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**IN THE STATE OF SOUTH CAROLINA
In The Supreme Court**

S.C. SUPREME COURT

Allendale County School District Petitioner,

v.

James H. "Jay" Lucas, Speaker of the South Carolina House of Representatives; Kevin L. Bryant, as President of the South Carolina Senate; Molly Spearman, Superintendent of Education; and the State of South Carolina Respondents.

COMPLAINT FOR DECLARATORY JUDGMENT

Petitioner, complaining of the Respondents would show the Court:

1. Petitioner Allendale County School District is a political subdivision organized and existing under the laws of the State of South Carolina and whose sole purpose is that of providing free school education in Allendale County.

2. Patricia Jenkins, on behalf of Petitioner, is a citizen, resident, taxpayer, and registered elector of the State of South Carolina. She also serves as the chairperson of the Board of Trustees of Allendale County School District. She brings this action on behalf Allendale County School District and all others similarly situated.

3. Respondents James H. "Jay" Lucas and Kevin L. Bryant are officers of the SC General Assembly and are named as Respondents in their official capacities.

4. Respondent Molly Spearman is the Superintendent of Education of the State of South Carolina, and is named as Respondent in her official capacity.

5. This Court possesses jurisdiction under SCACR 245; the South Carolina Constitution Article III, § 17; S.C. Code Ann. § 15-53-10 et seq., known as the Uniform Declaratory Judgment Act; and the following decisions: South Carolina Public Interest

Foundation v. Lucas, 416 S.C. 269, 786 S.E.2d 124 (2016); South Carolina Public Interest Foundation v. South Carolina Transportation Infrastructure Bank, 403 S.C. 640, 744 S.E.2d 521 (2013), American Petroleum Institute v. S. C. Dep't of Revenue, 382 S.C. 572, 677 S.E.2d 16 (2009), South Carolina Public Interest Foundation v. Harrell, 378 S.C. 441, 663 S.E.2d 52 (2008), Sloan v. Department of Transportation, 379 S.C. 160, 666 S.E.2d 236 (2008), Sloan v. Hardee, 357 S.C. 495, 640 S.E.2d 457 (2007); Cornelius v Oconee County, 369 S.C. 531, 633 S.E.2d 492 (2006); Sloan v. Department of Transportation, 365 S.C. 299, 618 S.E.2d 876 (2005), Sloan v. Wilkins, 362 S.C. 430, 608 S.E.2d 579 (2005); Sloan v. Sanford, 357 S.C. 431, 593 S.E.2d 470 (2004); Sloan v. Greenville County, 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003), Sloan v. School District of Greenville County, 342 S.C. 515, 537 S.E.2d 299 (Ct. App. 2000), Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999), Newman v. Richland County Historic Preservation Commission, 325 S.C. 79, 480 S.E.2d 72 (1997).

6. Petitioner possesses standing based on the great public importance of the issues they raise.

7. S.C. Constitution Article III § 17 states, "Every Act ... shall relate to but one subject, and that shall be expressed in the title."

8. In construing Article III, Section 17, against a legal challenge to a proviso contained in the 2015-16 General Appropriation Act, the Supreme Court ruled that changing the Governor's appointment power over the Secretary of Transportation is not "reasonably and inherently related to the raising and spending of tax monies." South Carolina Public Interest Foundation v. Lucas, 416 S.C. 269, 277, 786 S.E.2d 124, 129 (2016). Similarly, inasmuch as unnumbered Paragraphs five through seven of Proviso 1A.12 of the Appropriations Act of 2017-2018 changes the management of South Carolina school districts, these provisions are not

"reasonably and inherently related to the raising and spending of tax monies" and thereby violate the "one subject rule" of South Carolina Constitution Article III § 17.

9. The Appropriations Act of 2017-2018 was passed by the South Carolina General Assembly with Proviso 1A.12 (hereafter referred to as "Proviso 1A.12"). Proviso 1A.12 was not vetoed by Governor Henry McMaster and is therefore in effect.

10. Part IA of the Appropriations Act of 2017-2018 provides for the funding of various agencies and entities in South Carolina.

11. Part IB of the Appropriations Act of 2017-2018 enumerates a number of Provisos which serve as temporary provisions of law for the 2017-18 fiscal year, ostensibly reasonably and inherently related to the raising and spending of tax monies.

12. S.C. Code Ann 59-19-10 places a South Carolina school District, including Petitioner, under the management and control of its board of trustees.

13. Proviso 1A.12 is one of a number of Provisos relating to the expenditure of monies by the South Carolina Department of Education. Proviso 1A.12 consists of seven unnumbered paragraphs. Unnumbered paragraphs one through four of Proviso 1A.12 relate to the expenditure of funds by the Department to provide technical assistance to school Districts. Unnumbered Paragraphs five through seven of Proviso 1A.12, include the following language:

Reconstitution means the redesign or reorganization of the school, which may include the declaration that all positions in the school are considered vacant. Certified staff currently employed in priority schools must undergo an evaluation in the spring following the school's identification as a priority school and must meet determined goals to be rehired and continue their employment at that school. Educators who were employed at a school that is being reconstituted prior to July 2009 and to whom the employment and dismissal laws apply will not lose their rights in the reconstitution. If they are not rehired or are not assigned to another school in the school district they have the opportunity for a hearing. However, employment and dismissal laws shall not apply to educators who are employed in the district and assigned to the priority schools July 1, 2009, in the event of a reconstitution of the school in which the educator is employed. Those rights are

only suspended in the event of a reconstitution of the entire school staff. Additionally, the rights and requirements of the employment and dismissal laws do not apply to educators who on July 1, 2009 were on an induction or annual contract, that subsequently were offered continuing contract status after the effective date of this proviso, and are employed at a school that is subject to reconstitution under this proviso.

The reconstitution of a school could take place if the school has been identified as a priority school that has failed to improve satisfactorily. The decision to reconstitute a school shall be made by the State Superintendent of Education in consultation with the principal the school board of trustees, and the district superintendent. The decision to reconstitute a school shall be made by April first, at which time notice shall be given to all employees of the school. The department, in consultation with the district superintendent, shall develop a staffing plan and a budget for each reconstituted school.

The State Superintendent of Education may declare a state of emergency in a district if the accreditation status is probation or denied, if a majority of the schools fail to show improvement, if the district is classified as being in "high risk" status financially, or for financial mismanagement resulting in a deficit. The State Superintendent of Education may declare a state of emergency in a school if the accreditation status is probation or denied, or if the school fails to show improvement. Upon declaration of a state of emergency, the Superintendent may take over management of the school or district. Management of the school or district may include direct management, consolidation with another district, charter management, public/private management, or contracting with an educational management organization or another school district.

14. Unnumbered Paragraphs five through seven of Proviso 1A.12 concern matters vested in the respective governing bodies of South Carolina school districts pursuant to S.C. Code Ann. §59-19-10.

15. Unnumbered Paragraphs five through seven of Proviso 1A.12 concern administrative rather than monetary matters of school operations.

16. Divesting the superintendents and governing bodies of South Carolina school districts of the authority granted to them under State law is a matter of administration and procedure involving the management of the respective school district.

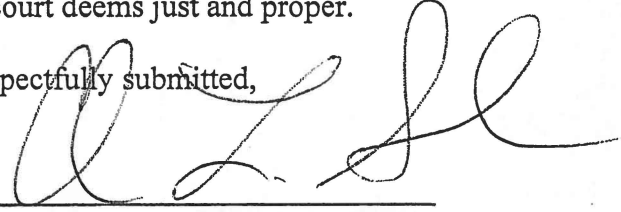
17. The right to manage the educational operations of a school district, whatever authority the governing body has to expend funds issued by the South Carolina Department of Education, does not reasonably and inherently relate to the raising and spending of tax monies and, therefore, is not germane to the purpose of the Appropriations Act of 2017-2018.

18. Respondent Spearman has issued a June 19, 2017 letter exercising the authority of Unnumbered Paragraphs five through seven of Proviso 1A.12. A copy of which is attached as Exhibit 1.

WHEREFORE, Petitioners pray the Court:

1. To declare that unnumbered Paragraphs five through seven of Proviso 1A.12 violate S.C. Constitution Article III, § 17, and are therefore null and void;
2. To grant Petitioner its costs and attorneys' fees under S.C. Code Ann. § 15-77-300; and
3. To grant such other and further relief as the court deems just and proper.

Respectfully submitted,

By: 

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Allendale County School District

June 20, 2017

EXHIBIT 1



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MOLLY M. SPEARMAN
STATE SUPERINTENDENT OF EDUCATION

June 19, 2017

Ms. Patricia Jenkins
Chairwoman, Allendale County School Board
626 Water Street
Allendale, SC 29810

Dear Chairwoman Jenkins:

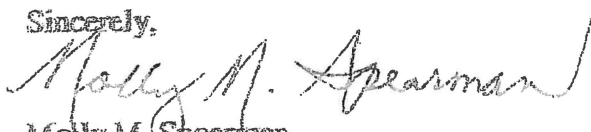
Today, I declare a state of emergency in Allendale County School District, pursuant to the powers provided to the State Superintendent of Education under the Appropriations Act of 2017, Proviso 1A.12. After a lengthy review I have determined that this declaration is in the best interest of the children and families of Allendale County. Allendale schools have failed to show improvement for many, many years and unless intense action is taken I fear that the children of Allendale County will continue to suffer. They have enormous potential and they deserve better educational opportunities.

In addition to my concerns about the lack of school improvement, I am also concerned about financial and programmatic issues in several federal and state programs. With additional technical assistance from my staff, I believe Allendale has the potential to make significant improvements in financial oversight of its various federal and state programs.

Dr. Walter Tobin, Sr. has agreed to return to Allendale as my designated superintendent, effective immediately. Over the next few days and weeks we will be meeting with school and district employees, parents and community leaders.

This decision comes after many weeks of reflection and discussions with our staff, members of Allendale County School Board and the Allendale community. Our chief focus will be on improving student achievement and we will accomplish this, if all parties work together.

Sincerely,


Molly M. Spearman
State Superintendent of Education