Research Report

Review of Academic Facilities Programs and Funding

March 10, 2010

Prepared for
THE JOINT ADEQUACY EVALUATION OVERSIGHT SUBCOMMITTEE

BUREAU OF LEGISLATIVE RESEARCH

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About This Report

This report was designed to provide updated information and new analysis on the state facilities funding programs. The report is divided into four main sections:

- **Adequacy requirements related to facilities**: Ensuring the integrity and suitability of academic school buildings is part of the state's obligation to provide an adequate education. This section examines the state's obligation as it relates to varying priority levels of new construction projects.

- **Updates on facilities programs**: This section provides information on the progress of projects that have been approved for funding through the state's facilities funding programs. It also provides data on program expenditures, the state's funding commitments and fund balances.

- **Districts dealing with failed millages**: When millage elections fail, school districts are often unable to raise the local share of the cost of new construction projects. This section examines the effects of failed millage elections on districts and what the state is doing to ensure that facilities in those districts are adequate.

- **School districts' use of federal stimulus funding for facilities projects**: The American Recovery and Reinvestment Act is providing significant new funding to school districts and many are using the money for facilities projects. This report examines the ways in which districts are using the funding for facilities and how they're coordinating these funds with money from the Partnership Program.

Adequacy Requirements Related to Facilities

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:

> "…the equal protection and opportunities guaranteed by Article 2, ss 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, s1 and Article 2, ss 2, 3, and 18, school districts throughout the State must provide substantially equal building 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 come up with a remedy to satisfy the facilities issue. The 84th General Assembly created the Joint Committee on Educational Facilities in 2003. The committee was charged with making recommendations to the General Assembly relative to its responsibilities to provide adequate and substantially equal educational facilities for the state of Arkansas. In June 2003, the Task Force on Educational Facilities was established. Act 84 of the Second Extraordinary Session of 2003 appropriated $10,000,000 for a statewide facilities assessment, and Act 85 of that session provided funding. On November 30, 2004, the Task Force filed its Arkansas Statewide Educational Facilities Assessment - 2004, which listed total costs for bringing facilities up to proposed building standards at $2,278,200,457. The assessment also incorporated a prioritization list and described the four priorities as follows:

> **Priority 1 — Mission critical concerns:** Deficiencies or conditions that directly affect the school's ability to remain open or deliver the educational curriculum, including items related to building safety, accessibility codes, and severely damaged or failing building components.
>
> **Priority 2 — Concerns with an indirect impact to the educational mission:** Items that if not addressed in the near term may progress to a Priority 1 item, including poor roofs that if they deteriorate further will cause deterioration or integral building systems and HVAC and plumbing issues that may render the building unusable if not addressed. These are systems that are at risk of failing within one year.
>
> **Priority 3 — Short-term conditions:** Items that are necessary to the mission of the school, but may not require immediate attention.
>
> **Priority 4 — Long-term requirements:** Items or systems that are likely to require attention within the next five years or items that would be considered an enhancement to the instructional environment. The enhancements may be aesthetic or may provide greater functionality and include cabinets, finishes, paving, removal of abandoned equipment and educational enhancement associated with special programs.

The assessment noted that Priorities 1, 2, and 3 are those items needing correction in order to keep the facility safe, dry, and healthy.

On February 22, 2005, the Task Force filed an addendum to the report, which noted nine major deficiency classifications. Those classifications, as described in the addendum, are:

1. **Safe, Dry and Healthy:** These deficiencies essentially consist of building needs that pertain to the fire and safety needs, roofing, windows and exit doors, plumbing, major electrical, HVAC, and structural needs. These items may align closely with Priority One items and are important to providing a safe and comfortable environment for the building's inhabitants, maintaining the integrity of the building envelope, or maintaining an operational status from a mechanical, electrical or plumbing standpoint.

2. **General Building Improvement:** These deficiencies are similar to the Safe, Dry and Healthy classification as they include roofing, plumbing, HVAC, electrical, fire and safety items. These items were identified as needing repair or replacement but are less significant than Safe, Dry, and Healthy. An example of a General Building Improvement is a rusted downspout within the roofing system. Although it is rusty, it may still do its job of carrying water off a roof. It needs to be replaced eventually and probably should be replaced when the roof is being repaired.

3. **"Year Zero" Life Cycle Deficiencies:** Assessors identified current needs for all facilities. They also gathered data on major building systems and components to determine particular components that have reached the end of their life. These items may be operating today, however they have exceeded their useful life and long term functionality cannot be expected.

4. **Interior Improvements:** Identified needs that primarily concern interior finishes. Walls, flooring materials, and ceiling needs are included in this classification.

5. **Americans with Disabilities Act [ADA]:** Needs that pertain to providing access to people with disabilities, including site, access, restrooms, and life safety.

6. **Site and Playfields:** Deficiencies that pertain to the exterior site and may include parking, sidewalks, covered walkways, exterior lighting, and playgrounds. The updated costs associated with playfields have been eliminated.

7. **Educational Improvements:** Deficiency items that directly affect the educational environment. These may include functional equity concerns and will address instructional aids, support for instructional programs, computing infrastructure, and other educational needs.

8. **Specialties:** Includes items such as writing surfaces, elevators, moveable partitions, and stage equipment.

9. **Technology:** Deficiencies related to and including the public address and intercom system, telephones, and computer technology infrastructure.

The classification system was noted, without objection, in the Special Masters Report dated October 3, 2005. Clearly, facilities with safe, dry, and healthy issues are the top priority for funding. However, the other eight categories are also part of adequate facilities considerations.

In 2005, the General Assembly created a variety of funding programs to pay for construction, renovation and repair of school buildings and appropriated new money to the Educational Facilities Partnership Fund Account to support those programs. In their 2006 biennial review of educational adequacy, the House and Senate Education Committees confirmed that the

Public School Academic Facilities Program and related funding sources are integral parts of the concept of "adequacy" but noted that they were not protected under the "doomsday" clause [A.C.A 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. In recognition of the need for an assurance of adequate funding, Act 20 of the First Extraordinary Session of 2006 included a provision to ensure that the Educational Facilities Partnership Fund Account is protected under the doomsday clause.

Update on Facilities Programs

Since 2005, the state has funded new school construction and renovations through four main funding programs. The four programs, managed by the Division of Public School Academic Facilities and Transportation (Facilities Division), are:

- Immediate Repair
- Transitional
- Catastrophic
- Partnership

Immediate Repair Program

The Immediate Repair Program (A.C.A. 6-20-2504) was created to provide funding for immediate repair needs that schools 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.

Fiscal Year	Total Program Expenditures
FY06	$14,823,794
FY07	$11,389,313
FY08	$1,866,846
Total	**$28,079,953**

Total Projects	Projects Completed	Projects Cancelled
303	244	59

Transitional Program

The Transitional Program (A.C.A. 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 June 30, 2009.

Fiscal Year	Total Program Expenditures
FY06	$15,791,117
FY07	$54,035,149
FY08	$12,532,629
FY09	$3,641,105
Total	**$86,000,000**

Total Projects	Projects Completed	Projects Cancelled
222	212	10

Catastrophic Program

The Catastrophic Program (A.C.A. 6-20-2508) authorizes the 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.

Fiscal Year	Total Program Expenditures
FY06	
FY07	
FY08	$135,326
FY09	$216,327
Total	**$351,653**

Total New Projects Approved and Funded	Projects That Have Not Started	Projects in Progress	Projects Completed
7	1	1	5

Partnership Program

The Partnership Program, the Facilities Division's main facilities program, was created by statute (A.C.A. 6-20-2507) in 2005. Under the program, the Division helps schools identify immediate and long-term building needs and distributes funding for a portion of the cost of necessary construction. The Division awards funding based on a district's Facility Wealth Index, where the state pays poorer school districts for a larger percentage of their construction costs than it pays wealthier districts.

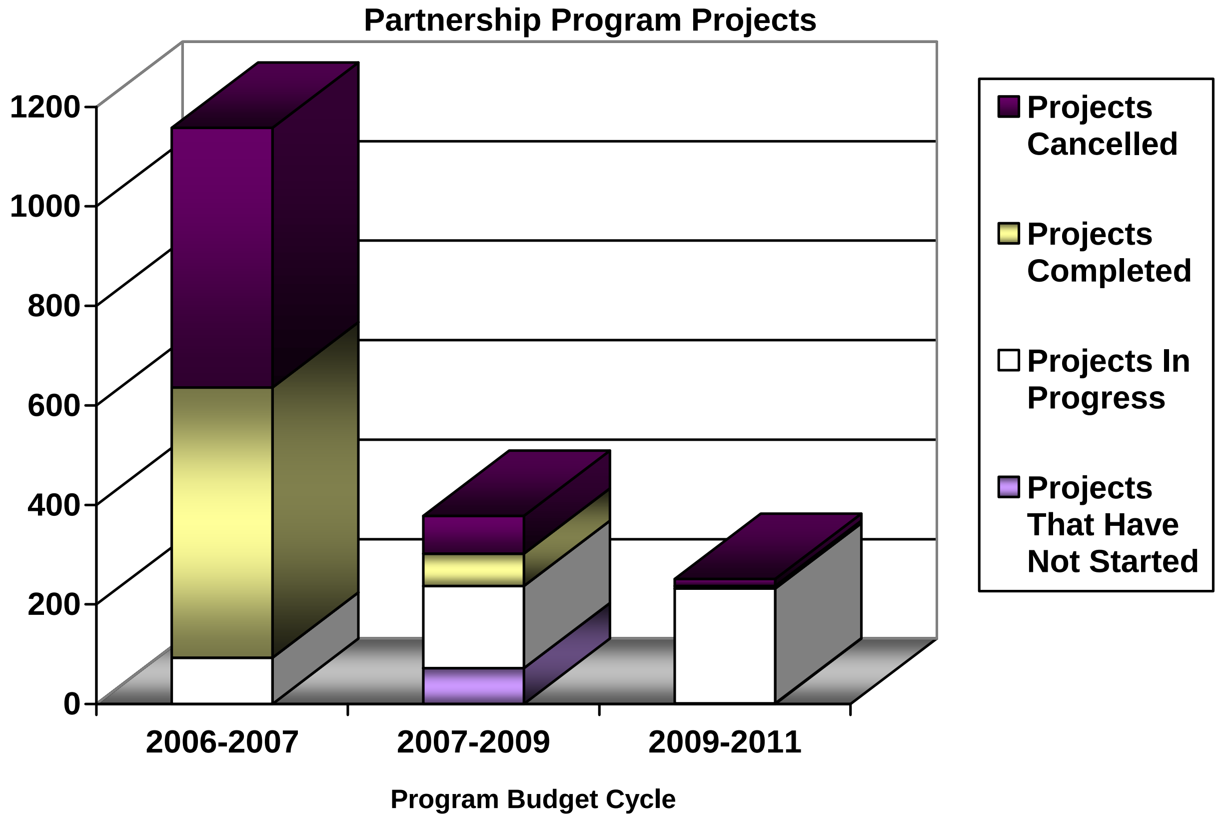
A school district's Facility Wealth Index is determined by first calculating the value of one mill per student. For example, the value of one mill per student in a district with 500 students and a total valuation of $100 million would be $200.

Total valuation		Value of 1 mill	ADM	Value of 1 mill per student
$100 million	X .001	=$100,000	/500	=$200

Districts are then ranked by their value of one mill per student and then arranged into percentiles with the first percentile containing the 1% of students with the lowest value of one mill per student and the 100th percentile containing the 1% of students with the highest value per mill. Then, the value of 1 mill per student in each school district is divided by the value corresponding to the 95th percentile.

For 2009, Poyen School District had the lowest Wealth Index at .1422, meaning the state pays for 85.78% of each approved project. Eleven districts had the highest Wealth Index, .9950. Those districts are Armorel, Ashdown, Bentonville, Cedar Ridge, Eureka Springs, Fayetteville, Fountain Lake, Gravette, Jessieville, Russellville, and West Side. The state pays .5% of each of their approved projects.

The following chart shows the progress that has been made on the approved Partnership projects for each budget cycle since the program's creation.



Since the Partnership Program's inception in 2006, a total of 1,787 projects have been approved for funding. Of those, 612 (34.2%) have been cancelled either due to a statutory sunset provision or because the school rescinded the project (see the "Delayed and Cancelled Partnership Projects section below for more information about these projects). Another 489 (27.4%) are in progress, 613 (34.3%) have been completed, and 73 (4.1%) have not started. (Projects in the 2006-07 project cycle are considered to be in progress if there is at least a signed contract. Projects in the 2007-09 cycle are in progress if the district has submitted some construction documents to the Facilities Division, and 2009-11 projects are in progress if there is a signed project agreement between the Division and the district.)

Of the 247 projects approved for the 2009-11 project cycle, 163 were considered "warm, safe and dry" projects, while 84 were categorized as space projects — expansions, new buildings or space reconfigurations. A warm, safe and dry project is one that supports a school's fire and safety needs, roofing, major plumbing systems, major electrical systems, HVAC systems and structural needs.

According to the Facilities Division, Partnership Program expenditures through FY2009 total $226,781,360, which has been spent as follows:

Fiscal Year	Total Program Expenditures
FY06	NA
FY07	$17,631,819
FY08	$90,460,859
FY09	$118,688,682
Total	**$226,781,360**

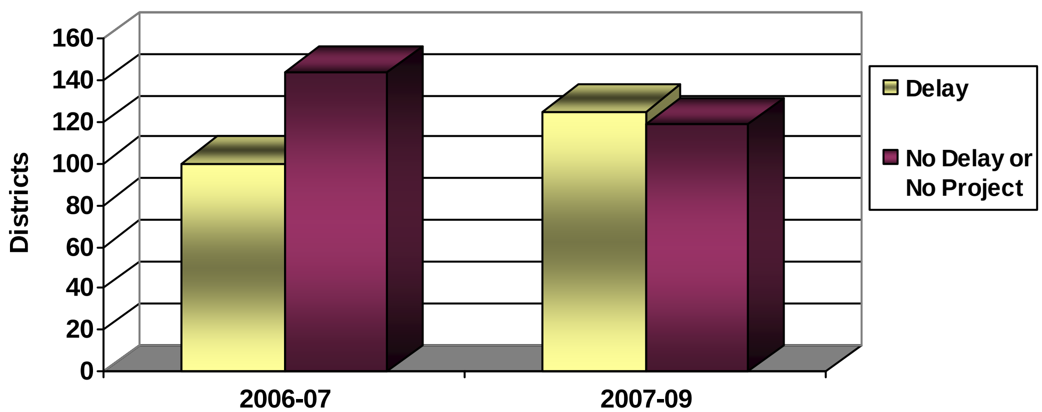
Sixteen districts have never applied for Partnership funding. Those districts are Ashdown, Brinkley, Cleveland County, Crossett, Cushman, Eureka Springs, Fountain Lake, Glen Rose, Gravette, Hazen, Little Rock, Nevada, Russellville, Searcy County, Weiner and Westside. Of those 16, six have a 2009 Wealth Index above .990, meaning they are among the wealthiest districts, and therefore the state would pay less than one percent of the total cost of a project.

Delayed and Cancelled Partnership Projects

Since the beginning of the Partnership Program, some school districts have been slow to actually start the construction projects for which the state has agreed to provide funding. In a survey of all school districts, the Bureau of Legislative Research (BLR) asked district leaders about these delays. Of the 244 districts, 41% (100 districts) indicated that they had been approved for Partnership Program funding in the 2006-07 budget cycle, but had not spent the money, while 59% (144 districts) either had no projects funded by the Partnership Program or had spent all of the money they were approved to receive. In the 2007-09 budget cycle, 51% (125 districts) experienced delays, while 49% (119 districts) indicated that they either had no project or no delay.

Survey question: If your district was approved for state facilities funding, but has not yet spent the money, what are the main reasons for the delay?

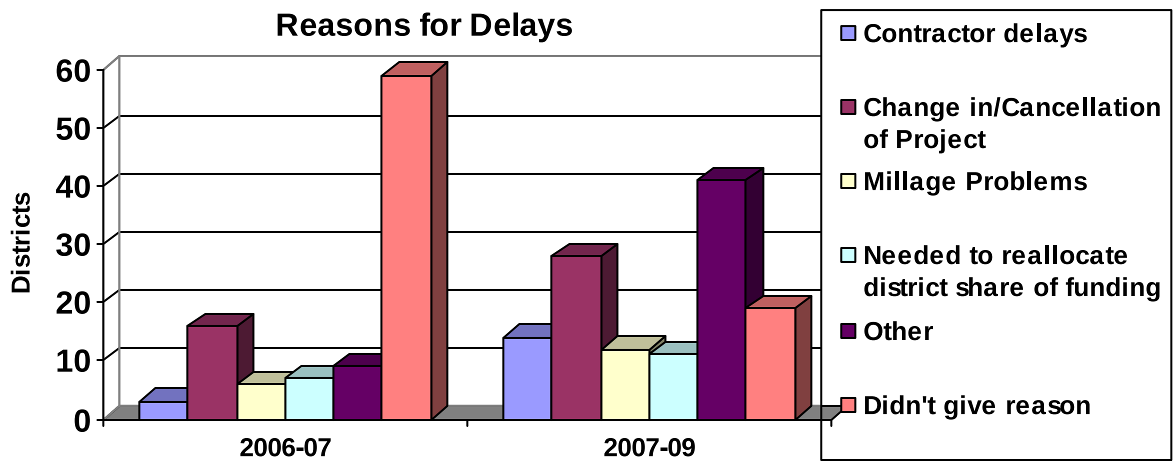
Answer choices: 1.) Does not apply to my district 2.) Project canceled or changed 3.) Unable to pass necessary bond 4.) Needed to reallocate the district's portion of project funding, rendering state portion inaccessible 5.) Other



The reasons that districts gave for the delays varied widely. The reason mentioned most was a project change or cancellation. In the 2006-07 cycle, 16% of the school districts that had not spent their Partnership funding cited a change or cancellation in their project. In 2007-09, 22% blamed a project change or cancellation.

Reasons given by districts that selected "other" as their response included:

- School scheduling issues (i.e., arranging construction around class schedules)
- Changes in administration
- Changes in project schedule
- Inadequate Partnership Program funding, (i.e., the funding was less than anticipated or not enough to cover actual costs)
- Unpredictable enrollment patterns
- Delays in Facilities Division project approval process, or the state approval process was slower than anticipated



To ensure that Partnership funding does not remain endlessly obligated to projects that are not progressing, a sunset provision was established during the 2009 legislative session (SB861, Act 1473). The Arkansas Commission of Public School Academic Facilities and Transportation (Commission) may now withdraw its funding commitment to all projects approved in 2006 that had not begun construction by January 31, 2010 [A.C.A. 6-20-2507(d)(3)(A)]. Likewise, the Commission's funding commitment would sunset for projects approved in 2007 that have not begun construction by January 31, 2011 [A.C.A. 6-20-2507(d)(3)(B)].

A total of 206 projects approved in the 2006-07 cycle were cancelled in 2010 because of the sunset provision. When a project is cancelled, the money committed to that project is freed for other approved facilities projects, including projects in the catastrophic program. The BLR requested the total state funding that had been committed to those 206 projects, and the Facilities Division provided the following response:

> "We are not going to have this answer soon. We are in the process of contacting all the school districts that did not provide the required construction contracts to determine whether or not the projects were ever completed with local funds or cancelled all together. The issue is not and should not be a funding question but rather whether or not the [school districts] are doing what has to be done [in accordance with] their Master Plan to solve [safe, dry, and healthy] and suitability issues. Also some of these [school districts] have these projects on going at this time so we have to clear that matter up before we can determine what if any savings remains from the sunset provision."

Other projects are cancelled when districts decide not to move forward with planned construction. A total of 681 projects have been cancelled since the beginning of the facilities programs, including the 206 projects cancelled due to the sunset provision.

Program	Total Projects Cancelled
Immediate Repair	59
Transitional Program	10
Catastrophic Program	0
Partnership Program 2006-2007	522, including 206 that hit the sunset provision
Partnership Program 2007-2009	76
Partnership Program 2009-2011	14
Total Cancelled Projects	**681**

It is not known how many of the 681 cancelled projects were warm, safe, and dry projects. The Facilities Division only began tracking projects by type (i.e., warm, safe and dry; space, etc.) with the 2009-11 cycle. The new tracking system was established as a result of new Partnership Program rules establishing a revised priority ranking system. Of the 14 projects that have been cancelled in the 2009-11 cycle, four were warm, safe, and dry projects. When school districts cancel warm, safe, and dry projects — the state's highest facilities priority — Facilities Division director Doug Eaton said the Division usually contacts the districts to determine why. "With resources dropping in the next sessions we will be enforcing completion of these projects," he wrote in an email to the BLR. "Given the vast number of projects the [school districts] have completed with state assistance allowing the [school districts] to pull and reprioritize projects has seemed feasible. But as we become more selective in approving projects for state funds, enforcement will be tighter."

Other Facilities Programs

The Facilities Division manages two other facilities funding programs: the Academic Equipment Program and the High-Growth School Districts Program. The Academic Equipment Program provides funding for academic equipment needs that existed on January 1, 2005. The Division has not had any expenditures for this program.

The High Growth School Districts Program provides interest-free loans to high-growth school districts that need to raise more than 10 mills for their debt service payments. The Division has so far had no expenditures for this program either.

Program Reserves

One long-standing concern has been the amount of money the Facilities Division has received for the four facilities programs but has not spent. By the end of fiscal year 2010, the Educational Facilities Partnership Fund Account, which holds funding for facilities programs, is expected to have a fund balance of $310,500,889.

Such a large fund balance is not necessarily a cause for concern. The construction process is slow — spread over months or even years — causing districts to seek state reimbursement over the same extended period of time. Still most of the funding in the Partnership Fund Account has been contractually committed to school districts, and it cannot be spent elsewhere or obligated to other projects.

However, the Facilities Division does have a significant reserve of funding that has not been committed to any project. The first table below shows the total funding that the Division has received (and is anticipated to receive through 2011) for all of its programs since their start in 2005 — approximately $816.66 million. The second table shows the amount of funding the Division has obligated to projects through 2011— approximately $756.44 million. That leaves about $60.22 million that the Division is expected to receive through 2011, but has not committed to any project.

Program Funding

Fiscal Year	Funding Allocated For All Programs
FY05	$20,000,000
FY06	$52,442,524
FY07	$89,171,750
FY08	$501,131,925
FY09	$49,140,709
FY10	$51,975,295 (Est.)
FY11	$52,800,000 (Est.)
Total	**$816,662,203**

Obligated Funds

Program	Funding Committed to Projects (In millions)
Immediate Repair	$28.08
Transitional	$86.00
Partnership Projects:	
2006-2007(less Catastrophic)	$214.60
2007-2009	$308.96
2009-2011	$116.50
Total - Partnership	$640.06
Catastrophic Projects (2007-09)	$2.30
Total All Programs	**$756.44**

The Division says it has not committed all of its funds for two reasons:

1. Some funding needs to remain available for schools that are damaged unexpectedly by fire or natural disaster. The Catastrophic Program, which is designed to provide state aid for these circumstances, is funded from the same account as the Partnership Program.
2. The Partnership Program approves projects in two-year cycles, while the Legislature is now approving agency appropriation and funding on an annual basis. This means that at the time the Division approved projects in 2009 for the 2009-11 project cycle, the Division appropriation and funding was authorized only for FY2009-10. The Division has plans to retain the funding they anticipate receiving in FY2010-11 for projects in the 2011-13 cycle. This means that the Division will not commit any of the funds it receives in FY2010-11 until 2011-12.

Districts Dealing With Failed Millages

School districts' failure to pass millage increases presents an important facilities issue for the state. Because the state's funding program for school construction is a partnership between the state and local school district, districts that are unable to raise their share of the project funding due to a millage failure may have a difficult time providing an adequate and equitable education.

In 2009, schools had an average of 11.05 debt service mills, according to a preliminary 2009 millage report produced by ADE. The district with the highest number of mills for debt service is Fouke (23.90), and the district with the least is Gosnell (0). Gosnell is the only district that has no debt service mills.

Act 996 of 2007 requires the Facilities Division to work with school districts that have failed to pass a millage increase that is considered necessary for proceeding with master plan projects [A.C.A. 6-21-811(f)]. The Division must meet with the school district within 10 days of the election to identify the projects that require immediate attention and find alternative ways of paying for them. For example, Clarendon School District, which has had multiple recent failed millage elections, was required to purchase a $47,000 fire alarm system and make other immediate repairs using fund balances. For other projects, the Division may suggest less expensive solutions than the construction projects that district leaders had originally planned. For example, after Clarksville School District's failed millage election in 2008, the district opted to construct a classroom addition to an existing school rather than building a new elementary school.

Since Act 996 was passed in 2007, the Facilities Division has worked with 27 school districts that have had millage failures. (Some districts may have had failed millage elections that do not affect their facilities plans. For example, the Division typically would not be involved in millage failures of districts that sought a increase for maintenance and operations rather than debt service.)

The following table shows the 27 districts and the years in which they sought a millage increase. The number listed under each year indicates the amount of additional mills each district was seeking. Numbers in red indicate a failed effort, and numbers in blue (and boxed) indicate the millage passed.

School District	2007	2008	2009
Bentonville		3.99	
Blytheville		2.61	2.61
Bryant	6.40		3.90
Caddo Hills		4.00	
Clarendon	5.00 for Clarendon; 3.00 for Holly Grove*	2.00 for Clarendon; 0 for Holly Grove*	2.00 for Clarendon; 0 for Holly Grove
Clarksville		5.30	
Clinton	6.10		
Fayetteville			4.90
Flippin			0**
Genoa Central			
Green Forest	6.00	3.82	

School District	2007	2008	2009
Greenwood		5.00	
Harmony Grove (Saline County)	2.60	2.30	
Harrison		2.60	
Helena-West Helena		3.90	
Hermitage	2.60	5.00	
Huntsville	1.59 mill increase for debt service; 1 mill increase for maintenance and operation	2.90	
Kirby			10.20
Mansfield	2.80		
Mena	9.50	6.90	
Mountain Home	3.92	2.95	
Quitman	8.75		
Sheridan	4.70	4.70	
Strong-Huttig	8.80	4.50	
Twin Rivers		9.00	
Two Rivers		0***	
Westside Consolidated		2.83	

*Clarendon and Holly Grove consolidated in 2004. Holly Grove's rate was 32 mills, while Clarendon's rate was 30. The millage election sought to bring the Clarendon district up to Holly Grove's 32. Because the millage failed, the millage returned to its previous rate with Clarendon at 30 and Holly Grove at 32.

**Flippin wanted to add one mill to debt service and decrease M&O mills by one. Its overall millage would not change.

***Two Rivers was not seeking an increase in its millage. Instead the district asked voters to extend the term of its bond as a way of reducing its payment on existing debt. The district had hoped to use the savings to pay part of its share of the cost of constructing a new high school.

To ensure the state upholds its obligation to provide an adequate education even when a district fails to pass a millage, state statute gives the Commission the authority to:

1. Require the district to hold a second special election. The Division has not required any of the 27 districts to hold a second election.

2. Designate the district as being in facilities distress, which allows the state to take over the district. A district can be designated as being in facilities distress due to a millage failure if it causes a "material failure to plan and progress satisfactorily toward accomplishing the priorities established by the Division and the approved school district's facilities master plan." [A.C.A. 6-21-811(a)(1)(G)] Only one school district — Hermitage — has been designated as being in facilities distress. Hermitage's designation, however, was the result of building code and procurement law violations associated with a recent renovation, not because of its 2007 millage failure. (Hermitage passed a millage election the following year.)

Doug Eaton, director of the Facilities Division, has reported that the districts with failed millages have so far worked to find funding alternatives or scaled back projects to successfully avoid further state interference.

Millage Failures: Bentonville and Clarendon

Even without suffering state sanctions, districts face serious challenges when they are unable to pass millage increases. To understand how millage failures affect school districts, the BLR examined the consequences in two districts: Bentonville and Clarendon. The two differ in both area wealth and enrollment trends. Bentonville is among the wealthiest districts in the states, with a Wealth Index of .995. Clarendon has significantly less wealth, with an index of .5278. One mill in Bentonville generates nearly $1.7 million for the district's 16 schools, according to 2008 valuations, while one mill in Clarendon generates a little over $46,000 to support that district's two schools. Despite a recent economic slowdown that has hit the northwest part of the state the hardest, Bentonville is still adding about 500 students per year. Clarendon, on the other hand, is losing more than 50 students per year. Both districts had millage failures in 2008.

That year, the Bentonville School District went to voters requesting a 3.99 millage increase from 40.10 to 44.09. The district also wanted to restructure its debt by transferring two mills it already had dedicated to maintenance and operation to debt service for a total of 19.09 mills. Had it passed, Bentonville would have had the 11th highest district millage in the state and the 8th highest debt service mills. The district needed the new debt service millage for its plans to build three new elementary schools, a new middle school, a new junior high and a new high school to deal with the district's growth. Those projects were put on hold after the millage failed by a vote of 1,702 to 2,408.

Bentonville began purchasing portable buildings to meet the district's immediate needs. Today the district has about 750 students in portable buildings throughout the district. The Facilities Division suggested that the district consider other options, such as going to split sessions or reducing the district's academic offerings at the high school to free up funding needed for construction. Now the district worries about the impact of declining property assessments as real estate values have declined in Northwest Arkansas.

Despite the district's facilities concerns, Bentonville opted not to use any of its $5.4 million in stimulus funds on construction projects. Instead the district spent much of its funding on technology, such as student calculators.

Bentonville is preparing for another millage election in April 2010. This time the district is asking for an increase of 3.6 mills, including .3 for operations and 3.3 for debt service.

Clarendon, in east central Arkansas, asked voters in 2008 for an additional two mills to simply help ensure its buildings are safe, dry, and healthy. In 2004, Clarendon and Holly Grove consolidated, and district administrators sought a millage increase in Clarendon from 30 mills to match Holly Grove's rate of 32. After the millage failed, the state Facilities Division inspected the high school and found that the condition of the facility "certainly warrants major renovation and additions in the future," according to Facilities Division notes. The Division also noted three items that were "clearly health issue that must be taken care of immediately": the school fire alarm system, enclosing room heaters and correcting heater vents on the roof. Superintendent George Lafargue said he took care of those issues, including purchasing a $47,000 fire alarm system, using money from the district's fund balances.

Other projects were too big to fund with existing funds. In the first two budget cycles of the Partnership Program, Clarendon was approved to build a new K-4 elementary school, renovate the HVAC system at the high school, and renovate/convert another interior space, but the district had to idle those projects. The district couldn't raise its local match due to millage failures every year from 2004 through 2009. Because of the district's financial situation, Clarendon did not even apply for funding for projects in 2009-11. In March 2010, the district is again asking voters for a millage increase. This time the district wants a 3.9 mill increase to provide an additional $210,000 per year. The superintendent is hoping that public meetings he's held to explain the district's dire situation will finally get the millage passed.

The district is also planning to use its stimulus funds to renovate its cafeteria and science lab — projects the district hopes will be funded with 2011-13 Partnership funds. The district wants to use its stimulus funds to pay its share of the cost, but it will have to spend the money quickly. The projects approved for 2011-13 Partnership Program cycle won't be announced until May 2011, and the district will need to spend all of its stimulus funds by Dec. 31, 2011.

The American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act of 2009 provided money for school construction, renovation, and repair through the education portion of the State Fiscal Stabilization Funds. According to the Facilities Division, school districts have reported plans for spending ARRA funding on 172 new construction projects to be funded. New construction projects include a variety of types of projects such as fences and fire alarms along with new buildings and additions.

Recovery Act Facilities Projects

Project Type	Number	Amount of ARRA Funds Budgeted
Construction	172	$29,476,131.60
Modernization	436	$53,704,452.19
Renovation	328	$47,697,200.54
Repair	123	$7,432,690.46
Total ARRA Facilities Projects	**1,059**	**$138,310,474.79**

Some districts are using stimulus funds to cover their local share of a project already approved for Partnership funding. For example, the Bradford School District is using stimulus funds to help cover its share of the construction cost of additions to its elementary and high schools. In September 2009, the district passed a five mill increase to support the project, but it also plans to use stimulus funds. The state Partnership Program has already committed more than $2.7 million for that renovation.

Other districts are using the money to pay for facility needs that the state Partnership Program does not cover. Camden School District, for example, plans to use about $125,000 to buy four new portable buildings, which the Partnership Program does not fund. Considering the district's declining enrollment, superintendent Jerry Guess said the district decided that building new buildings, which *could* be funded through the Partnership Program, would not be a sensible approach for dealing with deteriorating facilities.

The table below provides information on the general types of projects covered under ARRA and those covered under the Partnership Program.

Project Type	Covered under ARRA?	Covered under Partnership Program?
New construction	Yes	Yes
Additions	Yes	Yes
Maintenance	No	No
Repair	Yes	No
Renovation	Yes	Yes, Partnership funds can be used for a renovation project as long as it qualifies as a "warm, safe and dry" project that addresses a facility system. The project must also qualify as "new construction," by improving the efficiency or functionality of a structure beyond its original condition. It cannot simply restoring the structure to its original condition. For example, Partnership funds cannot be used to repair a roof or replace a flat roof with another flat roof, but the money can be used to replace a flat roof with a pitched roof.

Project Type	Covered under ARRA?	Covered under Partnership Program?
Land Acquisition	Yes, but funding is provided as a tax credit through a section of ARRA, separate from State Fiscal Stabilization Fund Program.	No
Technology/Equipment	Yes	No
Construction/Repair of Non Academic Facilities, such as sports stadiums and central administration buildings	No	No
Retire old debt	Yes	No
Project cost minimum	No	Yes, at least $300 per student or $150,000, whichever is less

Districts are also using the stimulus funding for projects that simply cannot wait for another year and a half when the next cycle of Partnership Program projects are approved. Bradford School District, for example, had planned to apply for Partnership Program funding to replace three roofs in 2011, but one had such a bad leak that the district decided it couldn't wait. The district used stimulus funds to replace the flat roof with another flat roof — a less expensive alternative to the pitched roof that the Partnership Program covers.

In order to determine if discrepancies exist between wealthy districts' and poor districts' Recovery Act facilities projects, the BLR analyzed each district's budgeted amount for each project type. The Facility Wealth Index was used to separate districts' Recovery Act budgets into quartiles. The Recovery Act project budgets for each district were then classified based on the district's Wealth Index, combining the middle two quartiles. The result of this analysis is presented in the tables below.

Recovery Act Facilities Projects by the Bottom 25% of Districts

Project Type	Budget	% of Total
New Construction	$7,289,444.55	24.48%
Modernization	$12,056,558.20	40.49%
Renovation	$9,873,932.00	33.16%
Repair	$554,207.00	1.86%
Total:	**$29,774,141.75**	**100.00%**

Recovery Act Facilities Projects by the Middle 50% of Districts

Project Type	Budget	% of Total
New Construction	$12,726,516.42	20.87%
Modernization	$23,515,319.14	38.57%
Renovation	$20,178,490.43	33.09%
Repair	$4,553,026.13	7.47%
Total:	**$60,973,352.12**	**100.00%**

Recovery Act Facilities Projects by the Top 25% of Districts

Project Type	Budget	% of Total
New Construction	$9,460,170.63	19.89%
Modernization	$18,132,574.85	38.12%
Renovation	$17,644,778.11	37.10%
Repair	$2,325,457.33	4.89%
Total:	**$47,562,980.92**	**100.00%**

As can be seen above, the distribution of the types of facilities projects is roughly equal among all three groups. This indicates that Arkansas school districts are distributing the same proportion of Recovery Act dollars among the project types regardless of wealth. In other words, the type of Recovery Act facilities project chosen does not differ by the wealth of the district.

Current Information Pertaining to the Final Portion of the State Fiscal Stabilization Funds

The Education Award portion of the State Fiscal Stabilization Funds (SFSF) are targeted towards restoring funding for primary, secondary, and higher education. Arkansas anticipates receiving $363,053,019 for this portion. Of that $363 million, higher education institutions were to receive a total of $27,282,730 to restore FY2009 budget for higher education to its FY2008 level. School districts were then to receive the remaining $335,770,289, plus another $5,320,868 that was transferred from the Government General Services Fund portion of SFSF, for a total of $341,091,157. Upon approval of the state's application, Arkansas was allocated about 2/3 of these Stabilization Funds, and the state was then allowed to allocate $228,531,075 to school districts according to the federal Title I funding formula. Now the second phase of the Fiscal Stabilization Funds has begun, and the state has submitted its Phase II application that will allow Arkansas to receive the final 33% of these funds, or $112,560,082.

However, since the state's last application, additional funding has been cut from higher education as a result of reduced general revenue collections. This means that under the provisions of the Recovery Act, the state is required to restore the lost funding to higher education before it can distribute the remaining Stabilization Funds to the districts. The net result of these actions means that the school districts will not be receiving the level of Recovery Act funds originally calculated by the Department of Education. The districts had anticipated receiving $112,560,082, but the total amount they will actually receive has not been determined.

According to a Feb. 4, 2010 email from Governor's Office to the BLR,

> "[W]e have submitted our second phase application and we are waiting to hear from our federal counterparts on a number of factors. The guidance and information sought from the federal government may require us to submit additional information and

> possibly cause further dialogue. These factors will determine how the second phase of funds are allocated. At this time, we have not been given a time frame for when these determinations will occur. When the decisions are made, our office will advise the Legislature and all parties involved immediately. Please remember that this is an intricate process and that the federal government has the final determination on when and how the final phase of the SFSF funds are distributed."

It should be noted that school districts have been using these Stabilization Funds for major renovation and repairs of their academic facilities. Some may have committed funds in excess of the 67% they had been guaranteed. This will likely result in districts not having enough funds to complete construction projects to which they are already contractually obligated. For example, the Crossett School District has already contracted to build a $979,000 wellness center for Crossett Elementary School. The district had planned to use $800,000 in ARRA funds for the project. If the district receives less money than it originally planned, the funding for this wellness center will have to come out of operating balances.

According to a February 17, 2010 report produced by the Arkansas Department of Education, school districts collectively spent $3,104,545.68 above the 67% allocation as of January 13, 2010. The report also notes that districts reported having obligated a total of $28,654,970 above the 67% allocation.

Summary Conclusion

Ensuring the integrity and suitability of academic school buildings is part of the state's obligation to provide an adequate education. The General Assembly adopted legislation (Act 20 of the First Extraordinary Session of 2006) to protect the Educational Facilities Partnership Fund Account from the doomsday clause. Additionally, the 2005 Special Masters Report noted, without objection, the state's prioritization system for school buildings. That system placed "warm, safe, and dry" construction projects as the state's highest facilities priority.

The state has managed four main funding programs designed to help schools build and pay for school buildings and renovations: Immediate Repair, Transitional, Catastrophic and Partnership. Immediate Repair and Transitional were created as temporary programs, and both have expired.

The state's main facilities funding program is the Partnership Program. Since its inception in 2006, a total of 1,787 projects have been approved for funding. Of those, 612 (34.2%) have been cancelled either due to a statutory sunset provision or because the school rescinded the project. Another 489 (27.4%) are in progress, 613 (34.3%) have been completed and 73 (4.1%) have not started.

At the end of FY2009, a total of nearly $226.8 million had been spent from the Partnership Program funding. The Partnership Program account, which holds funding for all of the state facilities funding programs, is expected to have a fund balance of $287.6 million. While most of that funding has been committed to projects, the Facilities Division will have $60.22 million on hand that has not been obligated to any project.

Another important facilities issue is failed millage elections. Because the state's funding program for school construction is a partnership between the state and local school district, districts that are unable to raise their share of the project funding due to a millage failure may have a difficult time providing an adequate and equitable education.

Since 2007, 27 school districts have had millage failures that affected their master plans. Five of those districts were able to successfully pass millage increases in subsequent elections. Doug Eaton, director of the Facilities Division, reported that the other districts with failed millages have worked to find funding alternatives or have scaled back projects to successfully avoid further state interference.

The American Recovery and Reinvestment Act of 2009 provided money for school construction, renovation, and repair through the education portion of the State Fiscal Stabilization Funds. According to data provided by the Arkansas Division of Public School Academic Facilities and Transportation, school districts have reported plans for spending ARRA funding on 172 new construction projects, 436 modernization projects, 328 renovation projects and 123 repair projects. Total ARRA spending for these project may exceed $138.3 million.

Some districts are using stimulus funds to cover their local share of a project already approved for Partnership funding. Other districts are using the money to pay for facility needs that the state Partnership Program does not cover. Districts are also using the stimulus funding for projects that simply cannot wait another year and a half when the next cycle of Partnership Program projects are approved.

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