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**TESTIMONY BEFORE THE JOINT COMMITTEE ON THE PUBLIC SCHOOLS  
ON SCHOOL FACILITIES**

May 8, 2018

Senator Rice, Assemblywoman Jasey and members of the Joint Committee on the Public Schools, thank you for the opportunity to address the current challenges faced by New Jersey's school construction program. Today, I want to discuss the imminent need to authorize additional school construction funding.

The Schools Development Authority (SDA) has committed virtually all of the \$2.9 billion in bonding authority approved by the Legislature in 2008 for school construction and renovation in the SDA (former Abbott) districts. In recent testimony before the Senate Budget Committee, SDA Executive Director Charles McKenna stated that, while the agency has \$1.7 billion dollars left in bonding authorization, all but \$70 million of that total is already allocated to specific projects in its current capital portfolio.

Bottom line: no new major construction projects in SDA districts can be funded and added to the current portfolio.

In addition, the \$1 billion authorized in 2008 for school construction and renovation in the non-SDA districts, the so-called "regular operating districts" (ROD districts), has also been exhausted. No funds remain to do any projects in those districts.

The SDA now finds itself without the resources to meet district needs, whether for emergent repairs, capital maintenance, or the renovation or construction of out-dated, over-crowded and/or dilapidated school facilities.

As you know, the State school construction program is mandated by the Supreme Court's orders in the *Abbott v. Burke* case, and implementing legislation and regulations. Providing New Jersey students with safe and adequate facilities is not only constitutionally required, but also essential to enhance, rather than detract from, the 21st-century learning we want our educators to provide and our students to attain.

It is therefore incumbent on the Legislature to ensure that the funding for the school construction program is promptly replenished to provide students, educators and families with the facilities needed for school success and community renewal, and to effectuate the thorough and efficient education required by our constitution.

The need to restart the school construction program in the 31 SDA districts is urgent. The most recent Long Range Facilities Plans (LRFP) for these districts were approved by the NJ Department of Education (NJDOE) between 2015 and 2016. Those approved

plans show the need for approximately 381 major school construction projects, including 200 renovations or additions and 102 new buildings.

Based on the LRFPs, the NJDOE must conduct, and periodically update, an educational assessment based on each SDA district's needs and provide an educational priority ranking of all projects across these districts. The most recent assessment, completed in May of 2016, but not released until October 2017, found that two-thirds of SDA districts do not have adequate instructional and administrative spaces to support student achievement of New Jersey's curriculum standards.

Based on the NJDOE needs assessment, the law requires the SDA and the NJDOE, working in conjunction with SDA districts, to develop a statewide strategic or capital plan establishing the sequencing of school facilities projects based on both the priority rankings and construction considerations identified by the SDA. This plan then serves as the basis for determining the order in which projects move forward in the construction process. It is also essential for the Legislature to determine the level of additional bond financing to be added to the program.

It is our understanding that the SDA and the NJDOE have not prepared such a plan to reflect the most recently completed district LRFPs and the statewide needs assessment.

In addition to major capital construction, there is also a significant need for funding of emergent repair projects. In 2017, after taking nearly a year to review 429 applications for urgently needed facilities repairs submitted by 23 SDA districts, the NJDOE approved state funding for only 15, or 5%, of repairs.

As the Legislature begins considering the next round of bond financing, it is important to note that the Supreme Court, in its 2002 *Lonagan* ruling, 174 N.J. 435 (2002), declared bond financing for school construction exempt from the constitution's requirement for voter approval. As determined by the Office of Legislative Services (OLS), this exemption in *Lonagan* remains even after passage of the debt limitation referendum in 2008, requiring voter approval as a prerequisite to issuing new bonds to finance capital or other infrastructure improvements.

Thank you again for the opportunity to bring this urgent matter to your attention. New Jersey has made great strides in improving the condition of school facilities over the last 15 years through implementation of the Abbott mandates for school construction through the Educational Facilities Construction and Financing Act (EFCFA). But much more remains to be done. Education Law Center stands ready to assist this Committee and the Legislature in making certain this vital program continues to move forward.