New Jersey's School Construction Program

Legislative Initiatives Emanating from the 3rd Interagency Working Group Report

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

October 26, 2006

Summary of Key Conclusions of Interagency Working Group Report

1. Recommending additional funding totaling $3.25 billion be authorized
   - $2.5 billion for Abbott districts
   - $750 million for RODs/ VoTechs
   - This authorization will allow for the implementation of an integrated strategic and capital planning process while utilizing existing funding for the next 2 years
2. Existing total funding need for school facilities projects in Abbott and RODs exceeds current funding capability
3. Projects comprising the SCC Capital Plan adopted in July 2005 are underfunded by approximately $500 million
4. Amendments to EFCFA are essential to provide accountability and efficiency to the program

Summary of Key Conclusions of Interagency Working Group Report (cont'd)

5. SCC is now capable of managing additional construction portfolio

6. SCC and DOE, in consultation with Abbott Districts and stakeholders, developed a methodology to prioritize projects

7. Future capital plans will be developed through a strategic planning process incorporating current LRFPs, prioritization methodology, and staged funding

8. Funding authorization should occur in parallel with consideration of new school aid formula

1. Recommend $3.25 billion be authorized
Estimate that cash will not be needed until 2008

$3.25 Billion (Proposed)

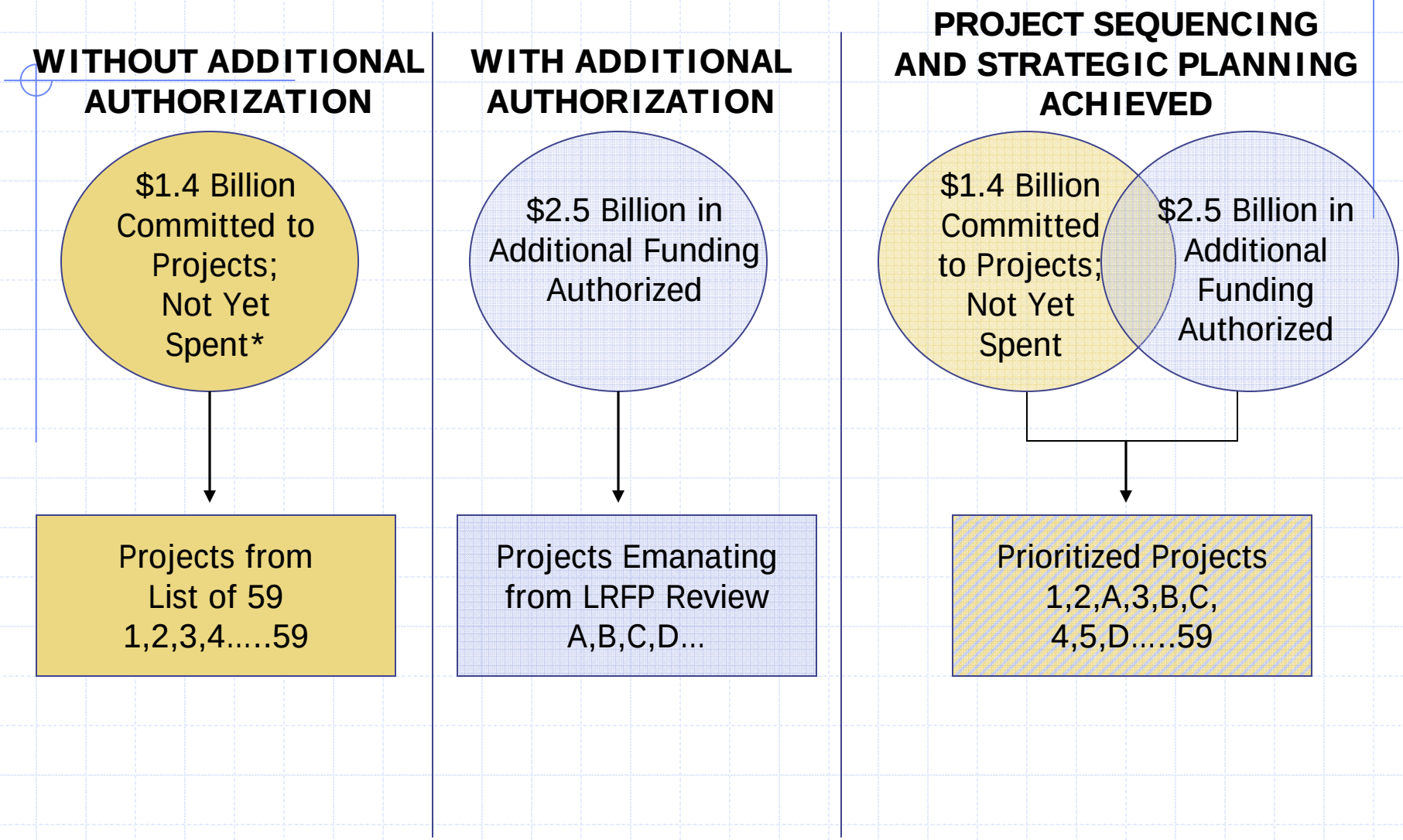
$2.5B Abbott

- Enable Completion of July 2005 Capital Plan
  - Capital Plan was underfunded at adoption
  - Inadequate budgeting & absence of updating at time of Plan adoption intensified shortfall
- Address Priorities in context of available resources
  - Creation of strategic plan with 5 year planning horizon thereby incorporating new projects
  - Support reactivation of suspended projects prioritized via methodology
  - Establish reserve for unanticipated Health and Safety projects

$750M RODs

- Debt Service Aid for Major Construction
  - Benefit of streamlined administration
- Prioritize Projects Based on Objective Criteria
  - Eliminate “first come, first serve” basis
- Additional Discussion Needed:
  - Details of debt service program
  - Portion of funding for Vo-Techs

1. Recommend $3.25 billion be authorized
Why authorization, not cash, is needed now



*There is currently a shortfall for these projects

1. Recommend $3.25 billion be authorized (cont'd); Consequences of no authorization

- Lose the opportunity to commence effective capital planning
- Some projects in current capital plan will be suspended
- Projects in the new LRFPs will not commence and priority projects will not advance to next stage
- Continued shrinking of available resources for the current Capital Plan
  - Ongoing identification of unexpected, emergent projects will reduce funding available for current projects
  - Delay will create additional inflationary impact and increased costs
- Without additional resources, neighborhood revitalization is further delayed

2. Substantial work completed to date

599
Abbott Projects Completed

- Completed 599 Abbott projects, including 354 Health and Safety projects
- Of the 599 Abbott projects, 32 were new construction and 31 were substantial additions/ renovations

5
Demonstration Projects Underway

- Commenced construction activities on five of the six Demonstration Projects
- Special school construction projects that contain community design features intended to spur economic revitalization.
- These projects are estimated to cost upwards of $543 million.

1,425
Schools in Regular Operating Districts Benefited

- Executed over 2,500 grants worth $2.2B.
- Grants benefited 1,425 schools in 471 districts
- Approximately 80% of RODs received SCC grants

2. Need exceeds current funding capability

CURRENT CAPITAL PLAN

Capital Plan 2005

- "List of 69" (Projects in Construction as of 7/05) 44 complete; 25 underway
- "List of 59" (Projects Recommended for Construction as of 7/05) 15 underway
- Demonstration Projects (6)

DOE APPROVED SCHOOL PROJECTS DEMONSTRATES NEED EXCEEDS CURRENT PLAN

Unfunded Projects* (315)

- Projects with Design Suspended (97)
- Projects with Preliminary Predevelopment (84)
- Projects Awaiting Predevelopment (134)
- Includes at least 27 projects with higher priority than those in Capital Plan

*These 315 projects are being validated through DOE's review of 2005 LRFPs

3. July 2005 Capital Plan is underfunded by approximately $500M

- At the time of adoption, the Construction Cost Estimates (CCEs) were inaccurately low, resulting in the projects being underfunded by approximately $500M
  - CCEs were based on incomplete designs
  - CCEs were not regularly updated
- Enhanced forecasting capabilities implemented in June 2006 identified this shortfall being attributed to inaccuracies in major cost elements and additional requirements, such as:
  - Inflation in construction costs not previously included in estimates (69%)
  - Predevelopment, land acquisition, and remediation costs (9%)
  - Demonstration Projects (17%)
  - Inclusion of New Homeland Security Requirements (3%)
  - Miscellaneous (2%)

4. Amendments to EFCFA are essential

- **New State Authority for School Construction**
  - Enhance governance and focus authority on school construction
  - No longer subsidiary of EDA; replaces requirement that ½ SCC Board consist of EDA Board Members with new members with expertise in school construction
- **Increased District Role and Accountability**
  - Authorize districts to manage a defined set of project types i.e. all capital maintenance projects
  - Permit districts to fund capital maintenance/ capital reserve accounts as part of local budgets
  - Allow qualified districts to assume full responsibility for the design and construction of school projects; development of criteria to evaluate capacity and enhance capacity
- **Streamlined and Collaborative Project Approval Process**
  - Approval for projects will be based on a collaborative review conducted by DOE, SCC and DCA, district and municipal stakeholders

4. Amendments to EFCFA are essential (cont'd)

- **Expanded Land Acquisition Options**
  - Greater involvement of districts/ municipalities in identifying and acquiring land
  - Ability to preserve land for a finite period of time to prevent land speculation and to prevent any approvals or variances from being granted.
  - Joint use agreements, incorporation of school sites into Master Plans, local contribution to cost of site acquisition, use of condemnation and remediation are other topics to be considered

- **Multiple Project Delivery Methods**
  - Provide a variety of procurement options to build schools including: "design-build" and "at-risk construction manager"
  - May need to allow for on-call contracting to address emergent health and safety issues in a timely manner

5. SCC capability to manage additional portfolio – SCC Reform Efforts

- Governance, Ethics and Internal Controls
- Project Management
- Business Efficiencies

5. SCC's capability to manage additional portfolio

SCC REFORMS – *Governance, Ethics & Internal Controls*

- Appointed new Chairman and members; Placed staff position of Board Secretary in Governance
- Posted Board memos, agenda, and minutes online; Each Board Committee presents verbal report on Committee matters
- Removed AG from Board of Directors
- Expanded Audit Committee Charter to include Personnel and Compensation responsibilities
- Hired KPMG to conduct internal audit function
- Created SCC IG function
- Strengthened ethics program by providing all employees with Code of Conduct which includes Code of Ethics, requiring them to complete a Conflict of Interest Questionnaire and receiving regular ethics training

5. SCC's capability to manage additional portfolio

SCC REFORMS – *Project Management*

- Established a prioritization methodology to sequence projects based on educational factors; Created Division of Management and Planning to develop strategic and capital plans and to implement project control protocols
- Established process for project forecasting, including inflation factors; updated monthly to determine amount needed to complete project; Established holistic project budgets
- Implemented a new process to capture and disseminate "lessons learned"
- Implementing a fully integrated information system that will track project budgets and schedules in real-time
- Preventing institutionalized waste by revising inadequate contract provisions, ensuring strong management of projects, and providing for effective management of contracts
- Hired experienced construction professionals

5. SCC's capability to manage additional portfolio

SCC REFORMS – *Project Management II*

- Discontinued practice of bidding on incomplete designs and restricting the opportunity for project scope to change during design or construction
- Reviewing and renegotiating PMF contracts; Seeking additional project delivery options
- Hired experienced professionals with real estate development experience for Land Acquisition Division
- SCC senior management holding meetings with each Abbott district including the Superintendent and other key staff to review all aspects of district plan
- Instituted regular senior level meetings between SCC and DOE to discuss strategic and operational issues
- Establishing a formal procedure for the adoption, review and promulgation of corporate policies and regulations

5. SCC's capability to manage additional portfolio

SCC REFORMS – *Business Efficiencies*

- Implemented a protocol for the evaluation of 3rd parties, contractors and PMFs
- Established an internal legal function staffed by experienced construction attorneys
- Materially reduced the age of accounts payable and the dollar value of them; reinforcing commitment to payment timeframes
  - Number of open change orders has been reduced by 52% since March
  - Average age of change order was 156 days in June; Presently, the average age is 83 days and it will be 60 days by November

5. SCC capability to manage additional portfolio – Recovery of Resources Lost Due to Waste, Fraud and Mismanagement

- **Activities that may result in criminal prosecution**
  - Proactively referring matters to and working with Attorney General's Office and the Division of Criminal Justice

- **Cost mitigation and recovery efforts**
  - Errors and omissions by design and other professionals
  - Environmental clean-up costs
  - Builders risk insurance claims; Claims against 3rd parties
  - Recovery of overpayments

5. Capability to manage additional portfolio – Cost mitigation and recovery efforts

- **Errors and Omissions by Design and Other Professionals**
  - ➢In the past, SCC failed to prosecute an E&O claim or to recover any money from a design professional for E&O
  - ➢Each E&O claim begins as a change order. Identified over 1,100 change orders that are due to design error and omissions. There are an additional 2,800 change orders under review; Ongoing effort to review each potential claim and determine if claim is to be pursued
  - ➢For future projects, SCC developing a reporting and monitoring process so Chief Counsel can obtain data and analyze claims to advise on potential recovery by:
    - ✓Instituting a tracking and analytical process for up-to-date data
    - ✓Coordinating training of D&C personnel to recognize potential claims, and cost and time impacts thereof, and reporting obligations; Procuring claims consultants
    - ✓Establishing SCC policy and guidelines for acceptable E&O by project type by researching industry data
    - ✓Determining to what extent the SCC can audit closed projects suspected of having excessive E&O cost/ loss.
    - ✓As a result, SCC is filing three E&O claims in excess of $4.6M

5. Capability to manage additional portfolio – Cost mitigation and recovery efforts cont'd

- **Environmental Clean-up Costs**
  - ➢SCC is investigating the possible recovery of site remediation costs from sellers, prior users and their insurers. Efforts include:
    - ✓Commencing internal assessment of sites purchased where contamination has been found, nature of contamination and costs (no central repository existed)
    - ✓Identify potential recoveries based on contractual indemnity for contamination, statutory liability, and insurance coverage
    - ✓Establish program for recovery
    - ✓To date, the SCC has asserted one claim against a seller for $950,000 and is preparing to file other claims imminently

5. Capability to manage additional portfolio – Cost mitigation and recovery efforts cont'd

- **Builders Risk Insurance Claims; Claims against 3rd Parties**
  - Includes recovery of costs for repair or damage to construction work caused by third parties, or by events against which SCC is uninsured
  - Mostly, these claims are routinely filed

- **Recovery of Overpayments**
  - SCC is currently reviewing contracts and performance to determine if PMFs, contractors and design professionals have been paid sums they were not entitled, and if they are recoverable

6. SCC, DOE, stakeholders develop prioritization methodology

Primary Considerations

- Emergent Health and Safety Projects
  - Imminent Hazards
  - Code Violations
  - Deferred Maintenance
- Early Childhood Center (stand alone)
- Overcrowding w/ Early Childhood Capacity
- Overcrowding w/out Early Childhood Capacity
- Projects that address neither Overcrowding or Early Childhood

Secondary Considerations

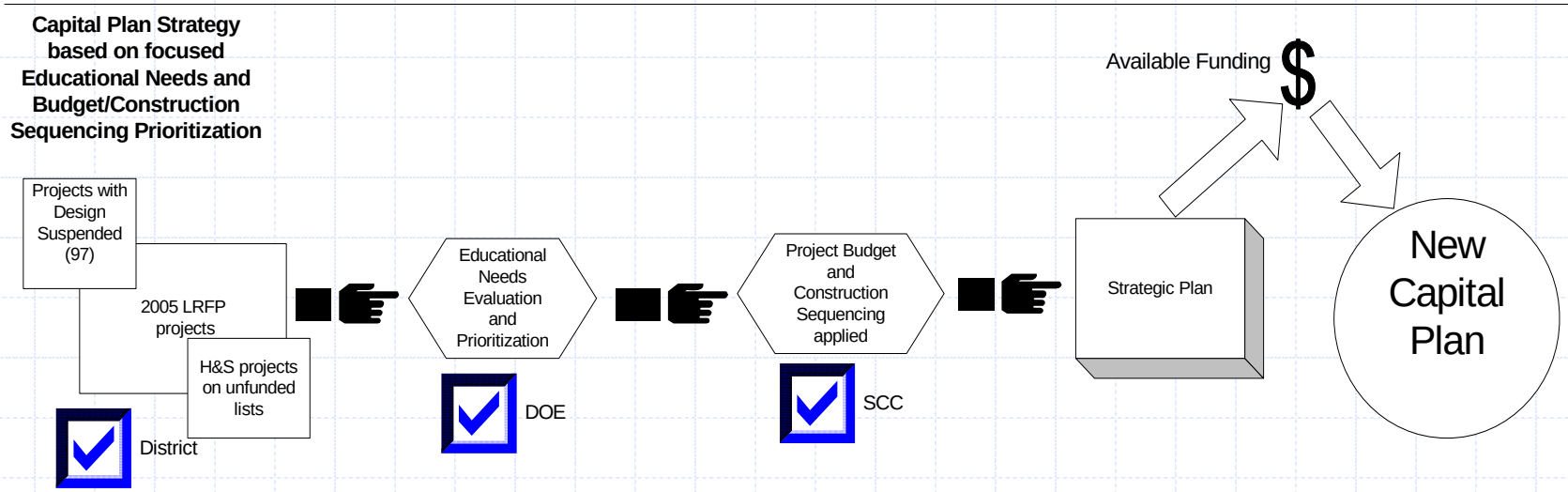
- Site Availability
- Need for Temporary Swing Space
- Extent of Costs Already Invested
- Project Schedules

Other Considerations

- Stakeholder Input
- District Fit (i.e. swing space)
  - How a project fits into districts' overall plan
  - Project's relationship to other projects

7. Future capital plans will use strategic planning process that will incorporate:

- 2005 LRFPs currently under review
- Prioritization methodology addressing education policy priorities, construction logistics, and district need



- Funding projects through discrete development phases to allow greater efficiency

8. Authorization of additional school construction funding can occur parallel if a new school aid formula is adopted

- Authorization for new school construction funding is independent of a new school aid formula
- Funds should be provided now to allow for needed work to proceed during the next 2 years. This funding will utilize existing Abbott definitions
- Future funding may consider utilization of modified Abbott definitions