fund for FY2018 for approved Partnership projects with the approval of the Arkansas Legislative Council.

The following chart shows the funding amounts provided to the Facilities Division to administer facilities funding programs. Including the $456 million GIF fund transfer received in FY2008 and estimated funding for FY2019-20, **the General Assembly has provided facilities programs an average of about $91.8 million annually between FY2005 and FY2020**.

State Facilities Funding Provided to the Division of Public School Academic Facilities and Transportation

Fiscal Year	General Revenue	Savings from Older Facilities Funding Programs	Fund Transfers (Including Transfers Out)*	Total Annual Funding
FY2005			$20,000,000	$20,000,000
FY2006			$52,442,524	$52,442,524
FY2007	$35,000,000	$5,211,326	$48,960,424	$89,171,750
FY2008	$35,000,000	$10,534,873	$455,597,052	$501,131,925
FY2009	$35,000,000	$14,140,709		$49,140,709
FY2010	$33,633,641	$18,163,282	**($17,301,487)**	$34,495,436
FY2011	$34,828,951	$20,391,765		$55,220,716
FY2012	$35,345,364	$22,654,247	**($2,000,000)**	$55,999,611
FY2013	$34,828,951	$25,144,317		$59,973,268
FY2014	$34,828,951	$27,477,005	$20,000,000	$82,305,956
FY2015	$34,828,951	$13,690,010		$48,518,961
FY2016	$41,828,951	$14,447,258	$40,000,000	$96,276,209
FY2017	$41,828,951	$15,295,120		$57,124,071
FY2018	$41,727,373	$16,343,011	$90,000,000	$148,070,384
FY2019	$41,828,951	$17,017,230		$58,846,181
Est.FY2020	$41,828,951	$17,691,449		$59,520,400
Total	**$522,337,986**	**$238,201,602**	**$707,698,513**	**$1,468,238,101**

ACTUAL FUNDING THRU FY2019 = $1,408,717,701

*In FY2010, $17.3 million was transferred to other state fund accounts to offset general revenue reductions as a result of a reduction in the general revenue forecast in May, 2010.

In FY2012, $2 million was transferred to the General Improvement Fund – Executive Division Fund Account for distribution to another state program.

Source: BLR Fiscal Services Division.

The House and Senate Interim Committees on Education recommended providing a total of $90 million in funding beginning in FY2021 consistent with the recommendations of the Advisory Committee on Public School Academic Facilities ("Advisory Committee") and 2018 Adequacy recommendations. The $90 million is to include a continuing level of $41.8 million in general revenue and the transfers from savings from the predecessor program, Bonded Debt Assistance.

The following table shows total state expenditures for the facilities programs. This represents money the Facilities Division has spent/budgeted between FY2005 and FY2020. **The Facilities Division has spent an average of about $82.5 million annually.**[1]

State Facilities Expenditures					
Fiscal Year	**Immediate Repair**	**Transitional Academic Facilities**	**Partnership**	**Catastrophic**	**Total**
FY2005	$0	$0	$0	$0	$0
FY2006	$14,823,794	$15,791,117	$0	$0	$30,614,911
FY2007	$11,389,313	$54,035,149	$17,631,819	$0	$83,056,281
FY2008	$1,866,846	$12,532,629	$90,460,859	$135,326	$104,995,660
FY2009	-	$3,641,105	$118,688,682	$216,327	$122,546,114
FY2010	-	-	$111,508,049	$1,853,136	$113,361,185
FY2011	-	-	$120,734,428	$77,425	$120,811,853
FY2012	-	-	$93,302,830	$114,178	$93,417,008
FY2013	-	-	$94,509,046	$146,364	$94,655,410
FY2014	-	-	$56,219,864	$250,552	$56,470,416
FY2015	-	-	$53,298,055	$43,610	$53,341,665
FY2016	-	-	$90,671,609		$90,671,609
FY2017	-	-	$73,790,114		$73,790,114
FY2018	-	-	$71,948,301	$5,944	$71,954,245
FY2019	-	-	$96,253,022		$96,253,022
Budget FY2020	-	-	$113,629,091		$113,629,091
Total	**$28,079,953**	**$86,000,000**	**$1,202,645,769**	**$2,842,862**	**$1,319,568,584**
ACTUAL EXPENDITURES THRU FY2019 = $1,205,939,493					

Source: BLR Fiscal Services Division.

The Facilities Division has provided or committed to providing school districts a total of $1.45 billion in total facilities funding through FY2020 (including the cost of consultants hired by the Division), and the Division has received or is expected to receive through FY2020 a total of $1.468 billion since the facilities program inception.[2] That leaves about **$17.8 million in excess funding to be used to fund future projects**, including those already approved for FY2021.

PARTNERSHIP PROGRAM PROJECTS

The Partnership Program provides state funding based on a school district's facilities wealth index for eligible new construction projects. The Partnership Program pays only for K-12 academic facilities, which are defined as buildings or spaces "where students received instruction that is an integral part of an adequate education" (Partnership Program Rules 3.01). Administration buildings, pre-K buildings and education service cooperatives are not considered academic facilities. The Partnership Program also does not pay for anything that "could be classified as maintenance, repair, and renovation other than a total renovation project" (Partnership Program Rules 3.19.1). Districts are required to submit a six-year facilities master plan for their budgeting and planning for ongoing facility needs by February 1 of each even

[1] The total state expenditures include some state-level administrative costs of running the facilities funding programs. As a result, these numbers do not match exactly the amounts of funding provided to school districts for facilities projects.
[2] Division of Public School Academic Facilities and Transportation, Master Planning Tool, Financial Drilldown Report, August 29, 2019.

numbered year.[3] The Partnership Program does not pay for any construction projects not included in districts' master plans and also does not pay for the purchase of land, mold abatement, or environmental site clean-up (Partnership Program Rules Sections 4.02 and 3.25). In addition, the Partnership Program rules establish a minimum estimated cost proposed projects must reach ($300 per student or $150,000, whichever is less) to qualify for Partnership Program funding. Same system projects cannot be combined across multiple facilities, nor may multiple system projects be combined to meet this minimum cost requirement. (Partnership Program Rules Section 4.05.3)

Once projects are determined to meet Partnership Program requirements, and are approved, they are scored and ranked based on priorities established by the Commission for Public School Academic Facilities and Transportation ("Commission"). The Commission was created in Ark. Code Ann. § 6-21-114, and is comprised of the Commissioner of Elementary and Secondary Education, the Secretary of the Department of Finance and Administration, and the President of the Arkansas Development Finance Authority. The Commission has the ultimate authority to approve funding allocations for districts' Partnership Program projects.

The prioritization parameters are provided in the Rules Governing the Academic Facilities Partnership Program, Section 5.05. Approved and ranked projects are funded according to their rank within available funding. It is possible that not all approved projects will be funded. (See the **Partnership Program Prioritization** Section below for additional information on prioritization of projects.)

Partnership Program projects are approved and funded on a two-year cycle that runs concurrently with the state's biennial budget cycle. The most recent Partnership Program projects approved by the Commission are for the 2019-21 funding cycle (July 1, 2019 – June 30, 2021). Each of the projects are ranked based on priorities set in the Rules Governing the Academic Facilities Partnership Program, Section 5.05.

The Partnership Program provides funding for four types of projects shown below:

1. **Warm, Safe and Dry (WSD) Projects –** New construction projects deemed necessary by the Facilities Division to provide students a warm, safe, and dry educational environment. There are two types:
   - **Systems:** Projects that support a facility's needs as they pertain to fire and safety needs, roofing, major plumbing replacements, major electrical replacements, HVAC systems and structural needs.
   - **Space Replacement:** New construction or total renovation projects to replace an existing academic facility that is not deemed by the Division to provide students a warm, safe and dry educational environment.

2. **New Facilities –** New construction projects that are not additions to, total renovations of, or conversions of an existing facility, but are new additions to a school district's building inventory. These facilities are typically necessary due to enrollment growth of a district. If a non-growing district applies for funding under the "new facility" category and the district does not plan to build at least 50% more space than it is demolishing, the Division recategorizes the project as a WSD – Space Replacement.

3. **Add-ons and/or Conversions –** Projects that provide additional academic areas or spaces that are constructed as a part of or separate additions to an existing academic area or space. Conversions are new construction projects that convert existing academic or non-academic space into a missing academic core, special education, or student dining space. Add-ons and conversions are considered to be new construction.

[3] Commission on Public School Academic Facilities and Transportation Rules Governing the Facilities Master Plan, Section 3.00.

4. **Consolidation/Annexation Projects –** Projects that provide a new, complete school campus or one or more additions to existing campuses for the specific purpose of supporting a voluntary consolidation or annexation petition brought by two or more contiguous districts and approved by the State Board of Education.[4] Over the life of the Partnership Program there have not been any approved projects classified as Consolidation/Annexation projects. It could be that the absence of these types of projects is due to districts choosing to apply in another project category that has a higher prioritization than Consolidation/Annexation projects.

PARTNERSHIP PROGRAM PRIORITIZATION

For the purposes of allocating funding, the four types of projects listed above have been assigned to project categories, which have been prioritized for funding purposes. Both the grouping of these types of projects into categories and the prioritization of these project categories has evolved and changed over the life of the Partnership Program. (See **Partnership Program Project Categories and Prioritization Chart** below**.)**

The Partnership Program has two levels of prioritization for approved projects:

- Prioritization by project categories; and
- Prioritization **within** project categories

PARTNERSHIP PROGRAM PRIORITIZATION BY PROJECT CATEGORIES

Each of the approved Partnership projects are classified by type of project, i.e. WSD (Systems and Space replacement), New Facilities, Add-ons and/or Conversions, and Consolidation/Annexation. The table below illustrates the history of how these project types have been grouped into project categories and further how each category has been prioritized for funding purposes beginning with the 2013-15 funding cycle.

Partnership Program Project Categories and Prioritization

Priority Ranking	2013-15	2015-17	2017-19	2019-21
1st	Warm, Safe and Dry (All Project Types)	Warm, Safe and Dry (Systems Replacement) (up to $10M annually)	Warm Safe and Dry (Systems Replacement) (up to $10M annually)	New Facilities, Add-Ons, Conversions (Space)
2nd	New Facilities and Add-Ons	New Facilities, Add-Ons, Conversions (Space)	New Facilities, Add-Ons, Conversions (Space)	**Warm, Safe and Dry (Space Replacement)**
3rd	Conversions	**Warm, Safe and Dry (Space Replacement)**	**Warm, Safe and Dry (Space Replacement)**	Warm, Safe and Dry (Systems Replacement)
4th	Consolidation/ Annexation Projects	Consolidation/ Annexation Projects	Consolidation/ Annexation Projects	Consolidation/ Annexation Projects

This prioritization has been reordered in recent years to favor construction projects for growing districts. From the program's inception, all types of warm, safe, and dry (WSD) projects were treated as the Partnership Program's highest priority, reflecting the original 2004 assessment of the Task Force to the Joint Committee on Academic Facilities. As a result, WSD projects were funded first. In 2013, the Facilities Division changed the rules creating two types of warm, safe, and dry projects: systems and space replacement. For two funding cycles (2015-17 and 2017-19), the rules capped the funding available for WSD systems projects at $10 million.

The change was made in an effort to discourage districts from avoiding necessary maintenance on their existing facilities. The Facilities Division found that some districts may have stopped providing certain maintenance, assuming that when the equipment/structure's expected lifecycle ended, they would qualify for funding as a warm, safe, and dry project with its high priority

[4] Commission on Public School Academic Facilities and Transportation Rules Governing the Academic Facilities Partnership Program, July 25, 2016, Sections 3.00 and 4.02.

funding. Funding for routine maintenance is provided to districts through foundation funding, and districts are required to spend at least 9% of their annual foundation funding on maintenance and operation needs (§ 6-21-808(d)(1)(A)). In FY2018, all but two districts (Palestine-Wheatley and Blytheville) spent 9% or more of their foundation funding on maintenance and operations costs. **Overall, districts spent $416.9 million on maintenance and operation expenditures, or 14% of the total foundation funding available to districts in FY2018.**[5]

The Facilities Division calculates a score for each approved project based on established priorities and then rank orders these approved projects (projects meeting Partnership Program specifications) **within** each of their respective categories based on their score. Those projects with the highest ranking have the greatest likelihood of receiving funding in the event that there is not adequate funding for all approved projects. The following section describes the parameters for scoring projects within categories.

PRIORITIZATION OF PROJECTS WITHIN PROJECT CATEGORIES

Section 5.05 of the Partnership Program rules specify how each project **within** each project category is to be scored and ranked. The following table shows the ranking criteria for each project category.

Project Category	Ranking Basis
New Facilities, Add-On Conversions (Space)	• 10-year actual growth rate of student population • *Ranking favors districts with the highest percentage of growth.*
Warm, Safe and Dry (Space Replacement)	• Project rank is determined by an average of each district's Campus Value and Facilities Wealth Index (FWI) which measures the property wealth of a district (**see Facilities Wealth Index Section below for more information)**. The lowest average score is ranked first, and the highest average score is ranked last. - Campus value is the value of all buildings on a campus. Building value is a calculation reflecting a building's depreciated value based solely on the age of the building. It does not consider improvements that may have been made to the building. - *Ranking favors campuses with the oldest buildings and the lowest wealth indexes.*
Warm, Safe and Dry (Systems Replacement)	• Project rank is determined by an average of each district's FWI and Average Daily Membership (ADM), with the lowest average score being ranked first and the highest score ranked last. • *Ranking favors low wealth index and low ADM.*

As noted above, the resulting project ranking score determines the project's rank among all approved projects. Those projects ranking highest within their respective category will be funded first if there is not sufficient funding to fund all projects. For the 2019-21 funding cycle, there was sufficient funding for all projects in the Space and WSD Space Replacement categories, and funding was sufficient to provide $12.1 million for WSD Systems Replacement category projects, leaving 90 projects totaling $57.3 million unfunded.

UPCOMING CATEGORIZATION AND PRIORITIZATION CHANGES

Act 801 of 2017 required the Advisory Committee on Public School Academic Facilities ("Advisory Committee") to conduct a "comprehensive review and provide a report to the Commission for Academic Facilities and Transportation" on a variety of issues relating to academic facilities programs.[6] As a result of this review, the Advisory Committee presented a report to the Commission on July 31, 2018, and recommended the following changes to the Partnership Program, which were agreed to by the Commission. The Division plans to prepare

[5] FY1028 M & O Expenditure & 9% Expenditure Requirement Report published by the Arkansas Public School Computer Network.
[6] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 31, 2018.*

and promulgate revised rules to implement these recommendations and, upon approval of the rules, implement these recommendations in the 2023-25 Partnership Program funding cycle.[7]

1. Change facilities planning from a district-led plan to a systematic statewide plan. This state-driven planning will be accomplished by the Division preparing two Statewide Facility Needs Lists, consistent with the provisions in Ark. Code Ann. § 6-21-806(a)(2), that identify school needs. (Recommendation 1)
2. Require the Division to prepare two Statewide Needs Lists, one for Space/Growth projects and one for WSD projects. These lists are to be used as the first step in Partnership Program project prioritization to address the disparity of district facility conditions and design adequacy. (Recommendations 1 and 3.1)
3. Change from the three project categories of WSD Systems Replacement, WSD Space Replacement and Space/Growth funded from one "pot" of funding, to two equal "pots" of funding provided for two project categories, WSD and Space/Growth. (Recommendations 1 and 3.1)

   Space/Growth Projects will include:

   - New schools based on 5-year enrollment projections for academic core space and 10-year enrollment projections for single purpose spaces such as student dining, media centers, etc.
   - Additions only for spaces that are required by the Division's Program of Requirements, which Section 3.23 of the Partnership Program Rules defines as requirements for minimum adequate components and total square footage. Stand-alone additions of less than 10,000 square feet are not included for safety and security reasons; however, waivers are allowed under certain conditions.

   WSD Projects will include:

   - Roofs, plumbing, electrical, fire and life safety, structural, and security.
   - Partial system replacement HVAC projects are allowed, but the Advisory Committee recommended that the projects be part of an energy savings contract.

   The new WSD project category will include both the current WSD Space Replacement and WSD System Replacement projects.[8]

4. Establish a Maintenance Composite Assessment Program to "evaluate Arkansas school facilities conditions and appearances, and determine and verify the implementation of an effective maintenance management program." The program will consist of, but not be limited to, the following weighted components: preventive maintenance plan in the Computerized Maintenance Management System (CMMS-School Dude), corrective action work order completion in CMMS, compliance with state mandated inspections, and professional development for maintenance personnel. (Recommendation 8)
5. Rank eligible projects **within** each of the 2 project categories, WSD and Space/Growth using the average of the following rankings:
   - Statewide Facilities Needs List (See **Statewide Priority Needs Lists Section** for additional information on the factors used to determine the lists.)
   - Academic Facilities Wealth Index (FWI), and
   - Facilities Maintenance Composite Assessment (Recommendation 3.5)

[7] Sharon Hill Court Reporting, *Transcript of the December 10, 2018 meeting of the Commission for Arkansas Public School Academic Facilities and Transportation.*
[8] Email from Division Staff, Murray Britton, September 20, 2019.

STATEWIDE PRIORITY NEEDS LISTS

In addition to establishing rankings for projects **within** the two new project categories, the Committee recommended factors to be used to determine the Statewide Priority Needs Lists for each project category. These lists will help the state "lead rather than react to the required funding amounts to address school facility needs across the State".[9] The **Space/Growth Facilities Projects' Needs List** will rank district projects by 4 equally weighted factors (Recommendation 1.5):

1. Actual percentage of enrollment growth over ten years,
2. Projected percentage of enrollment growth over five years,
3. Projected number of students over five years, and
4. School district suitability (estimated academic gross square feet (GSF) per student versus actual academic GSF per student.)

The **Warm, Safe, and Dry (both space and systems replacement) Projects' Needs List** will rank district projects by 3 equally weighted factors (Recommendation 1.6):

1. Campus value derived from the Division District Report as a composite of academic building values based on nominal 50-year life of a building with 2% depreciation per year
2. District value (computed as a composite of campus values)
3. Facility Condition Index (FCI), which is computed as the ratio of system replacement costs to building replacement costs. Data from school district master plans will be used to determine system replacement costs in Years 0-5 and Years 6-10.

OTHER SIGNIFICANT ADVISORY COMMITTEE RECOMMENDATION

One additional Advisory Committee recommendation the Commission approved is to increase the **maximum** cost factors from $175 to $200 per square foot for new construction. The Facilities Division is required by state law to determine annually these cost factors per square foot (Ark. Code Ann. § 6-20-2509). These cost factors assist districts with Partnership Program project planning and serve as the maximum payment per square foot that will be allowed with Partnership Program funds for each region of the state. According to the Advisory Committee report and the Facilities Division, a consultant for the State uses RS Means, a construction cost estimating service, and other data to annually calculate cost factors for the 12 regions in the State. The Advisory Committee report further explains, "The cap for qualifying costs is currently $175 per gross square foot for new school construction. This qualifying cost is meant to cover 'hard' costs for direct and indirect construction costs; and 'soft' costs, for architects, engineers, and project managers." The Division plans to implement this increase in the 2021-23 Partnership Program funding cycle if pending rules are approved.[10]

FACILITIES WEALTH INDEX (FWI)

The current school district's **Facilities Wealth Index (FWI)** (funding cycle 2019-21) is the percentage of the total cost of an approved Partnership Program project that a school district is required to pay. For example, a district with a FWI of .85 would pay 85% of the approved project cost, and the state would pay the remaining 15% of the cost. Those districts with a higher FWI value are considered "wealthier," while those with a lower FWI are considered "poorer" and therefore, have the least local fiscal capacity to fund adequate school facilities.[11] Districts' FWI values are currently calculated using two variables, value per mill (tax revenue

[9] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 31, 2018, page 25.*

[10] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 31, 2018, page 33, and Email from Facilities Division Staff, Tim Cain and Murray Britton, October 3, 2019.*

[11] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 31, 2018, page 25.*

generated for a district by one mill) and the larger of the school districts' prior year (PY) Average Daily Membership (ADM) or the prior 3-year average ADM. Act 1080 of 2019 changed the way the FWI will be calculated beginning with the 2021-23 Partnership Program funding cycle, and these changes are described later in this report.

The facilities wealth index is calculated by determining each school district's value per mill per student based on the assessment values for the district, arraying the districts by value per mill per student (low to high), and then assigning percentile values to each district where the lowest percentile contains the students of the district with the lowest value per mill per AMD and the highest percentile, 100%, contains the students of the district with the highest value per mill per ADM.[12]

Next, the methodology requires a determination of which district's value per mill per ADM falls at the 95th percentile of the cumulative ADM count. Last, the calculation divides each district's value per mill per ADM by the value per mill per ADM for the district at the 95th percentile of the cumulative ADM. The table below illustrates how the **FY2019 value of one mill per student was calculated** using an example district, the district with the lowest 2017 value per mill per ADM (Poyen), the district at the 95th percentile of the cumulative ADM (Russellville), and the district with the highest value per mill per ADM (Mineral Springs).

FY2019 Value of 1 Mill Per Student Calculations					
District	**2017 Valuation/ Assessment**		**2017 Value of 1 Mill**	**Divide by the ADM**	**Value of 1 Mill Per Student**
EXAMPLE	$100 million	X.001	$100,000	500	$200.00
Poyen	$13,373,716	X.001	$13,374	604.69	$22.12
Russellville	$938,337,321	X.001	$938,337	5,221.26	$179.71
Mineral Springs	$192,622,711	X.001	$192,623	406.39	$473.98

The table below illustrates the final steps in the **FWI calculation** for the district with the lowest value per mill per ADM (Poyen), the district at the 95th percentile of the cumulative ADM (Russellville), and the district with the highest value per mill per ADM (Mineral Springs). Those districts with FWI values at 1.0 or higher are adjusted to .995 or a district share of 99.5% and state share of .5% so that every district is eligible for some amount of funding.

FY2019 Facilities Wealth Index Calculations					
	District	**2017 Value of 1 Mill Per Student**	**Divided by District at 95th%**	**=**	**Wealth Index (District Share)**
Lowest (Poorest)	Poyen	$22.12	$179.71	0.12307	12.30%
95th Percentile	Russellville	179.71	$179.71	1	99.50%
Highest (Wealthiest)	Mineral Springs	473.98	$179.71	2.63743	99.50%

For FY2019, Poyen School District had the lowest FWI at .12307, meaning the state would pay for about 88% of each approved project. Fourteen districts had the highest wealth index of .995, meaning they are eligible for one-half of a percent (.5%) in state financial participation for approved facility projects. Those districts are Armorel, Cedar Ridge, Eureka Springs, Fountain Lake, Lee County, Marvell, Mineral Springs, Nemo Vista, Pulaski County, Quitman, Russellville, Shirley, South Side, and West Side.

The wealth index considers not only a district's property wealth, but also the number of students the district must serve. For example, Armorel and DeQueen School Districts have similar property valuations: one mill in Armorel generates $134,304 and one mill in DeQueen generates $141,332. However, the two districts serve very different sizes of student populations, resulting

[12] The 2019 Facilities Wealth Index (FWI) is calculated using the 2017 assessment values.

in very different wealth indexes. Armorel has a wealth index that exceeds 1, and therefore has an adjusted wealth index of .995 and is eligible for only .5% state participation for approved projects. DeQueen, on the other hand, has a wealth index/district share of 32.5% and is eligible for state participation of 67.5% for approved projects.

School District	Value of 1 Mill	ADM	Value of 1 Mill Per ADM	District Share	State Share
Armorel	$134,304	436	$307.99	99.5%	0.5%
DeQueen	$141,332	2,421	$58.37	32.5%	67.5%

It's important to note that a district considered wealthy in terms of property wealth may not be a wealthy district in terms of students' family incomes. Of the 14 districts with FWIs of 99.5%, three have over 90% of their students eligible for free and reduced price lunches (FRPL). For example, Marvell-Elaine School District's students have the highest percentage enrolled in free and reduced price lunches in school year 2017-18, or 97.2%, making it the highest poverty district in the state in terms of student poverty. However, Marvell Elaine's FWI is 99.5%, making it one of the wealthiest districts from a property-wealth perspective (largely due to its low 2017-18 ADM of 366). On the other end of the spectrum is the Genoa Central School District, which is considered to be one of the poorest districts in terms of property wealth (FWI/district share is 23.3%). However, it is among the most affluent districts in terms of percentage of students eligible for free and reduced price lunches, with 41.7% of its students eligible for FRPLs.

To see if there is a relationship between districts' facility wealth indexes and districts' size and level of poverty, BLR compared districts' 2017-19 Partnership Program funding cycle Facility Wealth Index (FWI), average 2017-18 ADM count, and average 2017-18 percentage of students eligible for free and reduced price lunches in the table below. All districts were assigned to a quartile based on their FWI. Those districts with the lowest FWIs are in Quartile 1, and those with the highest FWIs are in Quartile 4. The comparison demonstrated no significant relationship between districts' wealth indexes and their FRPL percentage. Districts in the quartile with the lowest wealth indexes, Quartile 1, had the lowest average ADM, and the districts in the highest wealth index quartile, Quartile 4, had the highest ADM.

	2017-19 Funding Cycle FWI (District Share)	Average 2017-18 ADM	Average 2017-18 FRPL%
Poorer	Quartile 1: 13.29-36.45	1,232	63.6%
	Quartile 2: 36.64-47.98	2,065	65.9%
	Quartile 3: 48.02-64.89	1,927	68.2%
Wealthier	Quartile 4: 64.93-99.5	2,606	66.0%

To see if districts with lower FWIs have actually received greater Partnership Program funding per ADM, we compared districts' 10-year average FWI and the amount of state Partnership Program funding per ADM districts have received, as shown in the table below. Districts were placed in quartiles based on their 10-year average FWI (districts that were consolidated were excluded from this analysis). The districts with the lowest wealth indexes received more state Partnership Program funding per ADM than those with the higher wealth indexes, which is not surprising considering the FWI is designed to provide higher percentages of state Partnership Program funding to districts with lower FWIs than districts with higher FWIs.

	10-Year Avg FWI (District Share)	Total State Partnership Funding per 10-Year Avg. ADM
Poorer	Quartile 1: 13.64-37.60	$4,690
	Quartile 2: 37.67-46.60	$2,962
	Quartile 3: 46.78-63.64	$2,822
Wealthier	Quartile 4: 64.02-99.50	$1,265

Another relevant question to ask is how important a district's property value is to its ability to build and renovate facilities. A district in which one mill generates $20,000 would have to pass many more mills to build a $5 million new school than a district where a mill generates $1 million. The Partnership Program was designed to enable districts with low property wealth to build facilities just as districts with high property wealth are able to do. The following table examines the relationship between property wealth (the revenue generated by one mill) and the State Partnership Program funding distributed per student based on the districts' 10-year average ADM. Districts were assigned to quartiles based on their 10-year average value of one mill with those districts with the lowest value of one mill assigned to Quartile 1 and those with the highest value of one mill assigned to Quartile 4 (districts involved in a consolidation were excluded from this analysis).

The following table shows **that districts generating the lowest value per mill received the highest amount of state Partnership Program funding per student and conversely, those districts generating the most revenue per mill have received the lowest Partnership funding per student.**

	10-Year Avg Value of 1 Mill	Total State Partnership Funding per 10-Year Avg. ADM
Poorer	Quartile 1: $12,036-$49,881	$3,889
	Quartile 2: $50,165-$72,933	$3,240
	Quartile 3: $75,755-$153,435	$3,007
Wealthier	Quartile 4: $156,048-$3,375,009	$1,637

DECLINING ENROLLMENT AND HIGH GROWTH: IMPACT ON FACILITIES WEALTH INDEX

The Education Committees that formulated the original FWI had concerns about the measure's impact on districts with rapid enrollment growth or declines, according to the 2006 Adequacy Report. Because the FWI is based on the value of one mill per student, there were concerns that a district's loss of students would result in a higher per-student amount of revenue generated by one mill and a higher FWI or district share for approved Partnership Program projects. The table below illustrates how a loss in students causes a district's value per mill per student to increase. This increase in value per mill per student then increases the district's share for approved Partnership Projects even if the overall value of a mill does not increase.

District	Assessment	Value of 1 Mill	Divided by ADM	Value of 1 Mill Per Student
Example-Year 1	$100 million	$100,000	500	$200
Example-Year 2	$100 million	$100,000	450	$222

This concern was echoed by the Advisory Committee on Public School Academic Facilities, which issued a report to the Commission for Academic Facilities and Transportation as required by Act 801 of 2017. The Advisory Committee noted that "if a school district loses students, even if its assessed value stays the same, it will be eligible for less state funding. By the same token, if a school district gains enrollment, even as its assessed value stays the same, it will be eligible for more state funding."[13] Due to this concern, the Advisory Committee recommended changing the ADM counts used in the FWI methodology to the greatest enrollment of the last ten years. (See **Changes to FWI Calculations per Act 1080 of 2019** for an explanation of the final methodology enacted by the General Assembly.)

The table below shows that declining enrollment can lead to a higher wealth index and districts bearing a greater share of the cost of construction. Specifically, the table shows the change in average FWI for the 25 districts that lost at least 20% of their ADM between FY2010 and FY2019 (excluding those districts that were involved in a consolidation). These districts'

[13] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 2018, page #26.*

average wealth index increased by almost 18 percentage points, meaning their district share increased and they were eligible for a smaller percentage of state funding. The opposite was true for the 14 districts whose ADM increased by at least 20% between FY2010 and FY2019. These 14 districts' average FWI decreased by almost 9%, meaning the district share decreased and the state share increased.

		Average Facility Wealth Index (District Share)		
District ADM Change	# of Districts	2010	2014	2019
Declining	25	46.1%	56.7%	63.7%
Growing	14	45.0%	40.6%	36.4%

The different impact on growing and declining districts is not necessarily unfair. Those school districts with growing enrollments can reach a point where they need to expand facilities, and districts with declining enrollment can see a decrease in the amount of school space they need to maintain.

The following table shows the districts with the greatest percentage increase in their FWI between FY2010 and FY2019. All of the districts with an increase in their FWI also had declining ADM counts and increases in the value of one mill. The decline in students and the increase in the value of a mill both contribute to increasing a district's FWI, which in turn lowers the percentage of state financial participation for eligible Partnership projects. Conversely, those districts with the greatest percentage decrease in their FWI generally experienced growth in their ADM and much lower percentage growth in the value of a mill. Two districts among those with decreasing FWIs, Western Yell County and Magazine, had both declining ADM counts and declining value of a mill.

Greatest Increases in Wealth Index Between FY10 and FY19				Greatest Decreases in Wealth Index Between FY10 and FY19			
School District	% FWI/ District Share Increased	10 Yr % Change in ADM	10 Yr % Change in Value of 1 Mill	School District	% FWI/ District Share Decreased	10 Yr % Change in ADM	10 Yr % Change in Value of 1 Mill
Mineral Springs	118.47%	-21.7%	472.4%	Pea Ridge	-34.4%	36.0%	17.0%
Guy-Perkins	104.83%	-19.7%	113.4%	Springdale	-32.1%	25.5%	11.6%
Lee County	103.56%	-36.8%	64.9%	Western Yell Co.	-31.2%	-24.8%	-27.7%
Helena-W Helena	90.09%	-48.8%	25.5%	Bentonville	-30.2%	34.4%	23.0%
Osceola	88.50%	-27.6%	85.8%	Magazine	-27.4%	-2.7%	-6.7%
Rose Bud	83.40%	-0.2%	138.5%	Farmington	-25.6%	17.3%	14.1%

The large 10-year percentage change in the value of one mill for Mineral Springs is largely due to the building and opening of the Turk Power Plant.[14] The Turk Plant became commercially operational in December 2012.[15]

CHANGES TO FWI CALCULATIONS PER ACT 1080 OF 2019

In its July 2018 report, the Advisory Committee recommended changes to the way the Facilities Division calculates the FWI to address concerns about the fairness of the FWI calculation. One concern expressed by the Advisory Committee was that if a district loses students, the district's FWI increases even if the assessed valuation stays the same, and conversely, a growing district can see its FWI decrease due to the increased number of students even if the district's valuation

[14] "Power Profit", Texarkana News, April 2, 2012, http://www.texarkanagazette.com/news/texarkana/story/2012/apr/02/profit-power/285510/.
[15] SWEPCO's John W. Turk, Jr. Power Plant Begins Commercial Operation December 20 in SW Arkansas, Southwestern Electric Power Company News Release, December 20, 2012,https://www.swepco.com/info/news/viewRelease.aspx?releaseID=1342.

stays the same. In addition, while the current FWI calculation has a component that reflects the property values of a district, it does not have an element to adjust for the income wealth of the student population. The Advisory Committee's recommendation addresses both of these concerns by "adjusting the existing mill value per student by median income [of the school district's community] to account for poverty and calculate the value of the mill per student based on the greatest enrollment of the last 10 years to adjust for significant enrollment adjustments."[16]

The Commission for Academic Facilities and Transportation tabled this recommendation preferring this issue be debated and discussed by legislative committees. The Arkansas General Assembly passed Act 1080 of 2019, which established the recommendation in statute. Act 1080 requires the complete transition to the new FWI calculation by the 2023-25 Partnership Program funding cycle and allows for a transitional period during the 2021-23 Partnership Program funding cycle.

During the transitional period, 2021-23 funding cycle (FY2022 & FY2023), a district's FWI will equal the district's FWI using the current calculation methodology **plus** one-half of the difference between the district's FWI using the current methodology and the district's FWI using the new methodology. This phases in the impact of the new FWI, so that those districts with increasing FWIs, and therefore decreasing state funding, absorb only one-half of the change. The Facilities Division will fully implement the new FWI calculation for FY2024 and FY2025.

In addition, Act 1080 makes a special provision for high-growth districts whereby their FWI is the lesser of the FWI determined using the current calculation or the new FWI under the Act 1080 calculation. High-growth districts will lose this special FWI provision if they fail to maintain their status as high-growth for two consecutive years. According to Ark. Code Ann. § 6-20-2511 (a)(1), a high-growth school district is a "public school district in which the average daily membership for the public school district in the present school year is four percent (4%) higher than the school year that is two (2) years before the present school year."

CURRENT & HISTORICAL PARTNERSHIP PROGRAM FUNDING

CURRENT FUNDING CYCLE (2019-21) PROJECT NUMBERS AND FUNDING

The Commission approved a total of 175 Partnership projects with a corresponding approved State Financial Participation (SFP) of $207.3 million for both year-one and year-two of the 2019-21 funding cycle. The Division reported $104.8 million in available funding for year-one projects, and the Commission approved funding for up to $104.2 million in year-one projects (FY2020). This $104.2 million will fund 57 projects and will leave 90 projects and the corresponding SFP of $57.3 million unfunded. All of the 90 year-one **unfunded** projects are Warm/Safe/Dry System Replacement projects and will be moved to the bottom of the year-two project priority list after year-two projects have been ranked. The year-two projects will be funded after the Fiscal Session in 2020 based on the funding determined to be available by the Commission.

Any unfunded projects at the end of the 2019-21 funding cycle may be carried over to the 2021-23 funding cycle and will be subject to the same ranking process as all other projects. Forty-four of the 2019-21 year-one approved projects with corresponding SFP of $36.2 million are projects carried forward from previous Partnership funding cycles. None of these 44 projects was funded in the initial list of approved projects for the 2019-21 cycle. If approved and funded year-one projects are rescinded (district decides to cancel a project) or costs are reduced, it is

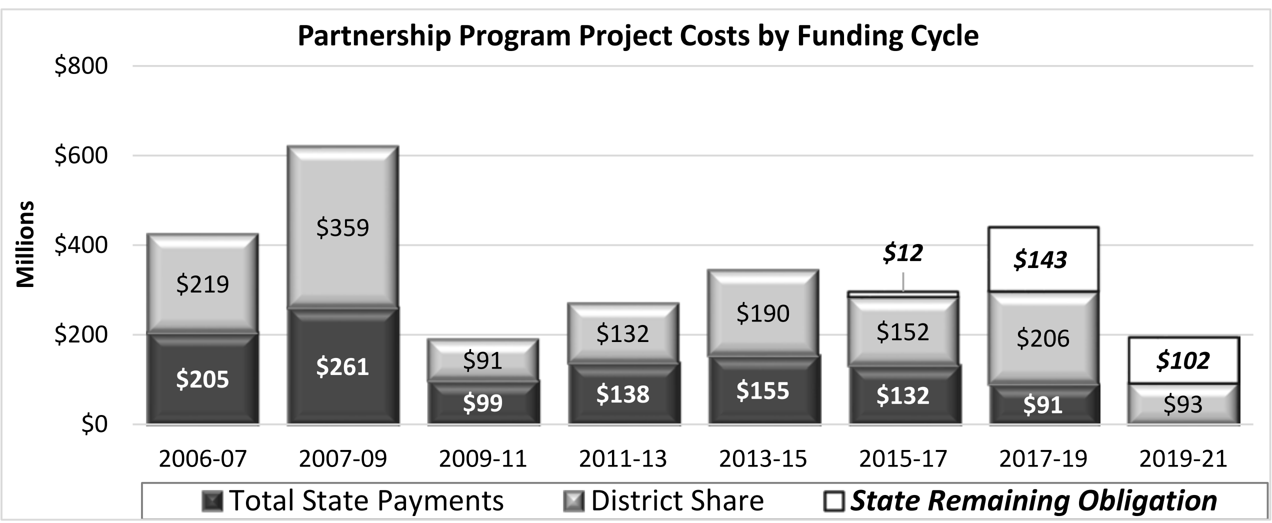
[16] Advisory Committee on Public School Academic Facilities, *Arkansas Committed to Adequate & Equitable K-12 Academic Facilities – Progress, Ongoing Needs & Recommendations, July 2018, page 28.*

possible one or more of the prior cycle WSD System Replacement projects could receive funding in year-one.

2019-21 PARTNERSHIP PROGRAM FUNDING CYCLE		
YEAR-ONE - FY2020		
Funded - Approved Projects:	**# of Projects**	**Approved SFP**
Space Projects	21	$31,385,714
WSD Space Replacement	19	$60,704,000
WSD System Replacement	17	$12,112,420
Sub-Total Funded Projects	**57**	**$104,202,134**
Not Funded - Approved Projects	90	$57,283,951
YEAR-ONE TOTAL – Approved Projects	**147**	**$161,486,084**
YEAR-TWO - FY2021		
Approved Projects - Funding not yet determined	28	$45,847,207
Total Projects 2019-21 Funding Cycle	**175**	**$207,333,292**

HISTORICAL PROJECT NUMBERS AND FUNDING

As of June 2019, the Partnership Program has paid districts approximately $1.1 billion for facilities construction, renovation, and systems improvement, and the Commission has agreed to pay another $257.1 million through the first year (FY2020) of the 2019-21 funding cycle, which is the state's remaining maximum funding obligation for district projects. The second year of the 2019-21 funding cycle, FY2021, will not be funded until the General Assembly authorizes FY2021 funding allocations and appropriations and the Commission subsequently approves state financial participation.

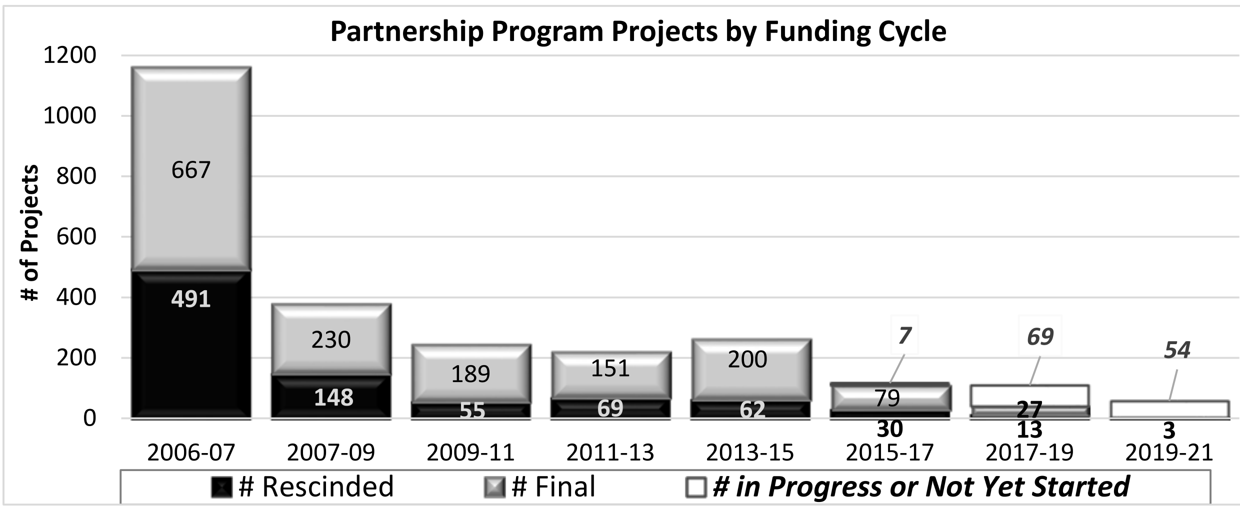


* 2019-21 Projects include only those approved and funded projects in the first year of the biennium, FY2020. The year-two projects, FY2021, will not be funded until appropriation and funding are approved by the General Assembly, and the Commission subsequently approves funding.

The cost of approved projects is shared by the state and the district. Of the projects approved for Partnership funds (not including rescinded projects), the state has authorized funding for about 48% of the allowable costs, and the districts have or will pay 52%. All approved Partnership Program projects were funded through the 2013-15 funding cycle. Beginning with the 2015-17 funding cycle, some projects were approved but not funded, and these projects were categorized as Warm, Safe, and Dry (WSD) Systems Replacement Projects. According to the Facilities Division, "In 2017 a $10 million cap was imposed on WSD [Warm, Safe, and Dry] system projects."[17]

Beginning with the 2015-17 Partnership Program funding cycle through the 2019-21 funding cycle, almost $123 million WSD Systems Replacement Partnership Program projects approved by the Facilities Division and the Commission for Public School Academic Facilities and Transportation as meeting the qualifications for Partnership Program funding have remained unfunded.

Through the first year of the 2019-21 funding cycle, there have been a total of 2,544 Partnership Program projects approved. Of this total number of approved projects, 871 (34%) have been rescinded, 1,543 (61%) have been completed, and 130 (5%) are still currently in progress or not yet started.



* 2019-21 Projects include only those approved and funded projects in the first year of the biennium, FY2020. The year-two projects, FY2021, will not be funded until appropriation and funding are approved by the General Assembly, and the Commission subsequently approves funding.

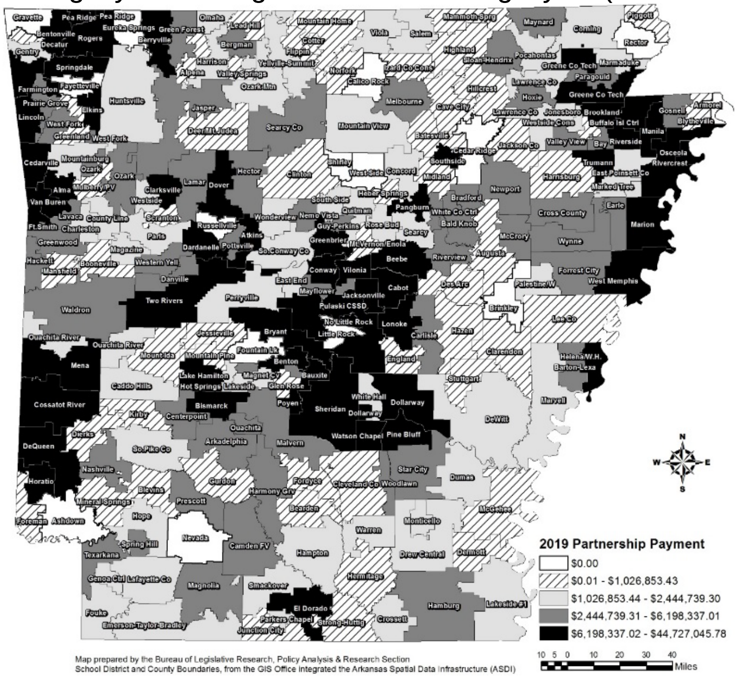
REGIONAL ANALYSIS OF PARTNERSHIP FUNDING

The following maps show the total amount of funding the state has contributed to school facilities projects through the Partnership Program since its inception.[18] The first map shows the total dollar amount the state has actually paid in each district (not including outstanding obligations). Partnership funding awarded to districts that have since been consolidated is counted in the funding totals of the districts into which the districts were annexed, with the exception of the funding awarded to two districts, Stephens (award amount $625,791) and Twin Rivers (award amount $389,201), because these two districts were consolidated into multiple districts. The first map shows that generally, the districts with the highest population concentrations – Central, Northwest, and Northeast Arkansas –received some of the highest amounts of Partnership Program funding. (**See Appendix B and C for larger versions of the following two maps.)**

[17] Email from Division of Public School Academic Facilities and Transportation Staff, Murray Britton, August 16, 2019.
[18] These figures include only the amount the state has actually paid through June of 2019. It does not include the state's outstanding obligations. For example, if a district has a $100,000 project and the state's share of the project is $50,000, but the state has only paid $30,000, the outstanding $20,000 is not included.

Total Partnership Program Payments

2006-07 Funding Cycle Through 2017-19 Funding Cycle (as of June 2019)

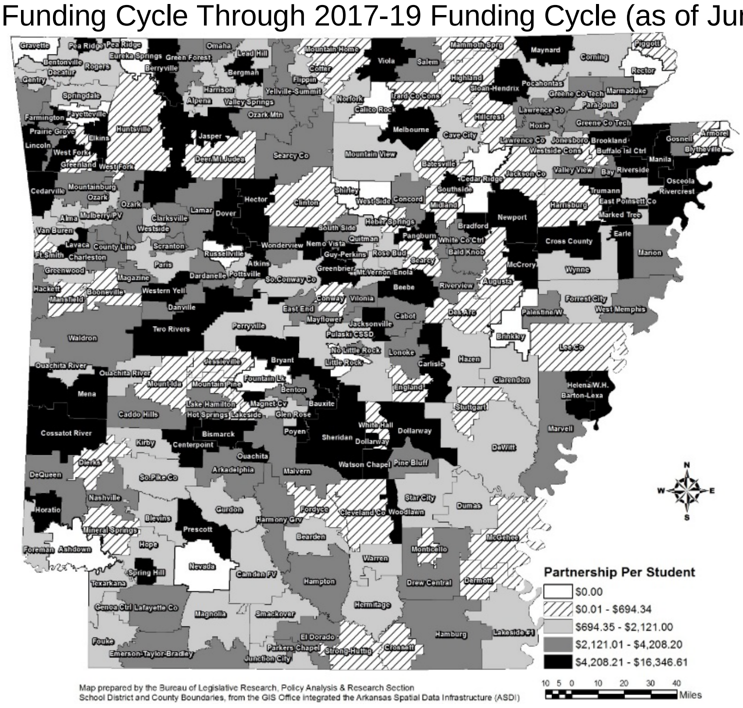


Note: Payments made to Stephens ($625,791) and Twin Rivers ($389,201) were not included because they were consolidated with multiple districts.

The following map shows the amount of Partnership Program funding the state has paid as a per-ADM amount. Each district's 2017-18 ADM was used to calculate its funding amount per ADM. In contrast to the previous map, there appear to be few significant regional patterns when the funding is viewed on a per-student basis. However, districts along the southeastern and southern edges of the state appear to have received less Partnership Program funding per student than other areas of the state.

Total Partnership Program Payments Per ADM

2006-07 Funding Cycle Through 2017-19 Funding Cycle (as of June 2019)



Note: Payments made to Stephens ($625,791) and Twin Rivers ($389,201) were not included because they were consolidated with multiple districts.

Of the currently operating districts, 15 have never received any Partnership Program payments.

Districts That Have Never Received Partnership Funding				
Armorel[2]	Calico Rock[2,3]	Fayetteville[2]	Nevada[1]	Russellville[2]
Ashdown	Cedar Ridge[1]	Fountain Lake[1]	Little Rock	Shirley[1, 3]
Brinkley[2, 3]	Eureka Springs[1]	Gravette	Rector[1, 3]	West Side (Cleburne) [1]

[1]Seven districts that have never applied for Partnership Program funding.
[2]Five districts that had approved projects that were rescinded before Partnership Program funding was disbursed.
[3]Four districts received facilities funding from Programs that preceded the implementation of the Partnership Program, Immediate Repair and Transitional.

Two of these fifteen districts (Ashdown and Little Rock) have approved Partnership projects for the 2017-19 and 2019-21 funding cycles, respectively, and five other districts (Armorel, Brinkley, Calico Rock, Fayetteville, and Russellville) received approval for Partnership Program funding, but the projects were rescinded before any funding was distributed. The Division reports that Brinkley has applications in the pipeline for the 2021-23 funding cycle "to take advantage of the revised calculation methodology for the wealth index."[19] Four of these districts received funding from earlier facilities funding program, either Immediate Repair or Transitional (Brinkley, Calico Rock, Rector, and Shirley). Only one of the fifteen districts, Gravette, applied for Partnership Program funding and the project was disapproved as incomplete.

Nine districts (Armorel, Cedar Ridge, Eureka Springs, Fayetteville, Fountain Lake, Gravette, Nevada, Russellville, West Side [Cleburne County]) **have never received state funding for facilities from any of the facilities funding programs created since 2005** (Catastrophic, Immediate Repair, Transitional, and Partnership) and have no currently approved and funded projects in process. Only Nevada and Gravette school districts have a Facility Wealth Index below .90, with FWIs of 47.7 and 86.5, respectively. Seven of the 9 districts have a 2019 Facilities Wealth Index **above .90**, which means they would qualify for only a small percentage of project costs to be covered by the state. Some of these districts may have decided the small amount of state funding available was not worth the time and effort it takes to apply.

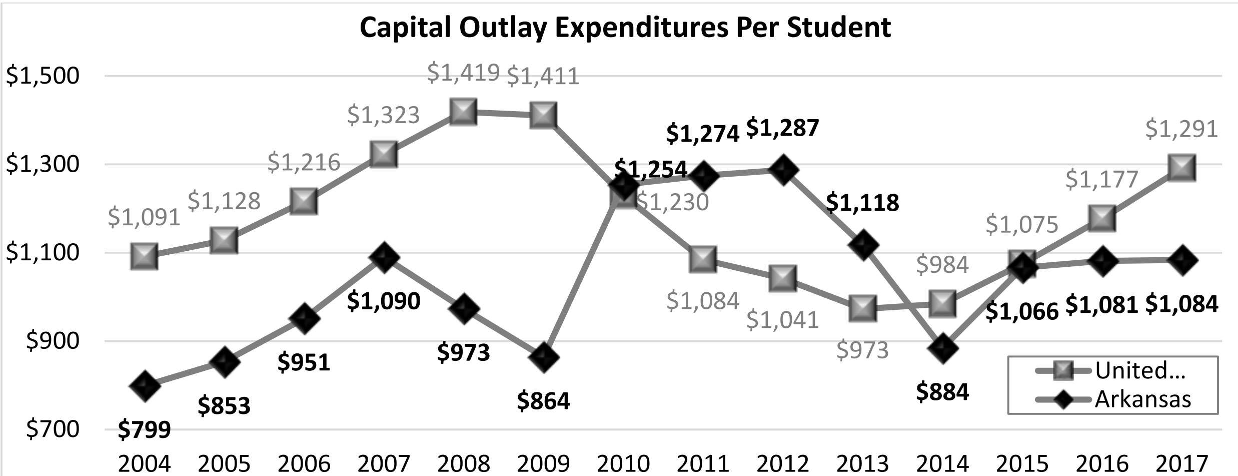
The following table examines the characteristics of districts based on the various levels of Partnership funding they received. Districts were arrayed into four groups based on the per-student (using districts' average ADM over the past 10 years) Partnership Program funding they received beginning with the 2006-07 funding cycle. Those districts in Quartile 1 have the lowest per ADM funding, and those in Quartile 4 have the highest per ADM funding. For each group of districts, an average of the groups' 10-year average ADM and percentage of free and reduced price lunch (FRPL) students was calculated. Districts that have been involved in a consolidation, both those absorbed by a district and those receiving a district, have been excluded from this analysis. The following data suggest that **smaller** districts (lower 10-year average ADM) and those districts with **lower** percentages of FRPL students receive higher state payments per ADM. However, statistically, the correlation between the amount of payments per ADM and the 10-year average district ADM and 10-year average percentage of FRPL students is weak.

State Partnership Payments Per 10-Year Avg ADM	Avg of 10-Year Avg ADM	Avg of 10-year Avg % FRPL Students
Quartile 1: $0-$694.72	2,328	65.52%
Quartile 2: $705.35-$2,246.89	2,182	64.75%
Quartile 3: $2,289.26-$4,133.54	1,795	64.80%
Quartile 4: $4,150.38-$16,596.38	1,358	61.11%

[19] Email from Division Staff, Murray Britton, September 20, 2019.

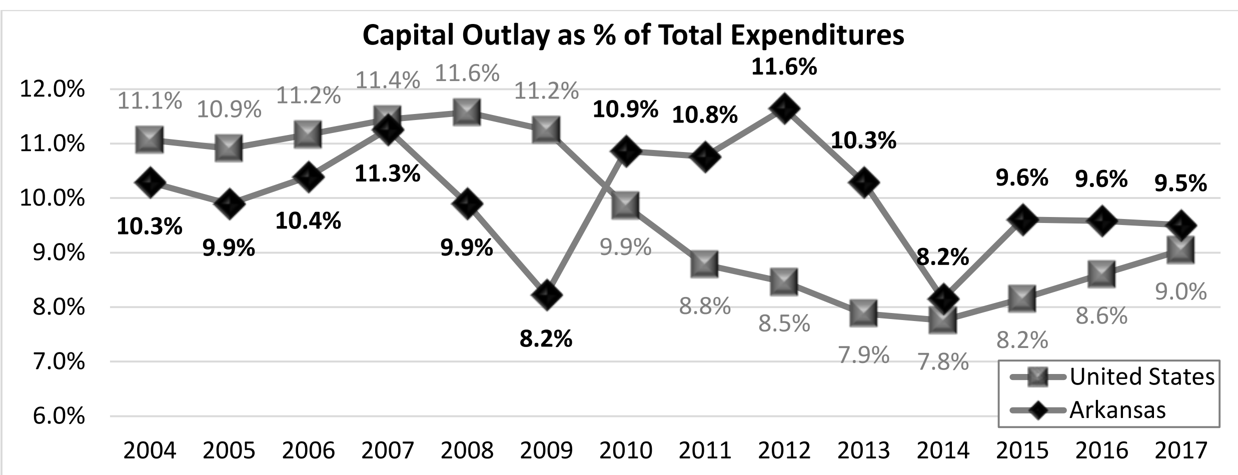
NATIONAL COMPARISON

The creation of the Partnership Program appears to have improved Arkansas's spending on capital projects compared to other states. The U.S. Census collects data on K-12 school district capital expenditures using data collected by state departments of education. In 2004 Arkansas ranked 35th highest in capital outlay expenditures per student. That year, Arkansas school districts spent $799 per student, while the national average was nearly $1,100. Arkansas's capital expenditure per student increased from $799 per student in 2004 to $1,084 in 2017, or a 36% increase. Arkansas now ranks 27th among the 50 states and Washington, D.C.[20]



Data Source: U.S. Census Bureau, Public Elementary-Secondary Education Finance Data, Tables 1, 18 (2004-2010) and 19 (2011-2017), https://www.census.gov/programs-surveys/school-finances/data/tables.html.

The tables above and below provide Arkansas's capital outlay expenditures per student and the percentage capital outlay expenditures comprised of total expenditures compared to the United States. While Arkansas's per-student expenditures have exceeded the national average only four of the 14 years, Arkansas's capital outlay expenditures' percentage of total expenditures has exceeded the national average each of the last eight years.



Data Source: U.S. Census Bureau, Public Elementary-Secondary Education Finance Data, Tables 1, 18, and 19, https://www.census.gov/programs-surveys/school-finances/data/tables.html

[20] In addition to school facilities construction, the U.S. Census includes other types of capital outlay expenditures in its calculations, such as school buses and other types of equipment. The Census student numbers (the denominator in the expenditure per-student calculation) include pre-kindergarten students. The Bureau of Legislative Research's per-student calculations provided in this report do not include pre-kindergarten students.

SCHOOL DISTRICTS' FACILITIES CONDITION

Assessing the condition of school buildings is a challenge. In 2004, the Task Force to the Joint Committee on Educational Facilities completed a detailed statewide assessment of all academic and non-academic facilities. The Task Force contracted with consultants who physically examined and assessed all school buildings in the state at a cost of $10 million.[21] The state has not completed an additional statewide assessment of all school buildings since the initial assessment was completed in 2004.

According to the July 2018 report of the Advisory Committee on Public School Academic Facilities, "there has been measurable progress in the adequacy and equity of Arkansas public school facilities since 2004 when the State's Public School Academic Facilities Program began".[22] The Advisory Committee further reports the Division of Public School Academic Facilities and Transportation is currently tracking the condition and age of at least ten major building categories through a Master Planning Web Tool through which districts report the condition and life expectancy of each major system. Using these district reports, the authors of the Advisory Committee's report calculated that an overall Facility Condition Index (FCI) (ratio of system replacement costs to building replacement costs where higher percentages reflect greater replacement needs) decreased from 38% in 2004 to 19% in 2018, illustrating "improvement on overall school facility conditions statewide."[23]

There are some challenges in arriving at a current independent evaluation of the facility conditions statewide and the corresponding need for facility improvements. According to the Division's *2018 Statewide State of Condition of Academic Facilities*, "The ideal test for the state of condition of facilities is through an assessment of school facilities and the inspection process. It is not financially feasible to conduct a yearly statewide assessment".[24] There has not been an independent assessment of all school district buildings since the 2004 Statewide Educational Facilities Assessment was completed.

In its 2018 report, the Advisory Committee on Public School Academic Facilities, reports that "there is no independent inspection of conditions and data reported to ensure consistent and standardized reporting against statewide criteria. Other data elements are self-reported by school districts and not checked for consistency of standards across school districts. In general, the Division's data about the current condition of school facilities is comparable to what was collected in 2004, from the statewide assessment."[25]

Beginning in approximately 2016, the Facilities Division initiated new efforts to secure more current facility condition information. The Facilities Division required districts' to complete an annual facility condition survey through the Facility Division's Master Planning Tool. This facility condition survey asks districts to assess whether each of their buildings are in "Good", "Fair", "Poor", or "Replace" condition.

As noted by the Advisory Committee, significant challenges remain with the data currently available on school facility conditions. First, it is self-reported data, and is not completed by an independent observer similar to the 2004 assessment. In addition, some districts report facility conditions on an 11-system scale, and others report on a 37-sub-system scale. Therefore, the data available by building are not consistent across school districts. The Facilities Division has

[21] *Final Report to the Joint Committee on Educational Facilities on the Arkansas Statewide Educational Facilities Assessment – 2004,* Task Force to Joint Education Committee on Educational Facilities, November 30, 2004, pages 1-3.
[22] Advisory Committee on Public School Academic Facilities, *"Arkansas Committed to Adequate & Equitable K-12 Academic Facilities", page 7.*
[23] Advisory Committee on Public School Academic Facilities, *"Arkansas Committed to Adequate & Equitable K-12 Academic Facilities",* pages 8-9.
[24] *Statewide State of Condition of Academic Facilities,* Division of Public School Academic Facilities and Transportation, October 1, 2018, page 2.
[25] Advisory Committee on Public School Academic Facilities, *"Arkansas Committed to Adequate & Equitable K-12 Academic Facilities",* page 37.

determined that all districts must report on the 37-sub-system scale on the next district facility condition survey which is due February 2020.[26] The Facilities Division, anticipates that this change will improve the consistency and detail of the data reported by districts and, in turn, improve the quality of the FCI which is calculated using data entered by the districts.

The FCI provides one measure by which the Division can determine the level of districts' need for Partnership Program funding, with a lower FCI indicating a building is in better condition and a higher FCI indicating a building is in poorer condition.[27] The FCI is calculated by the Master Planning web tool for all buildings regardless of condition, and is calculated by dividing the cost to repair a school building by the cost to replace it. (The cost to replace is calculated by multiplying the building square footage by a building replacement cost factor.[28]) Those buildings and systems that superintendents have rated as being in Replace condition receive a greater weight in the cost to repair calculation than those buildings reported in Poor condition.

According to the Division, those districts with FCI values of 65% or higher can generally qualify for Partnership Program funding to demolish and replace a building. There can be exceptions to this 65% FCI rule, such as buildings in excess of 50 years old, which do not always have to have a 65% FCI value to qualify for replacement.[29]

In an effort, to supplement the information provided by districts, the Facilities Division has required its own staff to complete FCI evaluations for all district requests to replace existing buildings with new ones. This provides additional information upon which the Facilities Division and ultimately the Commission for Public School Academic Facilities and Transportation can base their project approvals.

The section that follows attempts to provide additional information on the status of school district efforts to address the facility needs of their districts.

DISTRICT FACILITY & BONDED INDEBTEDNESS EXPENDITURES

While there is not a current independent assessment of all school district buildings, one way to assess school districts' facility improvement efforts is to evaluate school districts' expenditures for facility acquisition and construction and bonded indebtedness expenditures. The BLR examined these district expenditures for the period FY2009 through FY2018. The expenditures include land purchases, construction expenditures, site improvements such as fencing, walkways and landscaping, and building improvements such as initial installation of service systems and built-in equipment. These expenditures were extracted from the Arkansas Public School Computer Network (APSCN) and include expenditures from all funding sources, including Partnership Program funding. The Partnership Program reimburses districts for expenditures for approved projects, therefore districts must spend money on approved Partnership projects before they are reimbursed the state share. These expenditures include all expenditures including state and district shares and spending for projects that do not qualify for Partnership Program support.

The following chart shows the total district expenditures on facilities acquisition and construction and bonded indebtedness payments for the period FY2009 through FY2018. Districts have expended an average of $464 million each year on facilities acquisition and construction, and an average of almost $239 million on bonded debt. Bonded indebtedness expenditures include the

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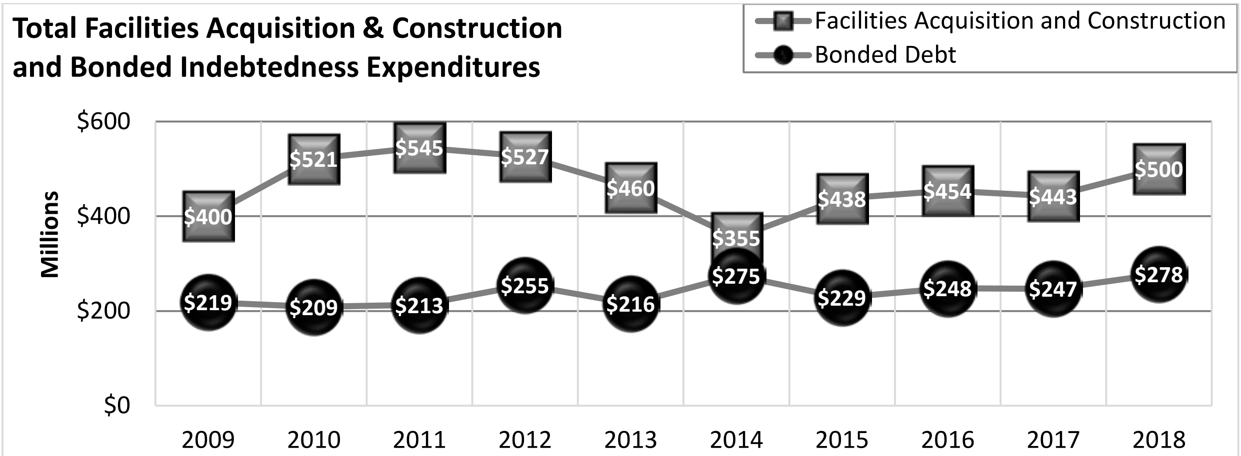
[26] Meetings with Division Staff, Brad Montgomery, Darrell Tessman, and Murray Britton held on May 20, 2019 and with Murray Britton on August 26, 2019.
[27] Advisory Committee on Public School Academic Facilities, *"Arkansas Committed to Adequate & Equitable K-12 Academic Facilities",* page 8.
[28] Site and Building Survey Results Data Report supplied by the Division of Public School Academic Facilities and Transportation, effective date for the data is September 5, 2017.
[29] Email from Murray Britton, July 11, 2019, and meeting with Division Staff Murray Britton on August 26, 2019.

payment of fees, interest and principal for debt incurred in the form of bonded indebtedness serviced by specific debt service millage.[30]



The APSCN reporting system calls for school districts to report certain facilities expenditures based on whether the expenditure is for an instructional area or a non-instructional area. The data show that 87% of districts' expenditures for building acquisition and construction and 89% of building improvements expenditures were for instructional areas. A smaller portion (57%) of districts' site improvement expenditures (nonpermanent improvements, such as landscaping, bleachers, and outside lighting) were for instructional areas.

Expenditure Type	10-Year Total Expenditures (in billions)	% Spent on Instructional Areas
Building Acquisition and Construction	$2.82	87%
Building Improvements	$1.09	89%
Site Improvement	$0.38	57%
Other Facilities Expenditures	$0.25	N/A
Land Acquisition and Improvement	$0.10	N/A

To examine the extent to which Partnership Program funding allows or inhibits district expenditures on school facilities, the BLR looked at the relationship between the per-ADM Partnership Program funding provided to districts and the per ADM expenditures for facilities acquisition and construction and for bonded indebtedness payments.

An average per-ADM Partnership Program funding amount was calculated using a 10-year average annual ADM for the period 2009 through 2018. Those districts involved in a consolidation (either absorbed by a district or received a district) were excluded from this portion of the analysis. The districts were arrayed starting with those districts with the least average per-ADM Partnership Program funding amounts to the greatest and were divided into quartiles. Those districts having the lowest funding per ADM were assigned to Quartile 1 and the those districts with the highest funding per ADM were assigned to Quartile 4. The per-ADM funding ranged from $0 to $16,596.

In addition, 10-year annual average district per-ADM expenditure amounts were calculated for both facilities acquisition and construction expenditures and bonded debt payment expenditures using the same 10-year average annual ADM.

[30] Arkansas Financial Accounting Handbook for Public Schools, Arkansas Education Service Cooperatives, and Open Enrollment Charter Schools for 2019/20 School Year, page 37, and APSCN expenditure report.

- **Per-ADM Facilities Acquisition and Construction Expenditures:** These expenditures include those made using all types of funding and the expenditures are for: land acquisition, building construction, site improvements and building improvements. District expenditures ranged from about $26 per ADM (Rector) to $3,621 (Mineral Springs). Districts averaged about $968 in per-ADM facilities acquisition and construction expenditures for the period 2009 through 2018 (not including open enrollment charter schools or districts involved in a consolidation).
- **Per-ADM Bonded Debt Expenditures:** These expenditures include payments for debt incurred in the form of bonded indebtedness serviced by specific debt service millage. The districts' per student bonded indebtedness expenditures ranged from $0 (Gosnell) to $1,779 (Mountain Home). Mountain Home had a bonded indebtedness payment in 2013-14 that was significantly larger than other districts because the district paid off a particular type of bond that year. Districts' averaged $453 in per-ADM bonded debt expenditures for the period 2009 through 2018 (not including open enrollment charter schools or districts involved in a consolidation).

The table below shows that as the Partnership Program funding per ADM increases, districts' spending on school facilities also increases, suggesting that Partnership Program funding increases districts' ability to spend money on facility improvements. There is not, however, a clear relationship between the per-ADM Partnership Program funding and the amount of district expenditures on bonded debt payments, although districts that received the lowest Partnership Program funding did have the highest per-student debt service expenditures.

Total State Partnership Funding Per 10-Year Avg ADM	Avg. 10-Year Avg Facilities Acquisition & Construction Expenditures Per 10-Yr Avg ADM	Avg. 10-year Avg Bonded Debt Expenditures Per 10-Yr Avg ADM
Quartile 1: $0-$694.72	$697	$528
Quartile 2: $705.35-$2,246.89	$669	$418
Quartile 3: $2,289.26-$4,133.54	$983	$403
Quartile 4: $4,150.38-$16,596.38	$1,522	$464

DISTRICT DEBT RATIO

As noted above, bonded debt is one of the mechanisms districts use to finance school facilities. The Division of Elementary and Secondary Education of the Department of Education ("Department") publishes a debt ratio for each school district each fiscal year, which is the **total district indebtedness less energy savings contracts divided by the districts assessed valuation.**[31] The debt ratio ranges from 0% for districts that had no debt for FY2018 (Salem and Gosnell) through 40.2% (Cutter-Morning Star). The table below illustrates how the amount of state Partnership Program funding per 10-year ADM compares to the average FY2018 debt ratio. Specifically, this table shows that districts receiving the highest state Partnership Program payments per ADM (Quartile 4) have the highest FY2018 debt ratios while those receiving the least Partnership Program funding per ADM (Quartile 1) have the lowest debt ratios. This suggests that districts with higher amounts of per-ADM Partnership Program funding are incurring higher levels of debt, which presumably is used for their local match for Partnership Program funding.

State Partnership Payments Per 10-Yr ADM	Average FY2018 Debt Ratio
Quartile 1: $0-$694.72	7.3%
Quartile 2: $705.35-$2,246.89	8.8%
Quartile 3: $2,289.26-$4,133.54	10.5%
Quartile 4: $4,150.38-$16,596.38	14.9%

[31] *Outstanding Indebtedness for Arkansas Public Schools June 30, 2018*, Arkansas Department of Education – Division of Fiscal and Administrative Services.

MILLAGES

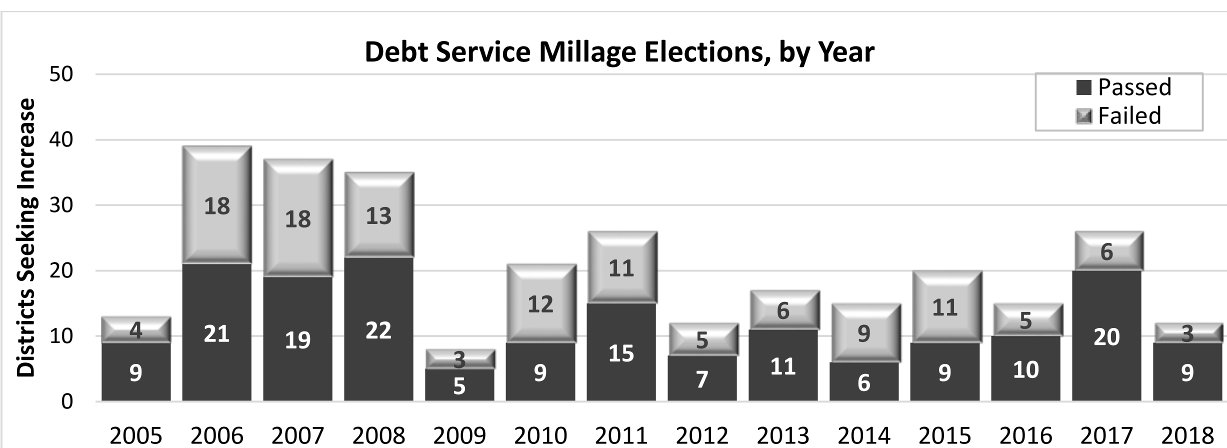
To draw down the state share of Partnership Program funding, districts must contribute their share of local funding. There has long been a concern that some districts would be unable to pass enough millage to raise their local share. This section of the report examines school district debt service mills that are used to generate revenue for districts to pay for the cost of construction and renovation of school facilities.

During the 2006 First Extraordinary Session, the General Assembly passed Acts 34 and 35 to create the Academic Facilities Extraordinary Circumstances Program to provide state financial assistance to districts that do not have enough local resources to qualify for Partnership Program funding. This program was designed to respond to the concern that some districts would not be able to raise enough money locally to provide their share of the Partnership Program. Acts 34 and 35 mandated the Facilities Commission to develop rules under which the program would operate. To date, the rules have not been drafted, and the program has never been funded.

According to the millages approved in 2018 (for collection in 2019), all districts but two (Salem and Gosnell) have passed some level of debt service mills. The number of debt service mills authorized for each district ranges from 1.3 mills for the Lee County School District to 29.8 mills for the Earle School District. The **average number of debt service mills among Arkansas school districts is 12.8 mills.**

Since 2005, 173 of the current 235 districts have sought an increase to their debt service millage. Of the 62 districts with no elections to increase millage, the authorized debt service mills range from 0 in Gosnell and Salem School Districts to 23.9 in Fouke School District, with an average of 11.1 mills. In addition, 42 of these 63 districts' total authorized M&O mills are at the minimum of 25.

The following chart shows the number of districts asking voters to approve an increase in debt service millage by year. The chart also shows the number of those elections that were successful and the number that failed. The data suggest the new funding offered by the Partnership Program led to a spike in millage elections in 2006, 2007, and 2008. In 2009, the number of millage elections dropped precipitously possibly as a result of the recession. Districts considering a millage increase in 2009 may have decided the economic climate likely would not support a tax increase.



Source: Department of Education – Division of Elementary and Secondary Education Voted Millage Reports, 2005 through 2018.

Often when a district's millage attempt fails, the district proposes an increase in subsequent years. Many times they are successful on subsequent attempts, especially when a lower millage is requested. However, **18 school districts had millage elections between 2005 and 2018, but have never been successful,** including three districts whose only attempts have been in 2017 and 2018. The 2018 debt service millage rates (for collection in 2019) for these

18 school districts range from 1.3 mills for Lee County School District to 18.4 mills for Alma School District.

As noted above, there is a significant diversity in the number of debt service mills authorized for districts and an important question is how closely related the debt service mills authorized for districts are to the amount of Partnership Program funds districts draw down.

The following table examines the relationship between the amount of debt service mills districts have authorized, the amount of state Partnership Program funding distributed to districts, total district expenditures for facilities acquisition and construction and district expenditures for bonded indebtedness. The table divides each of these variables by each district's 10-year average ADM to derive a per-student amount. In addition, it places the districts in quartiles based on their 10-year average debt service mills, with the districts with the lowest debt service mills assigned to Quartile 1 and those with the highest debt service mills to Quartile 4. The data show that the districts in the low debt service mill quartiles received less Partnership Program funding per ADM than those with higher debt service mills. They also spent less on facilities acquisition and construction and bonded indebtedness.

10-Year Average Debt Service Mills	State Partnership Payments per 10-Year Avg ADM	10-Year Avg Facilities Acquisition & Construction Expend. Per ADM	10-Year Avg Bonded Indebtedness Expend. Per ADM
Quartile 1: 0-9.65	$1,591	$789	$345
Quartile 2: 9.70-12.00	$2,577	$951	$460
Quartile 3: 12:06-14.60	$3,243	$985	$460
Quartile 4: 14.65-23.90	$4,438	$1,152	$550

The data below also suggest districts with the highest average percentage of students eligible for free or reduced price lunch have, on average, lower numbers of debt service mills. This may indicate that voters in communities with higher levels of poverty (family income, rather than property wealth) are less able to approve higher numbers of debt service mills.

10-Year Average % FRPL Eligible	Avg 10-Year Avg Debt Service Mills
Quartile 1: 24.04%-55.81%	13.78
Quartile 2: 55.82%-64.29%	12.57
Quartile 3: 64.41%-73.30%	10.93
Quartile 4: 73.35%-96.82%	10.99

OTHER POSSIBLE FUNDING SOURCES

There are a few additional resources available to districts that could be used for facilities projects: building fund balances and excess debt service revenue. The Building Fund is a "Set of accounts used to record the receipts and expenditures of specific building projects."[32] Excess debt service revenue is the difference between the revenue generated by debt service mills and the amount of debt service payments. The table below illustrates the state Partnership Program payments per 10-year average ADM arrayed in quartiles compared to the average 10-year building fund balances per 10-year ADM and the FY2018 average excess debt service revenue per FY2018 ADM. There is not a strong statistical relationship between state Partnership Program funding and these two resources, but it does appear that districts with the least state Partnership Program payments per ADM had the highest excess debt service funding per ADM, and conversely, those with the highest per-ADM payments had the lowest excess debt service funding. It may be that districts receiving higher levels of Partnership funding are using a greater proportion of their debt service funding as match for state Partnership Program funding.

[32] Arkansas Financial Accounting Handbook for Arkansas Public Schools, Arkansas Education Service Cooperatives, and Open Enrollment Charter Schools,

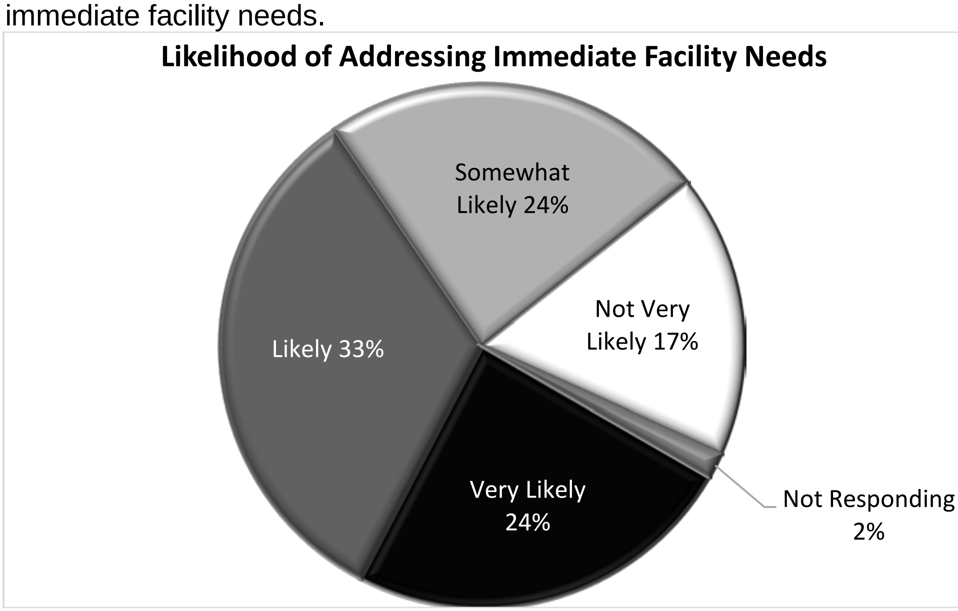
State Partnership Payments Per 10-Yr Avg ADM	Average 10-Yr Building Fund Balance Per 10-Yr Avg ADM	Average 2018 Excess Debt Service Funding Per FY2018 ADM
Quartile 1: $0-$694.72	$1,874	$805
Quartile 2: $705.35-$2,246.89	$1,430	$607
Quartile 3: $2,289.26-$4,133.54	$1,706	$446
Quartile 4: $4,150.38-$16,596.38	$1,726	$498

DISTRICT SURVEYS

The Bureau of Legislative Research surveyed school district superintendents to assess their perceptions regarding their districts' ability to address facility needs and what they say are their greatest obstacles to addressing facility needs. The survey was sent to districts on July 23, 2019, and as of August 23, 2019, 189 districts responded.

Survey Question: What is the likelihood that your school district will be able to fully address identified facility needs requiring IMMEDIATE ATTENTION in the coming school year?

Of 189 district responses, approximately 57% responded that they "likely" or "very likely" would be able to address these immediate needs, with roughly 17% reporting they are "not very likely" to address immediate facility needs.

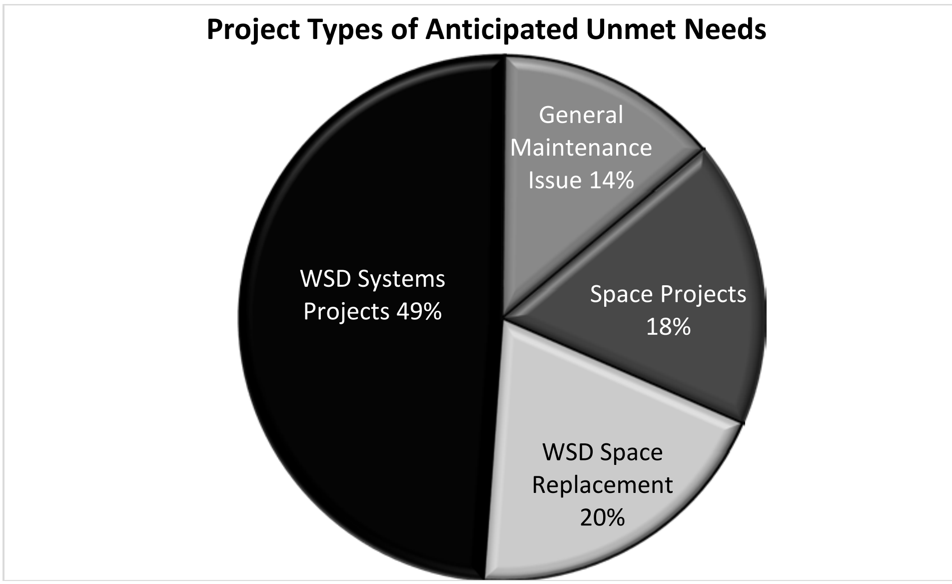


The districts responses were placed in two groups for analysis. Those responding they were "very likely" or "likely" to address identified facility needs were placed in one group, and districts responding they were "somewhat likely" or "not very likely" were placed in a second. Each group's responses were compared to the corresponding 10-year average of the districts' ADM, the average state Partnership Program payments per 10-year average ADM, the 10-year average percentage of FRPL students, and the average ADM change over 10 years. (Districts involved in a consolidation were excluded from this portion of the analysis). Those districts responding they were "very likely" or "likely" to address immediate facility needs had a higher 10-year average ADM and higher average state Partnership Program payments per ADM, and had a lower percentage of students eligible for FRPL and a smaller decline in ADM over 10 years than those districts responding they were "somewhat likely" or "not very likely" to address their immediate facility needs.

Likelihood of Addressing Facility Needs	Avg 10-Year Avg ADM	Avg State Partnership Payment per ADM (using 10-year Avg ADM)	Avg 10-year Avg FRPL%	Avg ADM Change Over 10 Years
Very Likely/Likely	2,216	$3,410	61.7%	-0.4%
Somewhat Likely/Not Very Likely	1,300	$2,462	67.8%	-6.6%

Survey Question: If you responded "not very likely" to the previous question, what do you anticipate being the greatest unmet facility need?

Those districts responding that it is "not very likely" that they can address immediate facility needs, were asked to identify the greatest unmet facility need. The chart below illustrates their responses. Forty-nine percent of the needs they anticipate will be unmet are Warm, Safe, and Dry (WSD) Systems projects, 18% were Space Projects, 20% were WSD Space Replacement Projects, and 14% were general maintenance issues. As noted in the Partnership Program Current Funding Cycle section of this report, there were 90 unfunded approved WSD – System Replacement Projects in the current 2019-21 funding cycle.



Survey Question: Rank the following obstacles [see table below] to your district's current ability to address identified facility's needs.

The table below illustrates the top two obstacles were lack of available state funding for Partnership Program projects and lack of existing school district funds and balances.

Obstacles to Addressing Facility Needs	Rank
Lack of available state funding (not enough to fund all eligible and approved projects)	1
Lack of existing school district funds/balances	2
Facilities needs are not eligible for Partnership Program funding (e.g., central office, facilities need does not meet minimum project cost)	3
Inability to pass local millage	4
Inability to qualify for sufficient state funding due to high wealth index	5
Inability to acquire necessary land to accommodate needed facilities	6
Lack of available facilities expertise (architects, engineers, construction, etc.) in the area/state	7

The districts were grouped into two groups based on their ranking of "lack of state funding" as an obstacle to addressing facility needs: those districts ranking this obstacle as 1st, 2nd, or 3rd and those districts ranking this obstacle 4th through 7th. (Districts involved in a consolidation were excluded from this portion of the analysis.) Those ranking this obstacle 1st, 2nd or 3rd, had a higher average 10-year ADM, higher average State Partnership Program payments per ADM, a higher percentage eligible for free and reduced price lunches, and a smaller decline in ADM over 10 years than those district ranking this obstacle 4th through 7th.

Lack of State Funding Ranking	# of Districts	Avg 10-Year Avg ADM	Avg State Payment per ADM (using 10-year Avg ADM)	Avg 10-year Avg FRPL%	Avg ADM Change Over 10 Years
1-3	131	1,930	$3,144	64.2%	-2.2%
4-7	39	1,540	$2,888	63.0%	-4.8%

FACILITIES FUNDING FOR OPEN-ENROLLMENT CHARTER SCHOOLS

Open-enrollment public charter schools ("charter schools") are not entitled to participate in the Facilities Partnership Program because they do not have taxing authority and cannot raise millage revenue to provide the local share required by the Partnership Program. Instead, the Arkansas General Assembly has begun providing state funding for charter school facilities in recent years. While there have been appropriations authorized for a few facilities funding programs for charter schools, only one program, the Charter Schools Facilities Funding Aid Program, has actually been implemented to distribute funds to charter schools. The Division of Elementary and Secondary Education of the Department of Education ("Department") first distributed funds to charter schools for facilities in FY2016.

The General Assembly's legislation regarding charter schools began in the 2013 Regular Session by authorizing two appropriations for charter school facility costs for the Division of Public School Academic Facilities and Transportation ("Division"). Act 1228 of 2013 authorized the first appropriation in the amount of $1 million for the Charter Schools Capital Grant Program, and Act 1400 of 2013 authorized a $25 million appropriation for the Charter Schools Facilities Loan Program. Both of these appropriations were unfunded, and therefore, the Division was not able to distribute charter school facility funding. During the 2014 Fiscal Session, Act 297 of 2014 authorized a $5 million FY2014 supplemental appropriation and a fund transfer of $5 million from the General Improvement Fund for the Charter Schools Facilities Loan Program. This $5 million was subsequently transferred to the Division of Elementary and Secondary Education Public School Fund Account for the Charter School Facilities Funding Aid Program. The following table shows all of the appropriations authorized for charter school facilities. In addition, the table provides the corresponding amount of Department of Education – Division of Elementary and Secondary Education expenditures through FY2019 used to distribute funding to charter schools for facilities, and includes the FY2020 budget as well.

Open-Enrollment Charter Schools Facilities State Appropriation & Expenditures/Budget			
Fiscal Year	**Appropriation Name**	**Appropriation**	**Expenditures/Budget**
FY2014*	Capital Grant Program	$1,000,000	$0
	Facilities Loan Program	$25,000,000	$0
	Facilities Loan Program-Supplemental	$5,000,000	$0
FY2015	Facilities Loan Program	$25,000,000	$0
FY2016	Facilities Funding Aid Program	$15,000,000	$4,583,328
FY2017	Facilities Funding Aid Program	$15,000,000	$4,999,985
FY2018	Facilities Funding Aid Program	$5,000,000	$5,000,000
FY2019	Facilities Funding Aid Program	$6,500,000	$6,370,546
FY2020	Facilities Funding Aid Program	$7,575,000	$7,575,000 (budget)
	Total	**$105,075,000**	**$28,528,859**
ACTUAL EXPENDITURES THRU FY2019 = $20,953,859			

Since the first fund transfer in FY2014, the state has allocated a total of $30.6 million for charter school facilities. The following table illustrates all of the funding made available from FY2014 through FY2019 and the estimated amount of funding to be available in FY2020.

Open-Enrollment Charter Schools Facilities State Funding				
Fiscal Year	**Transfers**	**Source of Transfer**	**State Funding in the Public School Fund**	**Total Annual Funding**
FY2014*	$5,000,000	General Improvement Fund		$5,000,000
FY2015				$0
FY2016				$0
FY2017			$5,000,000	$5,000,000
FY2018	$1,500,000	Rainy Day Fund	$5,000,000	$6,500,000
FY2019			$5,000,000	$6,500,000
Est. FY2020			$7,575,000	$7,575,000
Total	**$6,500,000**		**$24,075,000**	**$30,575,000**

ACTUAL FUNDING ALLOCATION THRU FY2019 = $23,000,000

*$5 million from the GIF Fund was originally transferred to the Open-Enrollment Public Charter School (OEPCS) Facilities Loan Fund Account for the OEPCS Facilities Loan Program. Act 735 of 2015 transferred this $5 million to the Public School Fund to provide funding in FY2016 for the Open Enrollment Public Charter School Facilities Funding Aid Program created by Act 739 of 2015.

CHARTER SCHOOLS FACILITIES FUNDING AID PROGRAM

Act 739 of 2015 created the Open Enrollment Charter School Facilities Funding Aid Program. Act 735 of 2015 authorized a $15 million FY2016 appropriation for the new facilities funding aid program and authorized the transfer of the $5 million previously provided for the Charter School Facilities Loan Program to the Department's Public School Fund Account for the benefit of the new Facilities Funding Aid Program. FY2016 marks the first fiscal year state funds were expended for charter school facilities. The Department has continued to spend money on charter facilities in each succeeding fiscal year.

Eligibility for the Funds: According to Ark. Code Ann. § 6-23-908, each charter school must successfully complete the charter school application review and approval process prior to the beginning of the fiscal year for which funding will be disbursed. Moreover, each charter school must meet the following criteria:

- Virtual technology is not the school's primary method of delivering instruction, and
- The school's facility meets all applicable health, fire, and safety codes, and accessibility requirements as reviewed by the Division of Public School Academic Facilities and Transportation.

In addition, the charter school **cannot** be:

- In need of Level 5 – Intensive support under Ark. Code Ann. § 6-15-2915 or in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the corresponding rules adopted by the State Board of Education;
- In receipt of a rating of "F" in the school rating system provided for in Ark. Code Ann. § 6-15-2105; or
- Placed in probationary status by the state charter authorizer under Ark. Code Ann. § 6-23-105

Funding Calculation: Funding is distributed on a pro-rata basis depending on the available funding for the Charter Schools Facility Funding Aid Program. A per-student funding rate is calculated by dividing the total available funding by total ADM counts for all eligible charter schools. The facilities funding aid for each charter school is determined by multiplying the per-student funding rate times the charter's ADM count (prior year 3-quarter ADM or current-year ADM for those schools adding grades or campuses).

The table below provides the number and percentage of charter school facilities participating and the final per-ADM funding rate for FY2016, FY2017, and FY2018. The 3-year average funding rate is $517. The per-ADM funding rate for charter schools has ranged from $562 per student in FY2016 to $455 in FY2018. An increase in the ADM count of the eligible charter schools has contributed to the decline of the funding rate per student.

School Year	# of Charter Schools	# of Charters Receiving Facilities Funding Aid	% Participating	Funding Rate Per ADM
2015-16	22	14	63.6%	$562.57
2016-17	24	17	70.8%	$533.24
2017-18	24	16	66.7%	$455.34

The most often cited reason for charter schools not receiving Facilities Funding Aid was charter schools receiving a rating of "F" in the school rating system provided for in Ark. Code Ann. § 6-15-2105. Two schools, Arkansas Virtual Academy and Arkansas Connections Academy, were disqualified from receiving funds due to virtual instruction being the schools' primary method of instruction. Four of the charter schools had multiple disqualifying factors.

The Facility Funding Aid for charter schools differs from the funding distributed through the Facilities Partnership Program in that the charters receive facility funding on a per-ADM basis each year that the charter qualifies. In comparison, the Partnership Program funding is awarded to school districts on a facility project basis.

USE OF FACILITY FUNDING AID PROGRAM FUNDS

Allowable Use of the Funds: The Facility Funding Aid Program funds can be used only for the lease, purchase, renovation, repair, construction, installation, restoration, alteration, modification, or operation and maintenance of an approved facility that meets specific criteria established in statute (Ark. Code Ann. § 6-23-908(d)). If a charter school fails to use the funds in an approved way or no longer has the need for the funds, the Division of Public School Academic Facilities and Transportation shall certify and recoup the funds. Importantly, the funds from which the Department may recoup funds are limited to state foundation funding, state categorical funding, federal funding if allowed by federal law, and the net assets of a charter school deemed property of the state upon revocation or nonrenewal of the charter after all legal debts are paid (Ark. Code Ann. § 6-23-908(e)).

According to staff in the Department's Finance and Administration Division, the Arkansas Public School Computer Network (APSCN) produces an exception if a charter school attempts to incorrectly post revenue or expenditures using funding from the Facilities Funding Aid Program. The charter school cannot close out their APSCN financial report until all exceptions are corrected.[33]

The Department has established a wide array of allowable expenditure codes charter schools may expense from Facilities Funding Aid, including Personal Services Salaries, Personal Services Employee Benefits, Purchased Professional and Technical Services, Purchased Property Services, Other Purchased Services, Supplies and Materials, Property, and Other.[34]

Actual Use of Funds: Charters reported total expenditures of $14 million over the first three years of the Facility Funding Aid Program, for salaries and benefit costs, utilities, cleaning services, repair and maintenance, rental of land and buildings, construction, insurance, and acquisition of capital assets. Almost 75% of these total expenditures have been used for rental of land and buildings. The table below illustrates how the charter schools have used Facility Funding Aid Program dollars for school years 2015-16 through 2017-18.

Charter Schools' Expenditures from Facilities Funding Aid Program			
Expenditures Reported by Charters:			
Category of Expense	**2015-16**	**2016-17**	**2017-18**
Personal Services (Includes Salaries and Employee Benefits)	$146,952	$0	$175,099
Purchased Professional and Technical Services	$0	$0	$41,528
Purchased Property Services (Includes Utility and Cleaning Services, Repair and Maintenance Services, Rental of Land & Buildings, Construction Services)	$3,870,614	$4,018,539	$3,696,307
Other Purchased Services (Includes Property Insurance)	$188,340	$225,506	$148,452
Supplies and Materials (Includes Energy Expenses)	$285,612	$303,733	$268,391
Property Expenditures - Acquisition of Capital Assets (Includes Building Expenditures & Technology Related Hardware)	$179,903	$402,479	$49,812
Dues and Fees	$0	$100	$0
Total Expenditures	**$4,671,420**	**$4,950,357**	**$4,379,589**

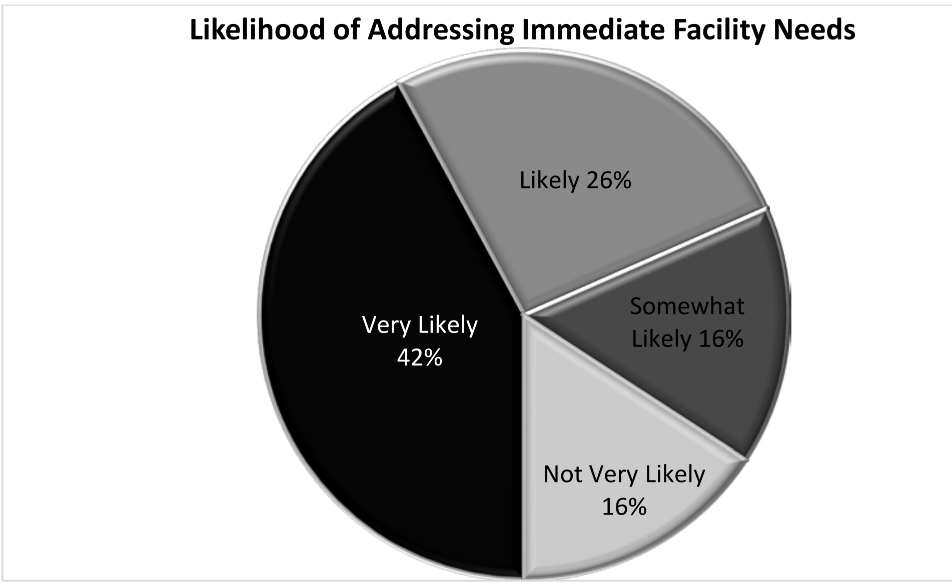
[33] Email from Anita Sacrey, Coordinator of State LEA Funding/Loans & Bonds. Arkansas Department of Education, Division of Elementary and Secondary Education, Fiscal and Administrative Services, September 5, 2019.
[34] Email from Kathleen Crain, Arkansas Public School Computer Network (APSCN), September 5, 2019.

CHARTER SCHOOL SURVEY RESPONSES

The Bureau of Legislative Research surveyed school district superintendents and charter school directors to assess district and charter school perceptions regarding their ability to address their facility needs and what they say are their greatest obstacles to addressing facility needs. The survey was sent to districts and charter schools on July 23, 2019, and as of August 23, 2019, 20 charter schools responded.

Survey Question: What is the likelihood that your school district will be able to fully address identified facility needs requiring IMMEDIATE ATTENTION in the coming school year?

Of the 20 charter schools responding, 19 answered this question and 68% said it was “very likely” or “likely” that they can address immediate facility needs, which is 11 percentage points higher than traditional school districts.



SCHOOL SAFETY

On March 1, 2018, Governor Hutchinson signed an executive order forming the Arkansas School Safety Commission (“Safety Commission”) “to advise the Governor and the Department of Education on school safety across Arkansas.” The Governor specifically charged the Safety Commission “to study the architecture and construction of school buildings as it relates to the safety of students and staff in those buildings, including prevention and response to active shooter threats.”[35] The Safety Commission established a Subcommittee on Physical Security and Transportation to address “Crime Prevention Through Environmental Design (CPTED), physical access control, exterior and perimeter security, lighting, landscaping, interior and exterior doors and locks, exterior and interior monitoring and surveillance, metal detectors and other strategies,” and appointed the Director of the Division of Public School Academic Facilities and Transportation to act as the Subcommittee’s Chair.[36]

The Safety Commission and its Subcommittee on Physical Security and Transportation made the following recommendations regarding physical security measures in school facilities. Following each recommendation is a brief summary of the status of the Division of Elementary

[35] Governor’s Executive Order to Establish the Arkansas School Safety Commission, March 1, 2018.
[36] Arkansas School Safety Commission Final Report, November 2018, page 3.

and Secondary Education's and Facility Division's efforts in response to these recommendations.

- State leaders should engage the Arkansas congressional delegation and other federal partners to encourage the U.S. Department of Education to allow Title IV Student Support and Academic Enrichment Program formula block grants to include use by schools for infrastructure improvements to support safe and healthy schools, including physical security measures.
  Status: *According to the Division of Elementary and Secondary Education (DESE), they have not "reached out to the US Department of Education regarding . . . . any additional leniency with Title IV funding".*[37]

- Districts should create an online facility profile within a panic button alert system for each new campus or facility in the district and conduct annual reviews to update facility profiles where needed.
  Status: *The DESE was unsure if all districts have created an online facility profile within a panic button alert system. Ark. Code Ann. § 6-15-1303 (b)(1)-(2) requires schools to "provide floor plans and pertinent emergency contact information to be used in connection with the panic button alert system through the statewide Smart911 system" and requires public school administration to "update the information as necessary, including when substantial building modifications or changes are made."*
  The DESE did report "the RAVE panic button has been funded for the 2019-20 school year."[38] Governor Hutchinson authorized the release of $800,000 from the Rainy Day Fund to the Arkansas Economic Development Commission to "support the continued utilization of panic button applications in Arkansas schools."[39]

- Districts should review and assess the efficacy of upgrading any old style "crash bar" exterior door egress hardware with the newer "touch bar" type exit devices. In addition, the Safety Commission advised the Division to work with the Fire Marshall and develop a process to remove chains from doors while students are present and insure that any future state-funded renovations include a provision to replace or upgrade critical egress door systems.
  Status: *According to Division Staff, "The Division encourages districts to replace the 'crash bar' with touch bar on emergency exits, however does not require replacing existing 'crash bars'. The revised facility manual may include requirements for upgraded panic door releases. Chaining exit doors while a facility is occupied is against code. Division personnel note any chained or otherwise inoperable emergency exits [during inspections] and require the districts to unchain or otherwise make operable exit doors. Continued violation requires a report to the Fire Marshal for enforcement."*[40] The Arkansas Public School Facility Manual is produced by the Division to provide information to school districts and design professionals that establishes a uniform level of qualify for all public school buildings.[41]

- Require districts to upload project information on the Division's web-based project submission tool relating to the installation of temporary door barricade devices to preclude intruders from entering classroom or learning space **prior** to installing or contracting for the installation. Further, the Safety Commission recommends the Division develop standards or guidelines for temporary door barricade devices.

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[37] Email from Erin Franks, Chief Legislative Affairs Director, Arkansas Department of Education, August 14, 2019.
[38] Email from Mr. Doug Bradberry, School Safety Coordinator, Div. of Elementary and Secondary Education, August 9, 2019. Under Arkansas Code § 6-15-1302(a), a public school district "shall have a panic button alert system if funding is available."
[39] Letter from Governor Asa Hutchinson to Mr. Larry Walther, Secretary of the Department of Finance and Administration, July 3, 2019.
[40] Email from Murray Britton, Senior Project Administrator – Planning and Construction, Division of Public School Academic Facilities and Transportation, August 12, 2019.
[41] Arkansas Public School Academic Facility Manual, Division of Public School Academic Facilities and Transportation, page 1.

Status: *According to Division Staff, "Revised Master Plan Rules, currently being developed [will] require districts to list [installation of door barricades] in the Master Plan as a project prior to installing any barricades or other security measures, including the type of barricade, location, and uploading a brochure of spec sheet on the devices. Because of the liability of temporary barricades, which prohibit responders from entering a classroom in event of an emergency, the Division does not plan, as far as I know, on developing specs or standards for these devices other than to require that the Fire Marshal does not prohibit these devices. The Division encourages the use of intruder resistant locksets that can be unlocked from the outside in case of emergency."*[42]

- The state Academic Facilities Partnership Program should be revised to allow districts to submit eligible campus safety and security upgrade projects for state financial assistance, including exterior mounted video phones, secure entrance vestibules, ballistic-rated glass, or protective security films, video surveillance systems, electronic access controls on exterior doors, intruder locksets on classroom doors, reinforced hallways adjacent to student occupied areas, fully enclosed walkways between buildings, permanently installed screening technologies, visitor management systems, hallway security and fire doors.

  Status: *"The Partnership Program rules currently under development allow districts to apply for Partnership Program funds for comprehensive security upgrades. These proposed projects, if the rules are adopted as proposed, would be considered warm safe and dry systems and ranked as such."*[43] *The Division indicated the rules are awaiting approval and hopes the rules will be "available and approved in time for the 2021-23 Partnership Program funding cycle".*[44]

- The Public School Facility Manual should be revised to provide specific safety and security measures for school districts to consider in the design and construction of new public school academic facilities.

  Status: *Division Staff report that the "Division has recommended changes in the Facility Manual and these changes are awaiting approval".*[45]

  The Division is revising the Public School Facility Manual for the 2021-2023 Partnership funding cycle to create a new chapter specifically for school safety. The Division plans to release the revised manual by the end of March 2020. This chapter will incorporate all current Facility Manual provisions relating to school safety and will also expand what can be reimbursed using Partnership funds so that school districts can renovate buildings to address security needs. At present, the Division staff indicate districts can address safety needs when completing new construction projects.[46]

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[42] Email from Murray Britton, April 12, 2019.
[43] Email from Murray Britton, Senior Project Administrator – Planning and Construction, Division of Public School Academic Facilities and Transportation, August 9, 2019.
[44] Email from Murray Britton, April 12, 2019.
[45] Email from Murray Britton, April 12, 2019.
[46] Phone call with Brad Montgomery, Director, Division of Public School Academic Facilities and Transportation, June 13, 2019.

SCHOOL DISTRICT AND CHARTER SCHOOL SURVEY RESPONSES

Survey Question: In how many of your district's schools are the following security areas in place AND in satisfactory operational condition?

The Arkansas School Safety Commission identified 18 physical security and built environment security areas on which districts should focus. Districts and charters were asked to report if they had in place and in satisfactory operational condition each of these 18 security measures. The security measure with the highest percentage (80%) of districts and charters reporting **no** schools had this measure in place was bullet resistant glass and walls for receiving areas. Video surveillance of campus space was the security measure with the highest percentage (68%) of districts and charters reporting the measure was in place in **all** schools.

Security Measure	No Schools	Some Schools	Most Schools	All Schools	Not Responding
1. Single entry point into district buildings with security vestibule	24%	26%	20%	28%	2%
2. Remote door release for interior doors at reception/main entrance	25%	19%	13%	40%	3%
3. Video intercom systems at reception	30%	19%	8%	40%	3%
4. Bullet resistant glass and walls for receiving areas	80%	9%	4%	3%	4%
5. Visitor Management System managed at the reception desk	21%	11%	8%	56%	4%
6. Intruder lockset hardware on all classroom and staff doors	39%	17%	6%	34%	3%
7. Electronic access for exterior doors	31%	22%	14%	30%	3%
8. Vehicle Ram protections at school entrances	73%	17%	4%	3%	3%
9. Limit external glass and openings into common areas and classrooms	31%	39%	13%	12%	4%
10. Designs that do not require students to go outside to change classes	26%	43%	20%	8%	4%
11. Location of classroom doors that provide areas for students to be out of view and to "hide"	7%	33%	24%	32%	4%
12. Video surveillance of campus space	5%	10%	13%	68%	3%
13. Landscaping alterations to eliminate hiding places for intruders	14%	29%	27%	25%	4%
14. Safe rooms with intruder safety concepts	64%	19%	4%	10%	4%
15. Alterations to fire alarm systems to control school-wide notifications and opening of facility doors	54%	16%	9%	17%	4%
16. Exterior fencing or positioned staff to verify visitors before they enter a building	40%	24%	17%	15%	4%
17. Assign numbers to windows to assist first responders in locating students and intruders	52%	12%	9%	24%	4%
18. Secure roof openings and roof access	24%	15%	13%	43%	4%

FACILITIES DISTRESS

In 2005, Act 1426 established the Academic Facilities Distress Program to provide the state with a mechanism to intervene when districts do not provide adequate academic facilities or comply with facilities rules. Facilities distress is one of two state programs (the other is fiscal distress) used to identify, correct, or sanction a district or school that has not maintained the health and safety of its academic facilities.[47] Although schools or districts placed in facilities distress are given opportunities to address academic facilities issues, the facilities distress program allows the state to exert control over a noncompliant school or district by enforcing statutes regarding construction, health, safety, and other standards.

The following sections discuss the Academic Facilities Distress Program, including district circumstances that result in a district being classified in facilities distress and the steps districts must take to be removed from this designation.

IDENTIFICATION AND CLASSIFICATION

According to Ark. Code Ann. § 6-21-811(a)(1), the Commission for Arkansas Public School Academic Facilities and Transportation ("Commission") "shall classify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the school or school district has engaged in actions or inactions that result in any of the following:

- Material failure to properly maintain academic facilities...;
- Material violation of local, state, or federal fire, health or safety code provisions or laws;
- Material violation of applicable building code provisions or law;
- Material failure to provide timely and accurate facilities master plans to the division;
- Material failure to comply with state law governing purchasing, bid requirements or school-construction related laws or rules in relation to academic facilities projects;
- Material default on any school district debt obligation; or
- Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan…"

School districts may also be classified as being in academic facilities distress when the Commission determines the district has immediate repairs, growth, or suitability issues that require expedited attention, and the school district fails to set a special millage election within a specified time frame following a failed election (Ark. Code Ann. § 6-21-811(f)(2)). However, if a school district is able to finance required immediate repairs, growth, and suitability improvements in lieu of pursuing a special millage election, then the school district may enter into an agreement with the Division to fund its improvements separately, which shall include an implementation timeframe ((Ark. Code Ann. § 6-21-811(f)(2)(E)(i)). The school district shall be identified, however, as being in facilities distress should it fail to implement the agreed-upon plan for immediate repairs, growth, and suitability within the specified timeframe (Ark. Code Ann. § 6-21-811(f)(2)(E)(ii).

Facilities Distress Designations

No individual schools have been placed in facilities distress, and, to date, only one school district has received that designation. In 2008, Hermitage School District was put in facilities distress due to building code and procurement law violations. After correction of the violations, Hermitage was removed from facilities distress in 2009.

[47] Arkansas Department of Education Rules Identifying and Governing the Arkansas Fiscal Assessment and Accountability Program, Section 4.01.2, effective June 25, 2018.

MECHANISMS FOR COMPILING FACILITIES CONDITION INFORMATION

One way the Commission obtains information regarding school districts' facilities conditions is through statutorily required random unannounced on-site inspections conducted by the Division of Public School Academic Facilities and Transportation ("Division") of all academic facilities in the state [Ark. Code Ann. § 6-21-813(a)]. According to the Division, there were a total of 2,263 inspections completed in 2017-18, and 2,101, or 93% of these inspections were initial academic building inspections that include reviews of building systems, janitorial conditions and health and safety conditions. In addition, the Division completed 35 follow-up inspections, five special investigations, seven construction inspections, and 115 Computerized Maintenance Management System inspections.[48] The Division has six full-time inspector positions and a senior administrator position authorized for the Maintenance Division to complete maintenance and operation inspections. It takes about four years to inspect all school buildings. In addition, the Division's Planning and Construction Section has six full-time inspector positions and a senior administrator position authorized to complete construction inspections.[49]

State law also requires superintendents of school districts to report to the Division if they are aware that the district has experienced two or more indicators of facilities distress in one school year that the superintendent deems to be nonmaterial but that could result in a facilities distress classification if not addressed (Ark. Code Ann. §6-21-811(c)(2)).

In addition, state law requires the Division to work with school districts, state agencies, and commissions to complete required inspections (Ark. Code Ann. § 6-21-813(e)(1)), such as inspections of boilers, electrical systems, heating, ventilation, air conditioning systems, and natural gas piping systems, and requires that the Division be provided copies of all scheduled or unscheduled inspection and re-inspection reports. When the Division receives reports of inspections or code violations from state agencies, the Division contacts the districts and requests the districts create an inspection work order in the Computerized Maintenance Management System (known as "School Dude") to remediate the complaint and to close the work order when the issue is resolved. School Dude is used by schools and districts to send maintenance requests and track all state mandated inspections, and it also allows the Division to view and track the progress of work orders to confirm that all academic facility deficiencies have been corrected. The Division also confirms completion of the work by a maintenance inspection and a visual inspection.[50] Act 933 of 2019 requires school districts to use School Dude to:

- Enter and track all reactive and preventive maintenance work;
- Enter preventive maintenance schedules for academic and non-academic facilities systems;
- Document completed reactive and preventive maintenance work; and
- Schedule state-mandated inspections.

This mandate for the use of the School Dude system will provide more comprehensive information to the Division as they assess the condition of school districts' facilities.

EARLY INTERVENTION PROGRAM

The Division uses the information provided by Division inspections, state-mandated inspections, and school district reports in an Early Intervention Program created by Act 798 of 2009. This early intervention program seeks to address facility issues before they advance to the point a school or school district is classified as being in facilities distress. State law requires the Division to notify superintendents when they have identified two or more indicators of facilities distress that while nonmaterial could place the district in facilities distress if not addressed. (Ark.

[48] Site Visit Total Report 18-19 (as of April 5, 2019), Division of Public School Academic Facilities and Transportation.
[49] Phone call with Facilities Division staff, Mr. Darrell Tessman and Mr. Murray Britton, July 2, 2019.
[50] Statewide State of Condition of Academic Facilities, October 1, 2018, pages 2 and 3.

Code Ann. §6-21-811 (c)). Statute further requires the notification of school board members of these indicators of facilities distress and requires the issue to be placed on the agenda for the next scheduled board meeting for discussion. When a code violation is discovered and reported, school district maintenance personnel are required to schedule a follow-up inspection with the Division and submit a work order through School Dude.

The Division maintains a Facilities Distress Indicator Tracker Report to monitor those districts with indicators of facilities distress. In school year 2017-18, the Division identified 58 indicators of district failures regarding public school facilities. In addition, the Division identified 10 districts with two or more indicators of district failures that put them at risk of being designated as in facilities distress. Of the 58 total identified indicators of potential facilities distress that were documented, 50% of these indicators, or 29 of them, involved the failure to ensure that all lawfully required inspections were performed as required by Ark. Code Ann. § 6-21-811 (a)(1)(B). The second most cited indicator identified by the Division, with 13 instances, or 22%, was failure to receive prior construction approval from the Division for new construction projects. The third most cited indicator identified, with seven instances, or 12%, was failure to submit construction plans to appropriate state agencies for review prior to beginning construction.

INDICATOR TYPE DESCRIPTION	# of Instances Identified	% of Total
Failure to ensure that all lawfully required inspections are performed? ACA§ 6-21-813 (e)(1)	29	50.0%
For new construction project(s) (regardless of funding source), failure to receive construction approval from division? ACA§ 6-20-1407	13	22.4%
For new construction project(s) (regardless of funding source), failure to submit construction plans to appropriate state agencies for review? ACA§ 6-20-1407	7	12.1%
Material failure to properly maintain academic facilities? ACA§ 6-21-811 (a)(1)(A)	3	5.2%
Material failure to provide timely and accurate facilities master plans to the division? ACA§ 6-21-811 (a)(1)(D)	2	3.4%
For self-construction project(s) (regardless of funding source), failure to submit construction approval form to division? Rules Governing Self Construction Projects by Public Education Entities, Section 4.00	1	1.7%
For project(s) with cost exceeding $20,000, failure to solicit bids with required advertising? ACA§ 22-9-203 (a)	1	1.7%
For project(s) with cost exceeding $25,000, failure to use an Arkansas licensed engineer to design parts of the project that involved engineering (structural, plumbing, electrical, HVAC, etc.)? ACA§ 22-9-101	1	1.7%
Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan? ACA§ 6-21-811 (a)(1)(G)	1	1.7%
Total Identified Indicators	**58**	**100%**

The Division shows 42 of these identified indicators being satisfied by the end of SY2017-18, leaving 16 indicators with the designation of "Pending." According to the Division, 15 of the 16 indicators were carried forward from prior years, and the Division determined that it should not carry forward pending issues that cannot subsequently be satisfied, such as failure to receive prior approval for construction plans. The one remaining indicator that was **not** carried forward from a prior year, an indicator for Rivercrest School District, is a finding-of-fact deficiency, in which the district failed to receive State Fire Marshall approval prior to advertising and receiving bids for a bus garage. The fact that the district failed to receive prior approval cannot be changed, and therefore, the Division continues to show this deficiency as "Pending." The Division has indicated that these finding-of-fact deficiencies would probably be better described by a different term than "Pending," and would like to address this terminology issue in the future.

REQUIREMENTS AND REMOVAL

A district in facilities distress is required to submit a facilities improvement plan for the Division approval within 30 days from the date of classification (Ark. Code Ann. § 6-21-811 (d)(1)). The plan must identify and provide a detailed timeframe to remedy all material failure(s) that led to facilities distress.

The Division, with the approval of the Commission, may provide on-site technical evaluation and assistance and make written and binding recommendations to the superintendent regarding the care and maintenance of school facilities (Ark. Code Ann. § 6-21-811(g)).

If a district or school has immediate needs for urgent repairs, renovations or construction, it may apply for a loan from the Division (Ark. Code Ann. § 6-21-811 (k)(1)(A)) or other assistance, such as the Academic Facilities Partnership Program. If a loan is provided, it must be repaid from funds not required to provide an adequate education. In addition, a school or district in facilities distress may not incur a new debt obligation without permission from the Division.

Besides restrictions on debt, the Division (with permission from the Commission) can impose other sanctions on schools or districts in facilities distress such as:

- Requiring a special election for a millage increase to support facilities construction or repair;
- Requiring the superintendent to step down and appoint a replacement;
- Suspending or removing local school board members;
- Assuming authority over a district in facilities distress;
- Prohibiting the district from spending money on any activity that is not part of providing an adequate education; or
- Petitioning the State Board of Education to consolidate, annex, reconstitute, or dissolve the district.

During this time, students may transfer to another district or school that is not in facilities distress (Ark. Code Ann. § 6-21-812(a)).

To be removed from facilities distress, the Division must certify that the school or district has corrected all issues that caused it to be in facilities distress. Then, the Commission must approve the Division's recommendation for removal. Schools or districts in facilities distress must correct their academic facility issues within five consecutive school years (Ark. Code Ann. § 6-21-811(g)(11)(C)). A school district that cannot be removed from facilities distress within five years must be consolidated, annexed, or reconstituted. However, the State Board may grant more time if it determines that the school or district could not be removed from facilities distress "due to impossibility caused by external forces beyond the control of the public school or school district." (Ark. Code Ann. § 6-21-811(g)(11)(D)).

APPENDIX A

HISTORY OF FACILITIES FUNDING

In a May 25, 2001 decision by Judge Kilgore of the Chancery Court of Pulaski County, in *Lake View School District No. 25 v. Huckabee*, the court found that "[school] [b]uildings properly equipped and suitable for instruction are critical for education and must be provided":
"…the equal protection and opportunities guaranteed by Article 2, § 2, 3, and 18 have not been provided in that every school district does not have an equal opportunity to build, renovate and/or maintain the necessary physical plant. To provide an equal opportunity, the State should forthwith form some adequate remedy that allows every school district to be on equal footing in regard to facilities, equipment, supplies, etc. Under Arkansas Constitution Article 14, §1 and Article 2, §§ 2, 3, and 18, school districts throughout the State must provide substantially equal buildings properly equipped and suitable for instruction of students. Denying these facilities based solely on the district's location in a poorer part of the State is not a compelling reason for the State to abandon its constitutional obligations."

The court directed the state to develop a remedy to address the facilities issues. The 84th General Assembly created the Joint Committee on Educational Facilities in 2003. The committee was charged with making recommendations to the General Assembly regarding its responsibilities to provide adequate and substantially equal educational facilities for the state of Arkansas. Act 84 of the Second Extraordinary Session of 2003 appropriated $10 million for a statewide facilities assessment, and Act 85 of that session provided the funding. The Joint Committee on Educational Facilities created a legislative task force to assess facilities needs with the help of consultants, and on November 30, 2004, the task force filed its Arkansas Statewide Educational Facilities Assessment – 2004. The report estimated that the total cost of bringing facilities up to proposed building standards would be $2,278,200,457.

On February 22, 2005, the task force filed an addendum to the report that decreased the total cost by $348 million. The reduction was due to the elimination of the costs of "playfields, tennis courts, and abandoned buildings" that were no longer used for instructional purposes. The cost was also reduced due to "further data analysis and input from local school districts." The addendum categorized the remaining $1.93 billion worth of deficiencies into nine major deficiency classifications. The highest priority category was known as "safe, dry and healthy." The deficiencies in that category consisted of building needs related to fire and safety issues, roofing, windows and exit doors, plumbing, major electrical, HVAC, and structural needs that were important to providing a safe and comfortable environment, maintaining the integrity of the building envelope, or maintaining an operational status from a mechanical, electrical or plumbing standpoint.

Following the assessment, the General Assembly passed Act 1426 of 2005, creating the Arkansas Public School Academic Facilities Program. The act asserted that the state should:

1. "Provide constitutionally appropriate public school academic facilities" for each student regardless of where the student lives;
2. "Require all public school academic facilities to meet applicable facilities standards"; and
3. "Provide that all public school students are educated in facilities that are suitable for teaching."

Act 1426 also established the **facilities distress program** and called for the creation of three **facilities manuals containing standards for the maintenance, construction, and equipment** necessary for providing an adequate education. During that same legislative session, the General Assembly passed Act 2206, which created four funding programs for facilities construction and renovation; Act 2138, which appropriated $120 million for those funding programs over two years; and Act 1327, which established the **Commission for**

Arkansas Public School Academic Facilities and Transportation (Facilities Commission) to be responsible for implementing the academic facilities programs. The four funding programs created during that legislative session were:

1. The **Immediate Repair Program** (§ 6-20-2504 [repealed]) was created to provide funding for immediate repair needs that school districts had on January 1, 2005, as determined by the 2004 Educational Facilities Assessment report from the Task Force to the Joint Committee on Educational Facilities. The Immediate Repair Program paid for repairs to structures — such as heating and air systems, roofs, and water supply equipment — of school districts that applied for funding by July 1, 2005. The program expired by statute January 1, 2008.

Program	Total State Funding Provided to Districts	Projects Completed	Districts
Immediate Repair	$28,079,953	239	123

2. The **Transitional Program** (§ 6-20-2506) was designed to reimburse school districts for projects that were under design or in construction prior to the start of the Partnership Program. The Transitional Program paid for new debts incurred between January 2005 through June 2006. The Transitional Academic Facilities Program ended July 1, 2009.

Program	Total State Funding Provided to Districts	Projects Completed	Districts
Transitional	$86,000,000	213	96

3. The **Catastrophic Program** (§ 6-20-2508) authorizes the Arkansas Division of Public School Academic Facilities and Transportation (Facilities Division) to distribute state funding to school districts for emergency facility projects due to an act of God or violence. The purpose of the funding is to supplement insurance or other public or private emergency assistance. The following table provides the total funding distributed between FY2008 through FY2018.

Program	Total State Funding Provided to Districts	Projects	Districts
Catastrophic	$2,842,862	14	14

4. The **Academic Facilities Partnership Program** is the state's main school facilities funding program for ongoing facilities construction needs. The state and the districts share the cost of school facilities construction based on the wealth of each school district. Under the program, the Facilities Division helps schools identify immediate and long-term building needs and distributes funding for a portion of the cost of necessary construction. The Partnership Program funds new construction projects and major renovations, not general repair or maintenance.

Following the 2005 legislative session, in October 2005, the Special Masters, who were appointed by the Arkansas Supreme Court to examine issues raised in the Lake View lawsuit, noted, "The funds appropriated for facilities repair, renovation and construction during this biennium ($120,000,000) do not come close to addressing the state's public school facilities needs." The court agreed, noting, "Facilities funding, by all appearances, falls short."

In response, the General Assembly passed Act 20 in the April 2006 Extraordinary Session. That legislation appropriated an additional $50 million for the Partnership and Transitional facilities programs ($25 million each) for FY2005-06, delaying a more permanent fix until the 2007 regular session.

Act 20 also included special language to protect the Educational Facilities Partnership Program from the doomsday clause [§ 19-5-1227(d)]. The doomsday clause calls for the reduction in the General Revenue allocated to all other state agencies and programs if the Department of Education does not have enough revenue to fully fund what the General Assembly has determined to be the amount necessary for an adequate education. The new protection was the result of the House and Senate Education Committees' determination that the Public School Academic Facilities Program and related funding sources are integral parts of the concept of "adequacy."

The General Assembly also passed Acts 34 and 35 in the 2006 Extraordinary Session, creating the **Academic Facilities Extraordinary Circumstances Program**. This program was designed to respond to a concern that some districts would not be able to raise enough money locally to provide their share of the Partnership Program. Without this local match, these districts would be unable to tap into available state funds.

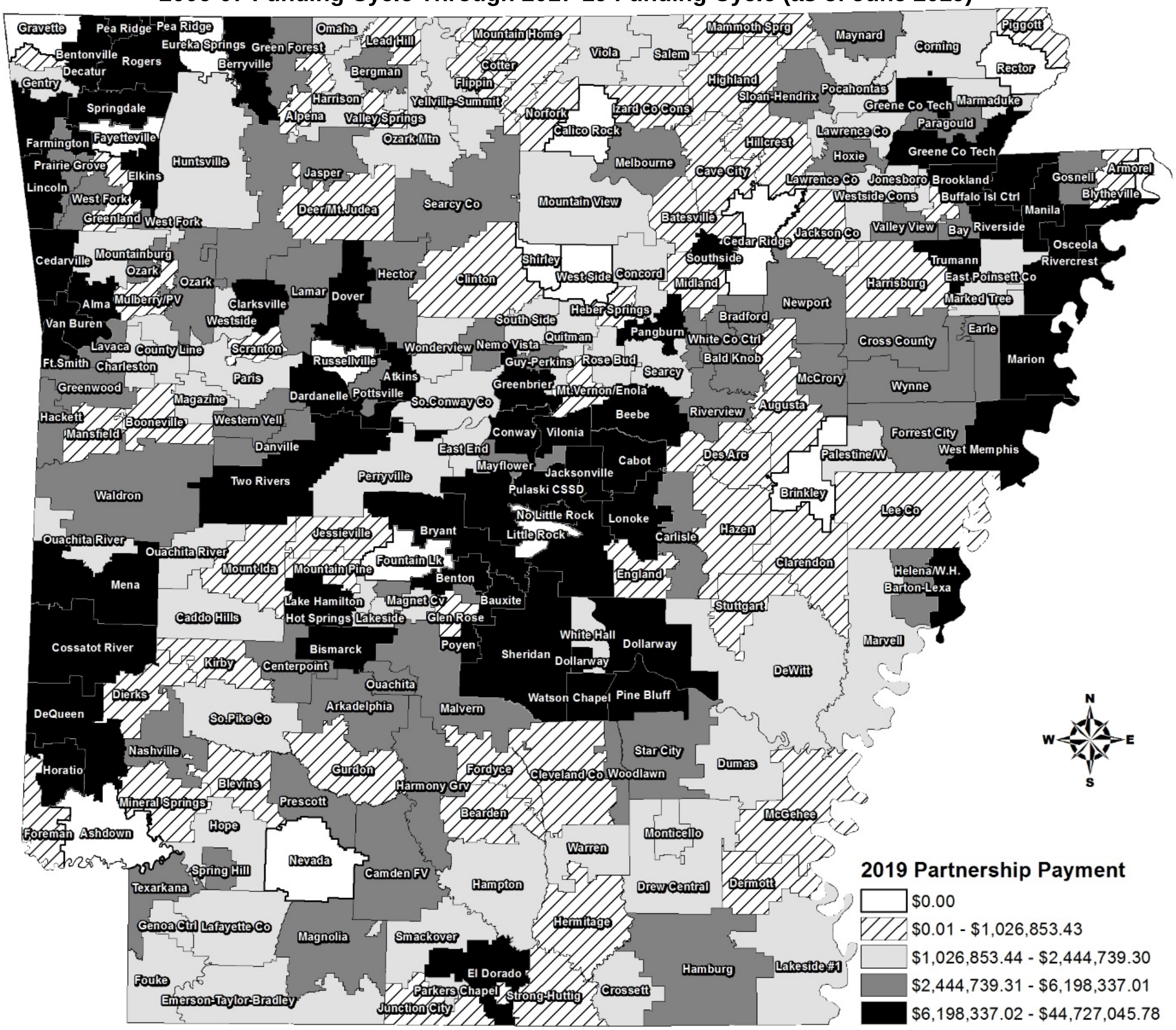
Having taken some limited measures during the 2006 Extraordinary Session, the General Assembly aggressively responded to the Supreme Court's criticisms during its 2007 regular session. The Legislature passed Act 1237 of 2007, which appropriated about $455.5 million in state surplus funding to support the Partnership Program.

The General Assembly also passed Act 995 of 2007, which called for the creation of an **interest-free loan program for high-growth districts**. Only districts with at least 4% annual growth in average daily membership (ADM) are eligible for the high-growth loans. Qualifying districts are eligible for loans necessary for any academic facilities-related debt that exceeds the amount of revenue generated in the district from 10 mills.

Following the 2007 session, the Supreme Court reviewed the Legislature's latest facilities efforts and found the infusion of $455.5 million in new funding commendable. In May of that year, the court released the state from court supervision.

APPENDIX B - TOTAL PARTNERSHIP PROGRAM PAYMENTS

2006-07 Funding Cycle Through 2017-19 Funding Cycle (as of June 2019)



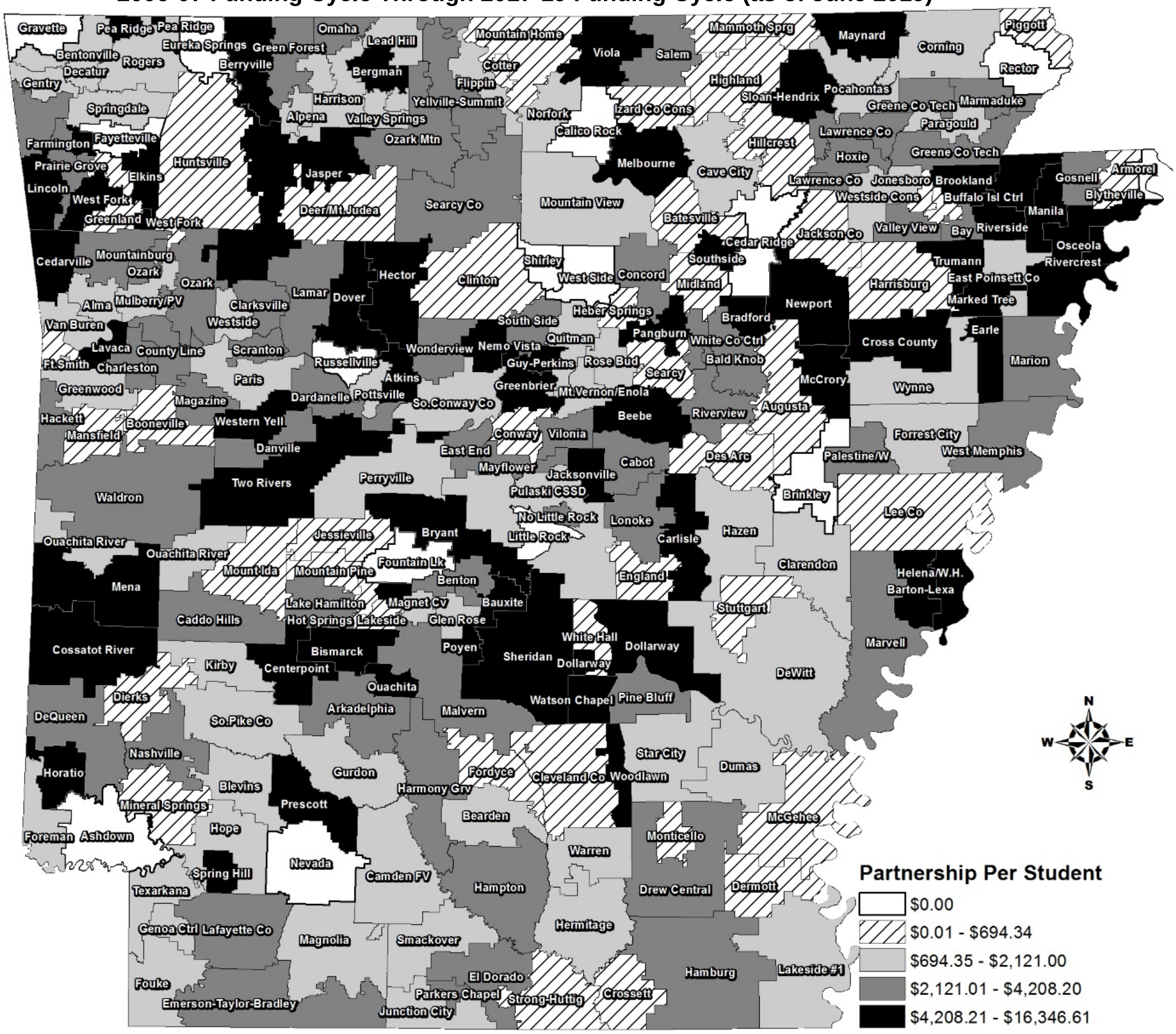
10 5 0 10 20 30 40 Miles

Map prepared by the Bureau of Legislative Research, Policy Analysis & Research Section
School District and County Boundaries, from the GIS Office integrated the Arkansas Spatial Data Infrastructure (ASDI)

Note: Payments made to Stephens ($625,791) and Twin Rivers ($389,201) were not included because they were consolidated with multiple districts.

APPENDIX C - TOTAL PARTNERSHIP PROGRAM PAYMENTS PER ADM

2006-07 Funding Cycle Through 2017-19 Funding Cycle (as of June 2019)



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School District and County Boundaries, from the GIS Office integrated the Arkansas Spatial Data Infrastructure (ASDI)

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