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SENATE JOINT RESOLUTION NO. 104

Offered January 17, 2014

Commemorating the sixtieth anniversary of Brown v. Board of Education.

Patrons—Lucas, Alexander, Barker, Black, Carrico, Cosgrove, Deeds, Edwards, Garrett, Hanger, Locke, Marsh, Martin, McDougale, McEachin, McWaters, Miller, Newman, Norment, Obenshain, Puller, Reeves, Ruff, Saslaw, Smith, Stanley, Stosch, Stuart, Vogel, Wagner and Watkins; Delegates: Davis, Futrell, Hester, James, McClellan, McQuinn, Morrissey, Spruill, Torian, Toscano and Ward

WHEREAS, at one point in history, African Americans were denied their constitutional rights, including the right of life, liberty, and the pursuit of happiness, and the right to equal educational opportunities; and

WHEREAS, while lengthy legal battles for racial and educational equality across the South from the 1930s through the 1940s produced minimal progress, in 1950, the United States Supreme Court ruling in *Sweatt v. Painter*, 339 U.S. 629 (1950), successfully challenged the "separate but equal" doctrine of racial segregation established by the landmark decision in *Plessy v. Ferguson*, 163 U.S. 537 (1896), which required racial segregation in public facilities under the doctrine of "separate but equal"; and

WHEREAS, throughout the Commonwealth, school conditions, curricula, textbooks, school equipment, bus transportation, and school buildings for African American students were grossly inferior to the public education and school facilities afforded white students; and

WHEREAS, dissatisfaction with the abysmal educational conditions mounted in the African American community across the South and the Commonwealth, and in Farmville, a student-led protest against the inferior Robert Russa Moton High School resulted in the case known as *Davis v. County School Board of Prince Edward County*, 103 F. Supp. 337 (1952), one of five cases consolidated as *Brown v. Board of Education of Topeka, Kansas*, 347 U.S. 483 (1954), which challenged the doctrine of "separate but equal" as unconstitutional under the equal protection clause of the Fourteenth Amendment; and

WHEREAS, the consolidated cases were brought in Kansas (*Brown v. Board of Education of Topeka, Kansas*, 98 F. Supp. 797); South Carolina (*Briggs v. Elliot*, 98 F. Supp. 529 and 103 F. Supp. 920); Delaware (*Gebhart v. Belton*, 87 A.2d 862 and 91 A.2d 137); Virginia (*Davis v. County School Board of Prince Edward County (Virginia)*, 103 F. Supp. 337); and the District of Columbia (*Spottswood Thomas Bolling et al. v. C. Melvin Sharpe et al. (District of Columbia)*, 349 U.S. 294; however, it was the facts in the Virginia case upon which the historic decision in *Brown v. Board of Education* was based and argued before the United States Supreme Court; and

WHEREAS, sixty years ago, on May 17, 1954, the United States Supreme Court ruled unanimously in *Brown v. Board of Education of Topeka, Kansas*, that "State-sanctioned segregation of public schools was a violation of the 14th amendment and was therefore unconstitutional," overturning the "separate but equal" doctrine adopted in *Plessy v. Ferguson*; and

WHEREAS, *Brown v. Board of Education*, touted as a landmark education decision, struck the death blow that ended the era of Jim Crow and legally sanctioned segregation throughout American society and served as a catalyst for the Civil Rights Movement; and

WHEREAS, in an act of defiance to this historic ruling, Virginia embarked upon the public policy of "Massive Resistance," in which numerous legislative initiatives were enacted to nullify the decision, including the diversion of public education funds to support private segregated academies and foundations and the closing of public schools in several jurisdictions in the Commonwealth to avoid desegregation; and

WHEREAS, on May 31, 1955, the United States Supreme Court ruled that the implementation of desegregation must occur "with all deliberate speed"; however, during the two-year period from 1956 to 1958, Virginia implemented the strategy of "Massive Resistance" to oppose the desegregation of public schools in Virginia; and

WHEREAS, in 1956, the Constitution of Virginia was amended to authorize the General Assembly and local governing bodies to appropriate funds to assist students to go to public or to nonsectarian private schools, and the General Assembly empowered the Governor to close any schools in Virginia that were likely to be desegregated and "enacted legislation to close any public schools where white and colored children were enrolled together, to cut off state funds to such schools, to pay tuition grants to children in nonsectarian private schools, and to extend state retirement benefits to teachers in newly created private schools"; and

WHEREAS, during this same period, citizens in Arlington County opted to comply with the *Brown* decision; however, the Virginia General Assembly deprived the Arlington County School Board of its

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56 elective status when it announced a plan of phased desegregation; and

57 WHEREAS, on September 4, 1958, the Governor of Virginia divested the school superintendents of
58 Virginia public schools of the authority to desegregate their schools and advised them that if they
59 contravened his order they would be in violation of Virginia law; and

60 WHEREAS, during September 1958, public schools in Front Royal, Charlottesville, and Norfolk
61 were closed to prevent desegregation, locking out nearly 13,000 students, and in Prince Edward County,
62 2,300 African American and nearly 350 white students were without public education for five years,
63 from 1959 to 1964; and

64 WHEREAS, as a result of the school closings, many students were unable to begin or continue their
65 education, and many others were unable to graduate from high school, attend college, or pursue other
66 postsecondary education and training opportunities; and

67 WHEREAS, on January 19, 1959, both the Virginia Court of Appeals and the United States District
68 Court for the Eastern District of Virginia overturned Virginia's "Massive Resistance" laws and
69 permanently enjoined state officials from closing a school to avoid desegregation; and

70 WHEREAS, in 1959, Virginia instituted "Freedom of Choice" in lieu of "Massive Resistance," which
71 the courts struck down, and Prince Edward County public schools were not reopened until 1964, when
72 the United States Supreme Court opined in *Griffin v. School Board of Prince Edward County*, 377 U.S.
73 218 (1964), that "closing the Prince Edward County schools while public schools in all the other
74 counties of Virginia were being maintained denied the petitioners and the class of Negro students they
75 represent the equal protection of the laws guaranteed by the Fourteenth Amendment," and the Court
76 called for "quick and effective relief to put an end to the racial discrimination practiced against these
77 petitioners under authority of the Virginia laws"; and

78 WHEREAS, the plaintiffs in *Griffin* won for school children throughout the nation the right to an
79 education as this right has been established in state constitutions; and

80 WHEREAS, notwithstanding the formal end of Virginia's "Massive Resistance" policy, desegregation
81 cases continued to be heard in federal courts until 1984, and the last case was dismissed in 2001; and

82 WHEREAS, in 2003, the Virginia General Assembly passed House Joint Resolution 613, which
83 expressed profound regret for the closing of Prince Edward County public schools, and in 2004, the
84 county school board awarded more than 400 honorary diplomas to the survivors of "Massive
85 Resistance"; and

86 WHEREAS, several results of Virginia's two-year statewide commemoration of the fiftieth
87 anniversary of the *Brown* decision from 2004 to 2006 include the Civil Rights Memorial in Capitol
88 Square, production of the film "Turning Point: *Brown v. Board of Education*," publication of the
89 brochure *Brown v. Board of Education: Virginia's Role and Response*, and most notably, the Brown v.
90 Board of Education Scholarship Program and Fund, which provides educational opportunities to eligible
91 residents of Virginia who were denied a public education during "Massive Resistance"; and

92 WHEREAS, it is fitting, timely, and appropriate to commemorate *Brown v. Board of Education* on
93 the occasion of the sixtieth anniversary of the landmark decision to acknowledge the tremendous
94 progress that the people of the Commonwealth have accomplished together towards racial equality and
95 equal educational opportunities for all Virginians; now, therefore, be it

96 RESOLVED by the Senate, the House of Delegates concurring, That the sixtieth anniversary of
97 *Brown v. Board of Education* hereby be commemorated; and, be it

98 RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the
99 Secretary of Education, the Superintendent of Public Instruction, the Chancellor of the Virginia
100 Community College System, the Chairman and Executive Director of the State Council of Higher
101 Education for Virginia, the Virginia School Boards Association, the Virginia Association of School
102 Superintendents, and the presidents of the Virginia Education Association and the Virginia Parent
103 Teacher Association, requesting that they disseminate copies of this resolution to their respective
104 constituents so that they may be apprised of the sense of the General Assembly of Virginia in this
105 matter.