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August 6, 2010

Mark Neary  
Clerk  
Supreme Court of New Jersey  
Hughes Justice Complex  
25 Market Street  
Trenton, New Jersey 08625-0970

Re: Abbott, et al., v. Burke, et al., Docket No.  
42,170

Dear Mr. Neary:

Please accept this Letter Brief on behalf of the Movants-Intervenors, the Boards of Education of City of Bridgeton, City of Burlington, City of East Orange, Jersey City Public Schools, City of Perth Amboy, Town of Phillipsburg, and City of Trenton ("Boards"). The Boards seek leave to intervene in the above-captioned proceedings and to participate in oral argument in support of the Plaintiffs' Motion in Aid of Litigants' Rights. In support of their motion, the Boards submit Certifications from a representative array of Abbott Districts detailing the impact upon these Districts resulting from State formula aid cuts below the levels required in 2010-2011 by the School Funding Reform Act of 2008 ("SFRA") and by this Court's decree in Abbott v. Burke, 199

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N.J. 140 (2009) ("Abbott XX").<sup>1</sup> As the Certifications explain, the Boards were compelled by these State aid reductions to eliminate or reduce numerous essential educational and supplementary positions, programs and services in all areas of the Districts' instructional program and supplemental support services.

**PRELIMINARY STATEMENT**

Plaintiffs' motion explains the broad effects on school districts of the massive and unprecedented reduction in State school aid for the 2010-2011 school year. The Boards' submissions provide the Court with specific information from a representative sample of urban, disadvantaged Abbott districts on the district-level impact of those cuts. The Boards' experiences exemplify the harsh and unconstitutional results of the funding cuts on the educational and supplemental programs needed to provide disadvantaged, largely minority, students in New Jersey's urban

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<sup>1</sup> The following certifications have been submitted: Certification of Dr. H. Victor Gilson, Superintendent of Bridgeton School District ("Gilson Certification"); Certification of Dr. Patricia Doloughty, Superintendent of City of Burlington School District ("Doloughty Certification"); Certification of Dr. Gloria C. Scott, Superintendent of East Orange School District ("Scott Certification"); Certification of Flavio Rubano, Deputy Superintendent of Jersey City School District ("Rubano Certification"); Certification of John M. Rodecker, Superintendent of the City of Perth Amboy School District ("Rodecker Certification"); Certification of Mark Miller, Superintendent of the Town of Phillipsburg School District ("Miller Certification"); and Certification of Dr. Rodney Lofton, Superintendent of the City

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school districts with the constitutionally-mandated Thorough and Efficient Education. Without immediate intervention by the Court, the educational and programmatic opportunities in these districts will fall far below the constitutional standard, which is the touchstone of the SFRA's formulaic provisions. Equally important, the elimination or reduction of such needed positions, programs and services will inevitably lead to the precipitous decline in the substantial documented progress these districts have made over the past decade, progress that has been significantly fostered by adequate State education aid.

Any plea from the State for relief from the requirements of the SFRA and this Court's Abbott XX mandate should be soundly rejected. The State's present budgetary problems do not provide an excuse for ignoring a fundamental State responsibility that, like few others, is enshrined in the New Jersey Constitution. This constitutional obligation cannot be disregarded by the State in fiscally difficult times or accorded less than the highest priority and fullest protection in the allocation of State resources.

The dramatic cuts in educational programs, supportive services and supplemental programs only exacerbate the social, academic and

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of Trenton School District ("Lofton Certification").

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economic obstacles confronting the most disadvantaged students in the State. These districts have nowhere else to seek relief since the Executive Branch and the Legislature have been unresponsive to their pleas for full funding of the SFRA, even though the statute was trumpeted a year ago as an appropriate constitutional substitute for the Abbott remedies that would provide every student, regardless of where he or she lived, a Thorough and Efficient Education. The repudiation of that explicit constitutional promise by the Executive and Legislature and the clear defiance of the Court's decree in Abbott XX require the Court to grant immediately the relief sought by Plaintiffs.

#### PROCEDURAL AND FACTUAL BACKGROUND

The Boards supplement Plaintiffs' submission with specific information from seven representative Abbott districts detailing the severe impacts of the State aid reductions.

#### Bridgeton School District

The District has a total enrollment of 5,003 students. The student population is 36% Black, 54% Hispanic, and 8% White. 89% of the District's students qualify for free or reduced lunch. (Gilson Certification at ¶3). Because of the reductions in State aid, the District will receive \$3,553,562.00 less than the formulaic amounts required by the SFRA and deemed necessary to

provide the District's disadvantaged students with a Thorough and Efficient Education. (Gilson Certification at ¶4).

As a result of this reduction, the District had to eliminate ninety-seven (97) positions and is unable to fill 12 vacant positions, for a total elimination of one hundred and nine (109) positions. (Gilson Certification at ¶5). Among the positions eliminated or not filled are forty-six (46) teachers; fifteen (15) academic coaches; one (1) instructional facilitator; three (3) counselors; seven (7) social workers; two (2) Education Enforcement Officers who are needed to curb school violence and provide school security; five (5) teacher aides; and five (5) parent liaisons. (Gilson Certification at ¶6).

The District also had to eliminate all of the non-Child Study Team social workers and anger management counselors. In total, the District had to eliminate over 70% of the parent liaisons, 90% of the teacher tutors, and 50% of the substance abuse coordinators. (Gilson Certification at ¶11).

**City of Burlington School District**

The District has a total enrollment of 1,890. The student population is 54% Black, 36% White, 6% Hispanic, and 3% Asian. 50% of the District's students qualify for free or reduced lunch. (Doloughy Certification at ¶3). Because of the reductions in

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State aid, the District will receive \$1,459,583 less than the formulaic amounts required by the SFRA and deemed necessary to provide the District's disadvantaged students with a Thorough and Efficient Education. (Doloughy Certification at ¶4)

As a result, the District had to eliminate twenty-six (26) positions: eight (8) regular education teachers; two (2) special education teachers; two (2) teachers in the Alternative Day program designed to keep students in school; one (1) 3<sup>rd</sup> and 4<sup>th</sup> grade science special teacher; one (1) elementary art teacher; two (2) teachers of wood, metal and auto classes; one (1) music teacher; one (1) substance abuse counselor; five (5) elementary tutors and literacy coaches; one (1) home-school parent liaison; one (1) media center assistant; and one (1) Vice Principal. (Doloughy Certification at ¶5)

The District can no longer meet the Language Arts/Literacy requirements in the DOE regulations for small group instruction in reading and writing. The District will also have to eliminate small group instruction provided by the Writing Lab program. (Doloughy Certification at ¶7). The elimination of staff will also compel the District to reduce one alternative educational program and to modify an alternative education program for the high school. These alternative programs are designed to serve

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numerous students who must attend school at night because they work during the day to provide financial support for their families. (Doloughty Certification at ¶10). The elimination of an elementary art teacher and of a music teacher at the junior/senior high school will limit the ability of the District to provide appropriate and necessary instruction in art and music. (Doloughty Certification at ¶9). The elimination of the three (3) vocational/technical programs will adversely affect the ability of many District students who are not college-bound to learn essential trade skills necessary for productive employment opportunities. (Doloughty Certification at ¶8)

Finally, the reduction in formulaic aid has also compelled the District to severely reduce the number of after school and extracurricular activities and athletics that will be offered this school year. (Doloughty Certification at ¶13).

**East Orange School District**

The District has a total enrollment of 9,578 students. The student population is 96% Black and 4% Hispanic. 71% of the students qualify for free or reduced lunch. (Scott Certification at ¶2). Because of the reductions in State aid, the District will receive \$13,099,302 less than the formulaic amounts required by the SFRA and deemed necessary to provide the District's

disadvantaged students with a Thorough and Efficient Education.  
(Scott Certification at ¶3).

As a result of this reduction, the District had to eliminate two-hundred-ninety-six (296) positions. (Id.). Among the positions eliminated are one-hundred-fifty-seven (157) teachers; thirteen (13) technology coordinators; all thirteen (13) teachers on special assignment ("TOSA") who had provided extra academic support in elementary schools with less than 400 students (and no assistant principal); eighteen (18) building based substitutes; six (6) community outreach coordinators; and five (5) maintenance workers. (Scott Certification at ¶4, ¶7). The decrease in the District's maintenance staff will have a direct impact on the preservation of the District's buildings, most of which are well over 75 years old and in need of constant upkeep. (Scott Certification at ¶10). The District also had to eliminate eight (8) Security guards (8) and four (4) School Resource Officers, who are responsible for the safety and security of students and staff. (Scott Certification at ¶9).

The District also had to substantially reduce various programmatic expenditures, including, but not limited to, funding for student Saturday and after school programs in low performing schools, student transportation, and extracurricular activities.



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(Scott Certification at ¶4). The District will no longer be able to provide a reduced class size for language arts and tutoring by teachers for students in the elementary schools that are most in need. (Scott Certification at ¶5). The District also had to cut the budget for field trips by 50%. (Scott Certification at ¶12).

### Jersey City Public Schools

The District has a total enrollment of 27,464 students. The breakdown of the student population is 34% Black, 38% Hispanic, 11% White, and 15% Asian. 75% of the District's students qualify for free or reduced lunch. (Rubano Certification at ¶3). Because of the reductions in State aid, the District will receive \$26,710,109 less than the formulaic amounts required by the SFRA and deemed necessary to provide the District's disadvantaged students with a Thorough and Efficient Education. (Rubano Certification at ¶4).

As a result, the District had to eliminate approximately three hundred and seventy-four (374) positions. The eliminated positions included one hundred and sixty four (164) teachers of which thirty-nine (39) are special education teachers and thirty-three (33) are in-class support teachers for special education students; eighty-three (83) teacher aides of which thirty (30) are special education aides; thirty-one (31) social workers; five (5)

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guidance counselors; two (2) psychologists; one (1) drop-out prevention officer; four (4) Vice Principals; three (3) special education supervisors; three (3) supervisors of programs and services; and sixteen (16) security guards. (Rubano Certification at ¶5).

The District also had to eliminate most field trips, reduce by 50% the budget for athletics, eliminate summer school for elementary students, eliminate many after school programs, including the Twilight Program, an after school program for working high school students. (Rubano Certification at ¶6).

The District will not be able to fill one hundred and one (101) vacancies, including sixteen (16) teachers; thirteen (13) teacher aides, two (2) guidance counselors, four (4) security guards, three (3) Learning Disabilities Teacher Consultants, five (5) speech therapists, two (2) Vice Principals, four (4) community liaisons, fifteen (15) custodians, and seven (7) facilities maintenance staff and three (3) boiler operators. The District will not be able to hire for other needed positions, such as an instructional facilitator, social worker, psychologist, inclusion specialist, and school nurse. (Rubano Certification at ¶7).

The reduction in the District's facilities maintenance budget will require necessary building maintenance projects to be delayed

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or not done at all, which is of special concern since many of the District's school buildings are over 100 years old and in need of constant repairs and maintenance. (Rubano Certification at ¶16).

**Perth Amboy School District**

The District has a total enrollment of 9,978 students. The breakdown of the student population is 90% Hispanic, 7% Black, and 2% White. 77% of the students qualify for free or reduced lunch. Most of the District's students are Spanish-speaking and come from single parent households. (Rodecker Certification ¶3). Because of the reductions in State aid, the District will receive \$8,393,200 less than the formulaic amounts required by the SFRA and deemed necessary to provide the District's disadvantaged students with a Thorough and Efficient Education. (Rodecker Certification ¶4).

This reduction in State aid does not include the loss of over \$10 million in Education Adequacy Aid ("EAA") the District anticipated for the 2010-2011 school year. Although the District was advised by the Department of Education ("DOE"), shortly after enactment of the SFRA, that it would receive over \$13 million in EAA in 2010-2011, the District actually received only \$3,575,631 in EAA in the 2010-2011 school year, the same amount as last year. (Rodecker Certification ¶5). Thus, the District's State aid in 2010-2011 is more than \$18 million below what SFRA requires.

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As a result, the District had to eliminate over sixty (60) positions, including six (6) tenured teachers, thirty-three (33) non-tenured teachers, seven (7) security guards, six (6) academic coaches, five (5) guidance counselors, three (3) Vice Principals, five (5) nurses, seven (7) custodial positions, and six (6) parent coordinators. (Rodecker Certification ¶6). The District also had to eliminate all field trips, significantly reduce classroom materials, reduce after school programs, and eliminate 50% of the middle school athletic programs. (Rodecker Certification ¶8).

The District's students are especially vulnerable to health and safety risks arising from the shortage of nursing staff, particularly since these students have limited access to routine medical care. (Rodecker Certification ¶10). Furthermore, only one guidance counselor will be available in each elementary school to address the needs of a largely disadvantaged Spanish-speaking student population whose needs were not fully met with two guidance counselors in prior years. (Rodecker Certification ¶11).

**Phillipsburg School District**

Phillipsburg has a total student enrollment of 3,568 students. The student population is 72% White, 13% Hispanic, 12% Black, and 2% Asian. 46% of the students qualify for free or reduced lunch. (Miller Certification at ¶3). Because of the

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reductions in State aid, the District will receive \$2,667,133 less than the formulaic amounts required by the School Reform Act of 2008 ("SFRA") and deemed necessary to provide the District's disadvantaged students with a Thorough and Efficient Education.

As a result, the District had to eliminate ten (10) professional teaching staff positions; one (1) curriculum director; one (1) technology technician; and the entire middle school sports program. In addition, the District had to significantly reduce technology funding. (Miller Certification at ¶5). The reduction in State aid has also forced the District to severely reduce the number of after school and extracurricular activities and athletics. (Miller Certification at ¶9).

The District had also intended to hire back 62 teachers and 29 paraprofessionals, positions that were eliminated in the prior two school years as the result of funding reductions. However, because of the funding cuts, the District is not able to fill these positions. (Miller Certification at ¶6).

#### Trenton School District

The District has a total enrollment of 11,387 students. The student population is 58% Black, 38% Hispanic, 2% White, 1% Asian and 1% other. 80% of the students qualify for free or reduced lunch. (Lofton Certification at ¶3). Because of the reductions in

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State aid, the District will receive \$12,545,007 less than the formulaic amounts required by the SFRA and deemed necessary to provide the District's disadvantaged students with a Thorough and Efficient Education. (Lofton Certification at ¶4).

As a result of this reduction, the District had to eliminate two hundred eighteen (218) positions. (Lofton Certification at ¶5) Among the positions eliminated are four (4) directors of academic areas; one (1) director and five (5) coordinators who were responsible for specific educational and programmatic needs of our disadvantaged students; three (3) Vice Principals; five (5) Teacher Specialists; four (4) Nurses; two (2) Social Workers; four (4) Substance Abuse Counselors; twenty-six (26) Literacy and Math coaches; forty-two (42) Support Staff; eighty-five (85) Education Enforcement Officers; one (1) Media Assistant; six (6) Custodians; and eleven (11) mechanics and laborers. (Lofton Certification at ¶6).

The eliminated positions will impair the quality of instruction, as well as the provision of supplemental programs and security, in the District. (Lofton Certification at ¶7-¶8). With the reduction of classroom Teacher Specialists, such as in art and music, the District will not be able to provide appropriate and necessary instruction in art and music for our students, whose

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poverty prevents their exposure elsewhere to such enriching educational opportunities. (Lofton Certification at ¶10). The staff reductions will also result in the elimination of all of the non-Child Study Team social workers and nurses in the District. (Lofton Certification at ¶12).

In sum, the Boards' Certifications demonstrate the depth and breadth in these seven representative districts of the cuts compelled by the State's failure to fully fund the SFRA and comply with this Court's Abbott XX decision. The cuts will have a direct impact on all facets of the educational and supplemental student support services in these districts. Specifically, in these seven districts, 1287 positions were eliminated or cannot be filled, including 529 teachers, 52 academic coaches, 22 parent liaisons, 56 social workers and counselors, and 124 security guards or comparable security positions. These districts will lack adequate funding for programs, staff and positions to enable their students to meet New Jersey's academic standards - the New Jersey Core Curriculum Content Standards. (Gilson Certification at ¶14); (Doloughy Certification at ¶14); (Scott Certification at ¶16); (Rubano Certification at ¶19); (Rodecker Certification ¶18); (Miller Certification at ¶11); (Lofton Certification at ¶16). Nor will they have adequate funding to provide the essential

supplemental programs their students need and that SFRA was designed to enable the districts to deliver to address those needs. (Gilson Certification at ¶15); (Doloughy Certification at ¶15); (Scott Certification at ¶ 17); (Rubano Certification at ¶20); (Rodecker Certification at ¶19); (Miller Certification at ¶12); (Lofton Certification at ¶17).

Many of these districts will not be able to meet DOE class size requirements (Gilson Certification at ¶7); (Doloughy Certification at ¶6); (Scott Certification at ¶5); (Rubano Certification at ¶8); (Rodecker Certification at ¶8); (Miller Certification at ¶7), or be able to provide the small group instruction, academic coaching, summer school, and tutoring needed by a substantial number of their students. (Gilson Certification at ¶¶7-9); (Doloughy Certification at ¶7); (Scott Certification at ¶5, ¶14); (Rubano Certification at ¶13); (Rodecker Certification at ¶9); (Lofton Certification at ¶9). The opportunity for vital instruction in art and music has been sharply reduced in two districts. (Doloughy Certification at ¶9); (Lofton Certification at ¶17).

The security of students and staff will be jeopardized by the elimination of numerous personnel with security responsibilities. (Gilson Certification at ¶11); (Scott Certification at ¶9); (Rubano



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Certification at ¶11); (Rodecker Certification at ¶12); (Lofton Certification at ¶13). On-site social and health services and other supplemental programs necessary to address student problems impeding educational success will be curtailed. (Gilson Certification at ¶8, ¶10); (Doloughy Certification at ¶11); (Scott Certification at ¶9); (Rubano Certification at ¶10); (Rodecker Certification at ¶¶10-11); (Lofton Certification at ¶¶11-12). Parental involvement, which is a critical component of academic success in urban disadvantaged districts, will be severely limited by the elimination of parent and community liaison positions. (Gilson Certification at ¶8); (Doloughy Certification at ¶11). The cleanliness, upkeep and maintenance of school buildings, many of which are antiquated, will be impaired. (Scott Certification at ¶10); (Rubano Certification at ¶16); (Rodecker Certification at ¶14). Extra curricular activities, after school programs, and athletic programs have been eliminated or substantially reduced, depriving students of the opportunity to be engaged in positive and beneficial after school activities. (Doloughy Certification at ¶13); (Rubano Certification at ¶15); (Rodecker Certification at ¶7); (Miller Certification at ¶9).

Field trips, which provide the only opportunity for disadvantaged students in urban areas to be exposed to enriching

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experiences in museums and other venues outside of their school or community, will be sharply reduced or eliminated. (Scott Certification at ¶12); (Rubano Certification at ¶6, ¶12); (Rodecker Certification at ¶13). Reductions in technology personnel and funding will limit the opportunities for students to be adequately trained in the use of technology, an essential component of a 21<sup>st</sup> century education, since most of these disadvantaged students do not have access at home to computers. (Scott Certification at ¶5); (Miller Certification at ¶8).

LEGAL ARGUMENT

POINT ONE

THE MOVANTS-INTERVENORS SHOULD BE GRANTED LEAVE TO INTERVENE UNDER R. 4:33-1 OR R. 4: 33-2

The Boards seek leave to intervene in these proceedings under R. 4:33-1 (Intervention as of right) or R. 4:33-2 (Permissive Intervention). Because the Boards meet the criteria for intervention, the Court should grant the Boards' motion for leave to intervene.

Under R. 4:33-1, there are four criteria for determining intervention as of right. The applicant must: (1) claim "an interest relating to the property or transaction which is the subject of the transaction"; (2) show it is "so situated that the disposition of the action may as a practical matter impair or

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impede [its] ability to protect that interest"; (3) demonstrate that the "applicant's interest" is not "adequately represented by existing parties" and; (4) make a "timely" application to intervene. Meehan v. K.D. Partners, L.P. and Planning Board of the Borough of Longport, 317 N.J. Super. 563, 568 (App. Div. 1998) (citation omitted).

This rule has been construed liberally and "the test is whether the granting of the motion will unduly delay or prejudice the right of the original parties." Id. (citation omitted). The Boards' application meets all four criteria and, therefore, intervention as of right should be granted.

The Boards have substantial interests in this Court's enforcement of the funding levels required by SFRA and the Court's Abbott XX mandate. The Court's consideration of all relevant information relating to Plaintiffs' motion is critical to protect the Boards' interest in having adequate funding to enable their students to meet the New Jersey Core Curriculum Content Standards and to provide needed supplemental programs and services to address their students' disadvantages. The Boards provide highly relevant and detailed information on the adverse impacts to disadvantaged students in seven representative Abbott districts from the elimination or reduction of a host of educational and

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supplemental programs because of State aid reductions.

The Boards' application is timely. The Court has not yet acted on Plaintiffs' motion, and the Defendants should have adequate time to address the Boards' motion in advance of any oral argument on the motion. Accordingly, the Court should grant the Boards request for intervention under R. 4:33-1. Chesterbrooke Ltd Partnership v. Planning Bd., 237 N.J. Super. 118, 124 (App. Div. 1989).

The Boards also meet the standards for permissive intervention under R. 4:33-2. That Rule vests considerable discretion in the Court. Evesham Tp. Board of Adj. V. Evesham Tp., 86 N.J. 295, 299 (1981). The Boards present significant additional information and raise important issues relating to the proper implementation of this Court's mandates. The Boards' submissions should not delay or prejudice the State's ability to respond in a timely fashion to this motion. Of most significance, the Boards provide a detailed record of the "real world" consequences in representative Abbott districts of the present funding shortfall. Consequently, if intervention of right is denied, permissive intervention should be granted.

The Boards request to participate in oral argument should also be granted. The Boards' participation in oral argument could

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help inform the Court of the critical perspective of representative Abbott districts. The Boards would also be in the best position to respond to the Court's inquiries on the direct impact of the State aid cuts on Abbott districts that are representative of urban districts of all sizes and geographic location.

POINT TWO

THE RELIEF SOUGHT BY THE PLAINTIFFS  
AND THE BOARDS SHOULD BE GRANTED

Certain factual and legal propositions are indisputable on the present record. First, the State concedes that the SFRA has not been fully funded in 2010-2011 (Sb 4-6), thereby establishing a patent violation of the Abbott XX mandate. Indeed, since the SFRA formulas are predicated on providing adequate funding to achieve the Thorough and Efficient Education constitutional standard for every child, regardless of where he or she lives, Abbott XX, 199 N.J. at 175, the dramatic cuts in SFRA formulaic funding necessarily violate that constitutional requirement.

Second, as stated above, supra at 15, because of State aid cuts, the sheer magnitude of the eliminated or unfilled positions, programs and services required in these seven districts is staggering. These funding cuts negatively impact all the critical components of the Boards' educational programs and supplemental

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support services needed to provide the constitutionally-required education.

Third, since "the right of children to a thorough and efficient system of education is a fundamental right guaranteed by the Constitution . . . it follows that the court must 'afford an appropriate remedy to redress a violation of those rights.'" Robinson v. Cahill, 69 N.J. 1133, 147 (1975). As the Court forcefully stated in Robinson: "To find otherwise would be to say that our Constitution embodies rights in a vacuum, existing only on paper." Id. (citation omitted).

Fourth, the State's budgetary problems do not provide a license to place constitutional requirements on hold. The State's constitutional obligation cannot be disregarded in fiscally difficult times or accorded less than the highest priority and fullest protection in the allocation of State resources. This Court made clear in Abbott v. Burke, 153 N.J. 480 (1998) that "[t]he lessons of the history of the struggle to bring these children a thorough and efficient education render it essential that their interests remain prominent, paramount, and fully protected." Id. at 527-28. For this judicial guarantee to have continuing meaning, the Court can now do no less than ensure that the dire needs of children in the disadvantaged urban districts

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remain "paramount" and "fully protected" in State budgetary decisions on education aid.

The cases cited by the State to suggest the Legislature has exclusive authority in the appropriation of State education aid are inapposite. (Sb 15-17,19) As this Court has cogently observed: "That principle is qualified, however, when funds are constitutionally mandated." Div. Of Youth & Family Serv., v. D.C., 118 N.J. 388, 400 (1990) (citing Robinson v. Cahill, 67 N.J. 333, 354-55) (1975)).

Finally, the State aid cuts for 2010-2011 - and repudiation of the SFRA requirements and this Court's mandate -- will inevitably nullify the advances in student achievement and the narrowing of the achievement gap between students in the Abbott districts and high wealth districts resulting from constitutionally adequate funding. See Goertz & Weiss, *Assessing Success in School Finance Litigation: The Case of New Jersey*, 1 Education Equity and The Law 23-27(2009) (Finding (1) a narrowing of achievement gap between students in Abbott districts and students in high wealth districts on NJASK4 and GEPA assessments during the period from 2000 to 2007; and (2) on National Assessment of Education Progress ("NAEP") scores) from 2003-2007, the achievement gap between New Jersey urban districts and suburban districts also narrowed);

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Stanford Professor Linda Darling-Hammond, *What Are The Best Methods For School Improvement?*, National Journal.com (September 4, 2009), <http://education.nationaljournal.com/2009/08/what-are-the-best-methods-for.php#1351392> ("Taking demographics into account, New Jersey is arguably the highest achieving state in the nation. It has cut its achievement gap in half over the last decade. . .); and Linda Darling-Hammond, *The Flat World And Education: How America's Commitment To Equity Will Determine Our Future*, Teachers College Press at 74 (2010) (New Jersey was "one of four states that made the most progress in closing achievement gaps between White and Black and Hispanic students over the previous four years in both 4<sup>th</sup> and 8<sup>th</sup> grade reading and math").

In Abbott v. Burke, 119 N.J. 287, 394 (1990), the Court stated: "[T]he urban poor are capable, that given sufficient attention in an adequately financed system using the best knowledge and techniques available, a thorough and efficient education is achievable." The narrowing of the achievement gap in New Jersey provides empirical validation of the Court's prescient observation about the positive impact of "an adequately financed system" on our most disadvantaged students. The Court must act now to preserve the "adequately financed system" that has given concrete educational benefits and hope to so many of New Jersey's



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urban disadvantaged students.

CONCLUSION

For the reasons stated above, the Boards respectfully request that this Court issue an Order: (1) granting the Boards' motion for leave to intervene and to participate in oral argument; (2) enjoining the State Defendants from providing State school aid to New Jersey school districts for the 2010-2011 school year that is less than the aid levels required by the provisions of the School Funding Reform Act of 2008 ("SFRA") and less than the "full funding" required by this Court's decision in Abbott v. Burke, 199 N.J. 140 (2009) ("Abbott XX"); and (3) enjoining the State defendants from conducting their statutorily-required review of the SFRA formula and making recommendations to the Legislature until the State can demonstrate that the SFRA's formulas have been fully implemented as required by this Court's Abbott XX decision.

Respectfully submitted,

RICHARD E. SHAPIRO, LLC

By: 

Richard E. Shapiro  
Special Counsel For Movants-  
Intervenors Boards of Education of  
City of Bridgeton, City of Burlington, City  
of East Orange, Jersey City Public Schools,  
City of Perth Amboy, Town of Phillipsburg,  
and City of Trenton

cc: Nancy Kaplen, Esq.  
David Sciarra, Esq.