VIRGINIA COURT CLERKS ASSOCIATION
REMARKS TO SENATE FINANCE COMMITTEE'S
GENERAL GOVERNMENT/TECHNOLOGY SUBCOMMITTEE

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Thank you for this opportunity to speak to you. The Virginia Court Clerks' Association has prepared this information to highlight the drastic cuts experienced by circuit court clerks over the past several years. The cumulative result of such cuts has been devastating. Many clerks such as Bruce Patterson in Rockbridge County currently have the same number of state-funded positions as the office had in1978. Here are some other examples of how the proposed cuts will affect Circuit Court Clerks:

Effects of FY11/12 Budget Proposal
John Frey of Fairfax County: Potential loss of $913,700 in state funding. The proposed 15.75 cut coupled with the 90 day vacancy freeze, loss of VRS payments and 1 day furlough equates into a 30% reduction attributable to the funding of his office. This is in addition to the prior 20.7% cuts imposed during the Kaine Administration.
Cynthia Morrison, City of Portsmouth, who has lost 4 full time positions out of 25 in the last year and a half can expect to lose that many again while her workload has increased substantially in the past decade. FY 11/12 proposed reductions equate into a 27% reduction of State funding attributable to her budget.
Faye Mitchell City of Chesapeake, who has already lost 6 full time positions out of 30 in the last year and a half can expect to lose that many again while her workload has also increased substantially in the past decade. FY 11/12 proposed reductions equate into a 28% reduction of State funding attributable to her budget.
Vickie Helmstutler of Henry County, lost 2 employees in the last round of budget cuts and currently has the same number of positions as 1975, will have at least 2 than less than 1975 in if the proposed cuts are implemented.
Yvonne Smith of Henrico faces a loss of $353,400 in state funding or 28% of State funding attributable to her budget in FY11/12.

These losses of positions are magnified by the fact that Clerks were not fully staffed at the inception of these cuts. The annual budget reductions proposed for Clerks in the FY 11/12 totals The FY 10 Clerks budget reductions, including the transfer of Technology Trust Funds, totaled $11.8M. That reduction is in addition to the $10.6M in the proposed FY 11/12. Circuit Court Clerks budgets have taken a $22.4M in a 2 ½ year span. Circuit Court Clerks have been hit disproportionally hard and these proposed cuts should be readdressed. **The estimated position losses by Circuit Court Clerks in the FY 11 budget is 262 positions or 25.6% of our staffing.**
These position losses are magnified by the fact that Clerks were not fully staffed at the inception of these cuts.

Statewide, the Circuit Court Clerks workload has increased 32% in the last 11 years and substantially more since then the late 70's and early 80's. A number of Clerks, including Virginia Beach and Portsmouth, have already had to shorten the hours their office is available to the public in order to perform the back office duties. These duties include indexing Land Record instruments, preparing Court Orders, transmitting data to the State Police, DMV, DOC, Probation and Parole and many other mandated duties that are required to ensure public safety. This number will grow if we experience more cuts.

The **Technology Trust Fund** has been raided to the point that if this year's TTF money is not restored, my office and that of many other clerks will have no funds to pay our software providers. As

a result, our Land Records Management System could be shut down leaving us unable to receipt land records.

Circuit Courts in Virginia collected over $1 billion dollars for the Commonwealth of Virginia last year. The bulk of these collections include recordation taxes on land related instruments and criminal fines and fees. For us to continue to help fill the Commonwealth's coffers, we must have the available resources for staffing and software and hardware to run our offices and collect state revenue.

While circuit court clerks have more than 800 statutory responsibilities, most offices have received no state funding for office expenses in the past few years. I know personally that all of the civil and criminal file folders, telephone and fax related expenses, postage expenses, pencils pens and paper and any and all other office expenses of the King George Circuit Court have been County funded. Disappointingly, circuit court clerks over the past few years have experienced proportionately greater budget cuts than other constitutional officers who are part of the criminal justice system. Circuit court clerk's offices serve as the "hub" of the criminal justice system wheel; yet, from a budget perspective, clerks and their offices are not viewed as integral members of the criminal justice/public safety community. This is unfortunate. The efforts of law enforcement and prosecutors culminate in court operational decisions and evidence/file handling responsibilities that fall solely to clerks of court. Critical public service and public safety issues are more likely to arise when clerks are not provided adequate resources. The Circuit Courts, as a Court of Record, process the most serious and violent criminal cases and are charged with the responsibility of ensuring that all court records are complete, accurate and can withstand the appeal process.

Circuit court clerks around the Commonwealth fully recognize the burden facing legislators this year in managing historic budget shortfalls. As evidenced by the attached, these clerks have carried a heavy burden in shouldering budget cuts. Circuit Court Clerks throughout the Commonwealth join me in respectfully requesting that you spare clerks from further cuts and make every effort possible to restore a portion of the funding that has been cut in past years. The Clerks, in an effort to assist in finding a solution to the funding problem, have proposed Senate Bill 258 (fees), Senate Bill 409 (duties), and House Bill 974 (technology fees) that we believe will begin to address our funding problems without having a negative impact in the General Fund. Because of these bills, we did seek budget amendments for tens of millions of dollars in general funds. However, should these bills fail, we will need this subcommittee to restore the funds necessary for our offices to continue to serve the public and carry out our criminal justice functions.

I would welcome the opportunity to meet with you at any time to discuss matters of mutual concern. Thank you in advance for your consideration and support.

CLERKS OF CIRCUIT COURT – APPROPRIATIONS HISTORY

- Wilder Administration: Imposed 4% cuts - **Never Restored**

- Warner Administration: Imposed 11 % cuts - **Never Restored**

- Kaine Administration:

  - Budget cuts FY 2009: 5% - **Never Restored**
  - Budget cuts imposed in FY2010:
    - 15.7%, in addition to $7M raid on Clerks' Technology Trust Fund. Approximate total reduction = $11.8M
    - Cut excess clerk's fee reimbursements to localities by 50%, resulting in a loss of $5,924,534
  - *FY2010 Caboose Budget Amendments:*
    - Reverts an additional $2M from the Clerks' Technology Trust Fund to the State's General Fund
    - Eliminates $7.8M in reimbursements to localities for VRS retirement and group life insurance premiums
    - Reduces $2.2M in reimbursements to localities via a l-day furlough imposed upon constitutional officers and their employees
  - *Budget cuts proposed for FY 2011 and FY 2012:*
    - Reduction of $2,749,929 in previously restored across-the-board reductions in each year for Clerks based upon staff salaries and other expense appropriations;
    - Reduction of $1,481,378 in each year based on an additional 5% across-the-board reduction to staff salaries and other expense appropriations for Clerks;
    - Reduction of $3,255,922 in each year based on an additional 11% across-the-board reduction to staff salaries and other expense appropriations for Clerks;
    - Continuation of the use of an additional $1.49 million (for a total of $2.98 million) of non-general Technology Trust Funds to offset a reduction in Clerks' general fund operating expenses and $1 million to supplement Clerks' general fund operating expenses;
    - Language provides for a line of credit in the amount of $8 million for budgeting Technology Trust Fund cash in the year in which is it collected, to replace FY10 cash collections to be reverted to the general fund.
    - Reduce reimbursements to localities for VRS retirement and group life insurance premiums
    - Reduces reimbursements to localities for cost of liability and surety bond premiums

Impact of Cuts

Significant staffing reductions adversely impact the ability of Clerk's to perform their statutory duties. (Example: In FY2009, Circuit Court Clerks were staffed at approximately 85% of the State Compensation Board staffing standards. The 15.7% reduction in FY2010 equates to a loss of 158 positions, bringing the current staffing shortage to 322 positions or 26% short of the recommended standard.)

Some Circuit Court Clerks have the same number of state-funded positions as they did in 1978, although the **workload has increased by 32% since 1998,** and substantially more since 1978.

The Technology Trust Fund is comprised of **user fees** collected by Circuit Court Clerks. The

General Assembly mandated the collection of these funds for the purpose of creating a revenue stream to bring about efficiency through technology improvements in Circuit Court Clerks' Offices. In addition to mandating that all Clerks place their automated land records online through Secure Remote Access, the General Assembly also mandated that Clerks remove social security numbers from all land records placed on-line. This mandate was never funded by the General Assembly, leaving the Technology Trust Fund, which has been severely cut, to fund this mandate.

Continuing Technology Trust Fund cuts will:

- Force Clerks to shut down Secure Remote Access sites OR prevent Clerks from redacting social security numbers, both of which are in conflict with current law.
- Stifle efficiency measures that were intended by Technology Trust Fund legislation
- Place Clerks at risk of liability for breach of contract with existing vendors for automation improvements/systems.