

TESTIMONY OF THE VIRGINIA SCHOOL BOARDS ASSOCIATION

Before the Subcommittee on Public Education
of the Senate Committee on Finance

January 28, 2010

Good afternoon ladies and gentlemen. My name is Pat Lacy and I am special counsel to the Virginia School Boards Association. I am pleased to offer the VSBA's comments on the 2010-2012 biennial budget submitted by former Governor Kaine. Dr. Liverman has done an excellent job of addressing the impact on jobs that will result from adoption of Governor Kaine's budget. VSBA recognizes the burden placed upon this committee as you attempt to cope with the extraordinary fiscal stress facing the Commonwealth. Despite this burden, or perhaps because of this burden, we should acknowledge an overarching issue that must be considered by the General Assembly when acting on funding for K-12 education, that is, compliance with the requirements of the Constitution of Virginia relating to funding of the Standards of Quality.

As you are all aware, Article VIII, § 2, of the Constitution of Virginia provides that the "Standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly." The Attorney General had the opportunity to interpret this provision shortly after the Constitution of 1971 became effective and while the debates over its provisions were fresh in everyone's minds. As stated by the Attorney General:

[T]he Standards cannot be prescribed in a vacuum but must be realistic in relation to the Commonwealth's current educational needs and practices. Similarly, in estimating the cost of implementing the Standards, the General Assembly must take into account the actual cost of education rather than developing cost estimates based on arbitrary figures

bearing no reasonable relationship to the actual expense of education prevailing in the Commonwealth.

Unfortunately, and despite the Constitution as interpreted by the Attorney General, the past few years have seen a series of systematic changes to K-12 funding which have widened the gulf between the actual cost of education and state funding so severely as to strain the very meaning of “reasonable.” For example, the state has gone from fully realizing the costs of non-personnel inflation factors in SOQ re-benchmarking, to instituting a “soft cap” limiting the impact of high inflation, to instituting a “hard cap” to limit how high inflation could go regardless of actual inflation, to proposing the elimination of non-personnel inflation adjustments altogether. The current funding formula assumes that a local school board can tell suppliers of diesel fuel, for example, that it will only pay last year’s price regardless of this year’s price. Obviously, this is an untenable position for school boards to take, but the funding formula assumes that school boards can and should disregard the impact of inflation on the costs of operating a school system.

Another example is more current. Virginia has gone from funding support positions on the basis of local prevailing practice (prevailing in name only, of course, as prevailing was already adjusted by linear weighted averages), to capping the funding for those positions based on an arbitrarily devised ratio between already inadequate and under-funded instructional personnel standards and support personnel. There have been no changes in the necessity for these support personnel or in the critical role they play in our instructional mission. There have been no reductions or eliminations of mandates placed on us by the state or federal government, which many of these support positions help to carry out. There has only been a reduction in the state’s share of funding these positions. Another point regarding the funding of support staff is

worth mentioning. Federal stimulus funds were used in both the FY09 and FY10 budgets to supplant the cuts in the state's share of funding of support positions. Because stimulus money was treated as non-general funds, that money was not considered as part of the state's share of funding the Standards of Quality, and it did not trigger the local governments' obligation to pay their fair share of the costs of support personnel.

The State has also systematically excused itself from entire key areas of education funding support. Between transfers of lottery funds to recurring instructional programs, shifts of literary funds to teacher retirement, the elimination of school construction grants, and this year's proposed elimination of capital costs from the SOQ re-benchmarking model, the state will have all but eliminated any role it plays in school construction. The proposed elimination of VPSA Technology Grant Program would similarly eliminate a dedicated state funding source for educational technology. It is difficult to imagine how school divisions are to provide an adequate education without buildings or computers, but that is the picture of school budgets as painted by the state funding formula.

The budget you will consider this year continues this trend. I have already mentioned the proposed continuation of the support cap, elimination of inflation factors, and elimination of capital costs from SOQ re-benchmarking. In addition, health care cost reimbursements are proposed to be pegged, not to actual division by division participation rates, but to a linear weighted average of "prevailing" participation.

No one questions the severe fiscal stress faced by all levels of government. It is one thing to fairly and realistically address budget shortfalls. It is quite another to balance the state's budget by ignoring any realistic relationship between state funding and the actual local costs of providing an education. We must remain mindful that as the gap between actual costs of

prevailing practices and state funding grows, so does the potential for a constitutional challenge to the funding of K-12 education.

Thank you for giving us the opportunity to address you and for your attention to our remarks.