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The Virginia News Letter

The Evolution of Virginia Public School Finance: From the Beginnings to Today's Difficulties

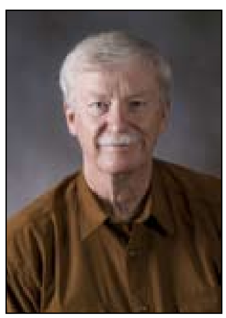
by Richard G. Salmon

Introduction

Public elementary and secondary education, a vast, uneven and complex system, is the most significant cost to local government and one of the largest costs to state government in Virginia. Meeting this cost has become even more difficult as the state and nation continue to struggle with the most severe economic downturn since the Great Depression. Many observers believe Virginia, like other states, will feel an even tighter financial pinch when the current infusion of federal stimulus funding is withdrawn.

In light of these pressures, the following analysis examines the historical background of public school funding in Virginia and the complicated and controversial formulas used for supporting primary and secondary education throughout the state.

This article concludes that despite the harsh economic climate, Virginia's public education funding is relatively stronger today than in its often-troubled past. But although Virginia has the potential to remedy the current fiscal plight, the state ranks among the lowest in the nation for fiscal effort for education based on personal income. There are severe funding disparities among Virginia school divisions, with the least affluent localities suffering the most. Solving education funding problems will not be easy, but if economic crises have a saving grace, it is in forcing stakeholders to look for the most efficient ways to operate. When federal stimulus funds are withdrawn, the state may well have to consider a tax increase if public education is to be maintained even at its current most basic level.



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Early Years

The Commonwealth of Virginia, like other southern states, was not an early supporter of public schools, often referred to as *common schools*, during the colonial years and well into the twentieth century. Despite the urging of Thomas Jefferson, John Tyler, and other Virginians, the state was slow to subscribe to the notion of free public education. An historical study of the Virginia Literary Fund, which was enacted initially and feebly to educate the poor, found that the main barrier for the establishment of a state-supported system of common schools was the attitudes of the people themselves.[1] Another study concluded,

> The economic and social system in the South consisting of an aristocratic upper class, a relatively weak middle class, "poor whites," free Negroes, and on the lowest level, slaves, was unfavorable to the development of publicly supported free schools. Such development is more characteristic of a society composed of free labor and a vigorous middle class.[2]

Prior to the enactment of the Virginia Literary Fund in 1810, the General Assembly made virtually no state appropriations for common schools, and the localities provided only the

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most meager fiscal support. Since its establishment, the Literary Fund has been used for several purposes, including its initial objective of providing a minimal education for the poorest white children. Ultimately, the Literary Fund evolved into a loan mechanism that provides low interest loans to local school divisions for the construction of school facilities and periodically helps balance the state general fund during economic recessions. The Literary Fund was linked more recently to the Virginia Public School Authority (VPSA) in order to finance other capital needs of the public schools, including computer technology.

The Virginia Literary Fund initially was financed by fines, forfeitures, penalties, confiscations, escheats and debt repayment for the War of 1812.[3] The current Literary Fund receives its revenues similarly,

> …the proceeds of all public lands donated by Congress for free public school purposes, of all escheated property, of all waste and unappropriated lands, of all property accruing to the Commonwealth by forfeiture except as hereinafter provided, of all fines collected for offenses committed against the Commonwealth, and of the annual interest on the Literary Fund; and such other sums as the General Assembly may appropriate.[4]

Ostensibly, Literary Fund appropriations were to be expended exclusively for public schools. However, since almost at its inception, Literary Fund resources have been diverted to other state purposes, including an early diversion of funds to help establish the University of Virginia.[5] Much more recently in 1990, a constitutional amendment was ratified that diverted a portion of Literary Fund revenues. Revenues derived from property seized and forfeited pursuant to criminal drug violations are now designated for law enforcement.[6]

Because of the diversion of funds, unstable revenue streams, and insufficient appropriations, by the mid-1800s the Literary Fund was incapable of providing sufficient financial resources to establish and maintain an adequate system of free public schools throughout the state. The initial reluctance of the body politic to fund public schools through taxation, particularly from state resources, proved difficult to overcome; however, it did provide a much-needed starting point for subsequent development of a comprehensive system for financing universal public education. Through the General Assembly, supporters of public schools attempted to enact a system of free universal education in 1829[7] and again in 1846,[8] but neither attempt resulted in legislation that required either the state or localities to provide sufficient public revenue to operate or maintain a system of public schools. In the years leading up to the Civil War and during the war years, 1861 to 1865, there was even less movement toward the establishment of a viable system of public education.

Reconstruction Period

During the reconstruction era following the Civil War, Virginia was burdened with a destroyed infrastructure, an economic system in shambles, and a largely uneducated or undereducated population. In the midst of this chaotic environment, a constitutional convention was convened in 1867, and New York Judge John C. Underwood was named as its president. Thus, a newly written Virginia Constitution, that became effective in 1870, is often entitled, the Underwood Constitution. Contained within the Underwood Constitution, for the first time, was the inclusion of an article that required the General Assembly to provide compulsory and universal free public education.[9] State revenues were derived from Literary Fund investments, a capitation tax, and a statewide property tax of not less than one mill and not more than five mills on the dollar. In modern terminology that translates to not less than $0.10 per $100 of assessed value and not more than $0.50 per $100 of assessed value.[10] Funds were allocated to each free public school division based on the number of children aged 5-21 years. Although not mandated, each county and public free school district could levy additional millage not to exceed five mills.[11] The first state superintendent, W. H. Ruffner, was appointed in 1870. Throughout his tenure, Ruffner struggled with the diversion of funds from the Literary Fund and the virtual absence of state funds for the newly mandated system of public schools. Nevertheless, he successfully appointed some 1,400 county superintendents and trustees (school board members) and convinced them to start their schools without any state money and without knowing how much income would be produced from the newly imposed taxes.[12] Throughout the post Civil War years, there was constant debate concerning whether or how African-American children should be educated, ultimately resulting in a state-legislated parallel system of public schools in 1870.[13] Neither white nor black public schools were funded adequately, but the conditions and services provided black children were appalling indeed.

State expenditures for public schools rose to approximately $360,000 by 1871 and were nearly matched with local expenditures of $330,000. By 1900, state expenditures slightly exceeded $1 million and again were nearly matched by the localities.[14]

Twentieth Century

In 1902, a rewritten constitution was ratified but left unchanged the education clause of the Underwood Constitution,

> **Free schools to be maintained**. The General Assembly shall establish and maintain an efficient system of public free schools throughout the state.[15]

The 1902 Constitution retained the state funding requirement that designated the yield of statewide property tax for public schools but changed the census count used to distribute state aid from 5-21 to 7-20 years of age. It also reinforced previously enacted state legislation that mandated racially segregated schools with the clause, "White and colored children shall not be taught in the same school."[16]

Four years later in 1906, the Virginia Literary Fund was converted to a school capital construction loan fund.[17] State appropriations for public schools continued to grow during the early years of the twentieth century, although the increased state aid failed to keep pace with population growth. By 1918, the Virginia Education Commission reported that state aid to public schools had exceeded slightly $3.2 million[18] but was woefully inadequate, providing only one-third the needed resources.[19]

In addition to the problems presented by the diversion of funds from the Literary Fund, inadequate state fiscal support became more apparent during the early years of the twentieth century. This problem was created by the considerable variance in the fiscal ability of localities to support governmental services, including their ability to fund public free schools, a constitutional requirement. Another problem was the inequity created by racial and ethnic barriers. This combination of problems has continued to haunt the commonwealth throughout the twentieth and into the twenty-first century.

Gradually, and often reluctantly, the General Assembly developed a statewide system and increased state appropriations for public schools. A minimum foundation program structure,[20] entitled the Basic State School Fund, was developed, although primary fiscal responsibility was placed on the localities.[21] The minimum foundation program was popularized nationally during the 1930s, 1940s and 1950s and remains today the dominant structure for funding public schools. The primary purpose of the minimum foundation program is to provide a basic education program throughout a state through use of a fiscal equalization formula,[22] while permitting the generation of additional funds through local taxation. A rather simple minimum foundation program, coupled with a series of categorical flat grants for special education, pupil transportation, vocational education, etc. was institutionalized in Virginia, but it failed to remedy fully the fiscal and educational disparities that existed among local school divisions. The disparities were created by a combination of factors, including an inadequate foundation base, variances in local fiscal capacity and tax effort, and, particularly, the parallel system of public schools that provided fewer resources for black children. The 1954 U.S. Supreme Court ruling in *Brown v. Board of Education* and subsequent litigation relating to the desegregation of public schools abolished *de jure* parallel schools systems,[23] but the disparities created by the other factors remained.

"...Brown v. Board of Education and subsequent litigation relating to the desegregation of public schools abolished de jure parallel schools systems, but the disparities created by the other factors remained."

As shown in **Table 1**, the percentage of state revenue for public schools had stabilized at approximately 25 percent by the 1920s and then increased to approximately 35 percent by the 1940s, a percentage of support that has remained remarkably constant thereafter. In 1966, for the first time, Virginia passed a general retail sales tax and set the rate at $0.03 per $100 with one-third, or $0.01 of the yield designated for public schools. The other two-thirds of the tax were placed in the state general fund. Another $0.01 was granted to the local governing bodies as an option, an alternative local revenue source subsequently adopted by all counties and municipalities.[24] Initially, the designated $0.01 yield from the state sales tax was allocated to the local school divisions based on each division's proportion of the total school age population and was independent of the Basic State School Fund apportionment. Although the designated sales tax is entitled, *State Sales Tax*, and meets the criterion of a state grant to localities,[25] pursuant to the *Code of Virginia*, the revenue is "considered as funds raised from local sources."[26] This apparent contradiction between the title of the designated sales tax and state legislation has resulted in inconsistent statistical reports that show significant fluctuation in the amounts of public school revenue reported by state and local education agencies. The reason for Virginia's deviation from accepted accounting rules is that a portion of Federal Impact Aid[27] is determined on the basis of local current expenditures generated by eligible school divisions. Since the dedicated sales tax revenue is classified as local revenue, the

Table 1:Virginia Public School Expenditures by Source of Revenue, Selected Years, 1920-21 to 2009-10

School Year	State Amount ($)	State % of Total	Local Amount ($)	Local % of Total	Federal Amount ($)	Federal % of Total	Total Amount ($)	Total % of Total
Historical Data								
1920-21	4,506,588	25.5	13,197,120	74.5	0	0.0	17,703,708	100.0
1930-31	7,018,410	25.5	20,499,547	74.5	0	0.0	27,517,957	100.0
1940-41	9,359,451	33.5	18,562,576	66.5	0	0.0	27,922,027	100.0
1950-51	43,220,779	36.0	74,698,256	62.1	2,292,485	1.9	120,211,520	100.0
1961-62	104,125,514	35.7	167,982,126	57.5	19,948,920	6.8	292,056,560	100.0
1970-71	257,984,303	30.3	496,880,983	58.3	96,944,736	11.4	851,810,022	100.0
1974-75	404,500,276	35.3	608,048,993	53.0	133,795,080	11.7	1,146,344,349	100.0
1978-79	707,679,683[a]	43.4	745,594,683	45.7	177,725,623	10.9	1,630,999,989	100.0
More Recent Data: Reported Using Conventional Accounting[b]								
1982-83	1,104,214,242	44.1	1,218,264,146	48.6	182,955,696	7.3	2,505,434,084	100.0
1986-87	1,700,734,596	47.2	1,686,633,992	46.9	212,429,760	5.9	3,599,798,348	100.0
1990-91	2,243,755,565	44.4	2,518,882,154	49.8	290,993,564	5.8	5,053,631,283	100.0
1994-95	2,590,343,504	44.8	2,837,289,848	49.0	357,348,705	6.2	5,784,982,057	100.0
1998-99	3,398,878,771	46.8	3,441,615,327	47.4	421,987,012	5.8	7,262,481,110	100.0
2002-03	3,915,698,505	41.4	4,886,864,074	51.7	650,989,969	6.9	9,453,552,548	100.0
2006-07	5,616,135,113	44.6	6,114,823,391	48.6	848,290,617	6.7	12,579,249,121	100.0
2007-08	5,758,171,768	43.6	6,591,291,977	49.9	857,330,800	6.5	13,206,794,545	100.0
2008-09	6,103,026,021	44.9	6,608,951,019	48.6	875,879,632	6.4	13,587,856,672	100.0
2009-10	5,442,528,165	40.3	6,608,951,019[c]	48.9	1,460,053,369	10.8	13,511,532,553	100.0
More Recent Data: Reported as Mandated by the General Assembly in *Code of Virginia*, Section 58.1-638 (D)[e]								
1982-83	866,398,010	34.6	1,456,080,378	58.1	182,955,696	7.3	2,505,434,084	100.0
1986-87	1,332,265,288	37.0	2,055,103,300	57.1	212,429,760	5.9	3,599,798,348	100.0
1990-91	1,800,761,870	35.6	2,961,875,849	58.6	290,993,564	5.8	5,053,631,283	100.0
1994-95	2,041,083,742	35.3	3,386,549,610	58.5	357,348,705	6.2	5,784,982,057	100.0
1998-99	2,713,859,595	37.4	4,126,634,503	56.8	421,987,012	5.8	7,262,481,110	100.0
2002-03	3,134,398,349	33.2	5,668,164,230	60.0	650,989,969	6.9	9,453,552,548	100.0
2006-07	4,480,982,743	35.6	7,249,975,761	57.6	848,290,617	6.7	12,579,249,121	100.0
2007-08	4,607,479,400	34.9	7,741,984,345	58.6	857,330,800	6.5	13,206,794,545	100.0
2008-09	5,013,396,165	36.9	7,698,580,875	56.7	875,879,632	6.4	13,587,856,672	100.0
2009-10	4,392,628,165	32.5	7,658,851,019[c]	56.7	1,460,053,369[d]	10.8	13,511,532,553	100.0

Source: Superintendent of Public Instruction, *Annual Reports*. (Richmond, Virginia: Virginia Department of Education, selected years). See: http://www.doe.virginia.gov/statistics_reports/supts_annual_report/index.shtml. For 2009-10 see: Virginia Department of Education, "Direct Aid Entitlement Information & Calculation Templates." http://www.doe.virginia.gov/school_finance/budget/calc_tools/index.shtml

[a] Includes state sales tax proceeds of $200,000,000 distributed to localities for public education. If the money is treated as local funds, then the state share drops to 31.1 percent.

[b] State sales tax distributed to localities for public education is included in state monies.

[c] Assumes level-funded local revenue.

[d] Includes $365,187,984 federal stimulus revenue plus an additional $218,985,753 federal revenue contained within Basic State Aid.

[e] State sales tax distributed to localities for public education is included in local monies.

recipient school divisions are entitled to increased federal impact aid.

Despite the introduction of sales tax receipts as a funding source, various education interest groups began to express their displeasure concerning the reluctance of both executive and legislative branches of state government to address effectively the funding disparities among local school divisions. A 1968 lawsuit,[28] filed in federal district court, challenged the state system of school finance and alleged that the commonwealth had failed to address adequately the educational disparities that existed among Virginia localities. The plaintiffs also alleged that the method that relied exclusively on property valuation to measure local fiscal capacity and set local required tax effort was flawed. Specifically, the plaintiffs alleged that localities had been granted a broad array of local revenue sources,[29] including the optional retail sales tax, but these sources were ignored for determination of local fiscal capacity. At the time of the litigation, the required local tax effort was based solely on the yield from a tax rate of $0.60 per $100[30] of the true valuation of real property and public service corporation property[31] in each locality. The federal district court declined to rule the Virginia school finance system unconstitutional and said, "the courts have neither the knowledge, nor the means, nor the power to tailor the public moneys to fit the varying needs of these students throughout the state."[32]

The timing of the litigation could not have been better for critics of the system of school finance. Virginia was engaged in drafting a new constitution, and despite a negative federal court decision, complaints made by the plaintiffs influenced both the executive and legislative branches of government. With the ratification of the new constitution in 1971 came a mandated and more comprehensive system of public schools entitled, Standards of Quality (SOQ). Included in the new constitution was the following provision for public schools:

> **Public schools of high quality to be maintained**. The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall *seek to* [italics added] ensure that an educational program of high quality is established and continually maintained.[33]

And, if the timing were good for the critics of the prior system of school finance, particularly for those who wanted to see increased state funding, the timing was terrible during the constitutional debates due to litigation that occurred elsewhere. The California Supreme Court, also in 1971, ruled its state system for funding public schools was unconstitutional due to inherent disparities created partially by variances in local taxpaying ability.[34] To help protect the commonwealth from similar litigation, the words, *seek to*, (see also italics above) were inserted by the Virginia General Assembly into the education clause of the 1971 constitution. This action substantially weakened the ability of critics to challenge successfully through litigation the state system of school finance.

A major component to the SOQ was the implementation of a new funding formula. The new funding system for public schools included the transfer of several categorical programs into the minimum foundation program, now entitled Basic State Aid. Concurrently, a new measure of fiscal capacity, referred to as the Local Composite Index (LCI), was developed. The LCI contained a series of algebraic algorithms that mathematically merged a wealth measure, the true value of locally assessed real property and of state assessed public service corporation property, and two economic indicators: personal income[35] and taxable retail sales. The use of multiple measures of fiscal capacity to create a single index of taxpaying ability was a direct response to the assertion by the *Burruss v. Wilkerson* plaintiffs that sole reliance on property valuation was an inadequate measure of fiscal capacity.[36] The individual unadjusted school division indices traditionally have ranged from a high of 1.0 and greater to a low of approximately 0.1400, thereby ostensibly setting the state share at 0 percent for the highest fiscal capacity school divisions to 86 percent for the least fiscally able school division.[37] Save-harmless provisions were enacted to gain the acquiescence of the localities that possessed higher fiscal capacity.[38] On a statewide basis, the LCI as employed initially for school year 1974-75, mathematically set state and local shares equally at 50 percent. For calculation purposes only, the state sales tax was deducted from the state-determined cost of Basic State Aid prior to the application of the individual LCIs, which set the funding responsibilities for both the state and each locality. The state sales tax remained a part of the total revenue provided public schools but lowered the total fiscal responsibilities for both the state and localities.[39] The state-calculated cost of Basic State Aid was based on a fixed number of instructional personnel per 1,000 pupils in average daily membership (ADM) plus support expenditures per pupil in ADM. Costs that exceeded the required local share of Basic State Aid plus the series of

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categorical grants were deemed to be discretionary, i.e., subject to local policy, and were the sole fiscal responsibility of the localities. The Basic State Aid per pupil costs were calculated biennially as a fixed amount for all local school divisions, despite considerable variance in educational needs and economic circumstances that existed among localities. Variance in educational needs includes pupils eligible for special education services, vocational training, disadvantaged assistance, and gifted and talented programs. Variance in economic circumstances includes geographical isolation, terrain, weather conditions, size of schools, population density, social-economic levels, and other factors, including the relative importance of non-education functions of local governments and relative costs for salaries and other education outlays.

Modern Era: (1979-2010)

Almost immediately following implementation of the SOQ system, critics complained that the state was not fully funding its share and began lobbying the General Assembly and the governor. By the early 1980s, pressure to *fully fund* the Standards of Quality was being placed on candidates for public office, including those running for governor. Charles Robb, during his 1982 candidacy for governor, pledged to address the call to fully fund the SOQ. Following his election and subsequent consultation with leaders of the General Assembly, he agreed to have the Joint Legislative Audit and Review Commission (JLARC)[40] conduct an analysis of whether the state was meeting its fiscal obligation to fund public schools. Subsequently, two reports were prepared: JLARC, Part I,[41] that was released during the Robb administration in 1986 and JLARC, Part II[42] released in 1988 during the administration of Robb's successor, Gerald Baliles. Substantial changes were recommended by JLARC and resulted in the implementation of a complex methodology that calculates the instructional personnel needs based on accreditation and SOQ requirements on a school-by-school basis. A series of salary figures were then multiplied by the calculated number of instructional personnel and aggregated, providing the school division instructional costs. Support costs, mostly derived on a statewide basis, were added to the instructional costs, and when divided by ADM, provided the total per pupil costs for Basic State Aid. Per pupil costs for Basic State Aid were determined individually for each local school division,[43] although the variance in costs has remained relatively small and can be attributed primarily to the size of the schools operated by the divisions. Although the measures used to determine state and local shares for each state grant could be replicated by interested parties, statewide data are maintained only by the Virginia Department of Education. The unavailability of data for other than the major aid programs prevents individuals and organizations from monitoring the calculation of the total package of state aid to the public schools. Thus the normal checks and balances are not possible.

JLARC recommended only minor state revenue increases in its first report, but the cost methodology that followed in its second report resulted in a substantially changed system of school finance since nearly all localities dramatically exceeded the local required expenditures established through application of the LCI. Instead, JLARC employed a controversial statistic, *the linear estimator* (later renamed the linear weighted average), to control costs, particularly at the state level. For example, the linear weighted average for salaries sorts the average salary for each school division, gives the greatest weight to the median cost, gives the least weight to the very highest and lowest costs, and calculates a prevailing salary based on the weights and the unit costs. The use of the linear weighted average substantially reduced the mathematical influence of localities that possessed higher taxpaying ability, paid higher salaries, and employed larger numbers of personnel.

As noted in Table 1, despite full implementation of the new funding system by 1978-79, the percentage of state revenue for the current operation of public schools (when the revenue receipts from the dedicated taxable retail sales tax are excluded) has remained primarily in the low-to-mid-30s. The highest percentage of state aid was registered for 1998-99 at 37.4 percent, but it is projected to fall to 32.5 percent for 2009-10, the lowest percentage of state aid for public schools since 1978-79. Although federal revenue receipts comprised nearly 11 percent of total revenue for public schools in 1978-79, the federal share declined to 7.3 percent for 1982-83 and then to 5.9 percent by 1986-87, where it has remained at approximately 6 percent until entry of federal stimulus funds in 2009-10, which again increased the federal component to nearly 11 percent. Unless Congress passes another round of stimulus funds, there will be a precipitous reduction in the percentage of revenue provided from federal sources for school year 2011-12.

Computation of the LCI remained substantially unchanged following release of the two JLARC reports, although, as previously noted, adjusted gross income ultimately replaced the personal income measure, and the state/local shares, on a statewide basis were changed incrementally to 55/45 percent. The LCIs are recalculated biennially and are based on rather dated information. For school years 2008-09 and 2009-10, the base data were derived from 2005. Data used to calculate LCIs for school years 2010-11 and 2011-12 were drawn from 2007. The recalculated LCIs also have proven volatile, particularly during periods of significant economic changes. The volatility of the LCIs is due partially to the mathematical structure of the formula that sets the capacity for each school division relative to the weighted state mean for each LCI component. Since an extraordinary portion of the wealth and economic productivity of the commonwealth is concentrated geographically in the metropolitan areas of Northern Virginia, Richmond and Hampton Roads, the mathematical influence of these economically robust areas on the determination of the LCIs is also profound. Whenever the economic indicators of these areas vary significantly, either up or down, all school divisions are directly affected. If, for example, real estate values in any of these three areas suffer in a recession, particularly if they experience a more rapid and deeper drop than the commonwealth as a whole, the LCIs of the large-high growth school divisions will see their LCIs decline significantly, while the vast majority of other school divisions will see their LCIs increase precipitously. The reverse is also true, if the economies of the three high-growth areas experience rapid economic growth, the relativity feature of the LCI formula will force the decline of LCIs for the other school divisions. As mentioned previously, due to the reliance on audited or verified data drawn from a prior fiscal year for use as LCI components, a substantial delay occurs before the effects of economic and demographic changes become evident. While the LCI has positive features, its inherent flaws should be studied and remedied. Unfortunately, whenever changes are recommended to the equalization mechanism of a state aid formula, all school divisions are affected and the issue becomes very divisive.

The above structural flaws of the LCI became particularly apparent during the current economic turmoil and ultimately resulted in the decision to *freeze* the individual school division LCIs.[44] State-aid allocations were determined for most school divisions through use of their prior LCIs (fiscal years 2009 and 2010) in lieu of their new LCIs (fiscal years 2011 and 2012); other school divisions that gained state aid from use of the 2011 and 2012 LCIs were held harmless.

In addition to Basic State Aid, a series of categorical programs grants continue to supplement the primary grant to local school divisions, nearly all of which are distributed through the LCI, thus eliminating use of non-equalization grants. Despite application of the LCI to nearly all state aid programs for public schools, several interstate fiscal equity analyses have ranked the Virginia system of school finance among the least equalized state systems.[45] In 1991 forty-one relatively low-fiscal-capacity school divisions comprising the Coalition for Equity in Educational Funding sued the state in *Scott v. Commonwealth of Virginia*.[46] The plaintiffs alleged that the state system of school finance was unconstitutional because it failed to provide "a uniform system of public education which provides children throughout the Commonwealth with substantially equal educational opportunity." The plaintiffs also alleged that the [school year 1990] system of financing school divisions at the level of the minimum statewide educational standards resulted in per pupil expenditures ranging from $2,895 to $7,268. However, in 1994 the Supreme Court of Virginia affirmed the decision by the lower court that state system of school finance was not unconstitutional and said, "while the elimination of substantial disparity [among] school divisions may be a worthy goal, it simply is not required by the Constitution. Consequently, any relief to which the [plaintiffs] may be entitled must come from the General Assembly."[47]

In 2001, still another Joint Legislative and Audit Review Commission report concerning the funding of public schools was prepared and released.[48] Unlike its two predecessors, the third report was critical of the state system of school finance and acknowledged both underfunding and unacceptable funding disparities. According to JLARC, the state should have appropriated an additional $1 billion for fiscal years 2002-04 in order to fully fund the SOQ. The third report was barely acknowledged by the General Assembly, although a bipartisan alliance between then-Governor Mark Warner (D) and State Senator John Chichester (R), chair of the Senate Finance Committee, collaborated in 2004 to partially restore funds lost by several tax reductions, for a number of state functions, including support for public schools. Although there were significant increases in state funding for school year 2004-05, the funding disparities among school divisions continued to increase.[49]

As displayed in **Table 2**, state aid per pupil in ADM from 1998-99 to 2009-10 has increased by $1,206, from $2,438 to $3,644 and registered an average annual increase of $110, or 4 percent

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"When the Consumer Price Index is used to adjust for inflation, the increased funding of Virginia public schools, while significant, is much more modest."

Table 2: Virginia Public School Expenditures in Revenue by Source Per Pupil in ADM, Selected Years, 1998-99 to 2009-10

School Year	State ($)	Local ($)	Federal ($)	Total ($)
Data Reported Using Conventional Accounting				
1998-99	3,053	3,091	379	6,523
2002-03	3,391	4,232	564	8,187
2006-07	4,725	5,145	714	10,584
2007-08	4,813	5,508	716	11,037
2008-09	5,082	5,504	729	11,315
2009-10	4,515	5,483[a]	1,211[b]	11,209
Data Reported as Mandated by the General Assembly				
1998-99	2,438	3,706	379	6,523
2002-03	2,714	4,909	564	8,187
2006-07	3,770	6,100	714	10,584
2007-08	3,851	6,470	716	11,037
2008-09	4,175	6,411	729	11,315
2009-10	3,644	6,354[a]	1,211[b]	11,209

Source: Superintendent of Public Instruction, *Annual Report.* (Richmond, Virginia: Virginia Department of Education, Selected Years).

http://www.doe.virginia.gov/statistics_reports/supts_annual_report/index.shtml

[a] Assuming level-funded total local revenue.

[b] Includes $365,187,984 federal stimulus revenue plus an additional $218,985,753 federal revenue contained within Basic State Aid.

annually according to the method of reporting data as proscribed by state statute. (Table 2 also shows data using conventional accounting.) For the same years, localities increased their share from $3,091 per pupil to $5,483, or an additional $2,392 per pupil and an average annual increase of $217, or 7 percent annually. Revenue receipts from the dedicated sales tax increased by $256 per pupil in ADM from $615 to $871 and yielded an average annual increase of $23 per pupil, or 4 percent annually. When state, local, and sales tax revenue receipts are aggregated, total funds, excluding federal, increased from $6,144 to $9,998 per pupil, or a per pupil increase of $3,854 and an average annual increase of $350 per pupil, or 15 percent annually.

When the Consumer Price Index is used to adjust for inflation, the increased funding of Virginia public schools, while significant, is much more modest. It can be seen from an examination of **Table 3**, from 1998-99 to 2009-10, in constant dollars, state aid per pupil in ADM increased by $450, from $3,194 to $3,644, registering an average annual increase $41, or 1 percent annually. (Table 3 also shows data using conventional accounting.) For the same years, localities increased their share from $4,049 per pupil to $5,483, an increase of $1,434 per pupil and an average annual increase of $130, or 3 percent annually. Revenue receipts from the dedicated sales tax increased by $65 per pupil in ADM from $806 to $871 and resulted in an average annual increase of $6, or 1 percent annually. When revenue receipts from state, local, and sales taxes are aggregated, revenue for public schools increased from $8,049 to $9,998 per pupil and yielded an increase of $1,949, an average annual increase of $177, or 5 percent annually.

As shown in **Table 4**, Virginia's fiscal effort as measured by state and local government spending for public schools[50] rarely has been noteworthy. For school year 1978-89, more than twenty years ago, Virginia generated $44 per $1,000 personal income and achieved a national ranking of 30th. The fiscal effort for school year 2006-07, the most recent year available, and not based on estimates, was $42 per $1,000 personal income and Virginia's national ranking was 22nd among the 50 states. Based on National Education Association (NEA) estimates, Virginia's effort will decline to $37 per $1,000 of personal income in 2007-08 and its ranking will drop to 39th. By 2009-10, also based on NEA estimates, the fiscal effort made by Virginia will fall to $34 per $1,000 of personal income and will result in a national ranking of 47th.

From school year 2003-04 to 2006-07 state revenues for public schools increased by 43 percent partially due to the effect of the Warner-Chichester alliance. For the same time period, the nation as a whole increased state appropriations by a more modest 23 percent. Virginia's spike in state revenues resulted in a statistical increase in fiscal effort, as measured by state and local revenue for public schools per $1,000 of personal income and a substantial rise in the national ranking for the commonwealth. Since FY 2006-07 the lack of growth in state revenue for public schools has reduced both fiscal effort and national rank. From 2006-0 to 2009-10, state appropriations for public schools fell by approximately 2 percent while the nation continued to increase state revenues, albeit at a reduced rate of less than 2 percent.

Table 3: Virginia Public School Expenditures in 2009-10 Constant Dollars of Revenue by Source Per Pupil in ADM, Selected Years, 1998-99 to 2009-10

School Year	State ($)	Local ($)	Federal ($)	Total ($)
Data Reported Using Conventional Accounting				
1998-99	3,999	4,049	496	8,545
2002-03	4,035	5,036	671	9,743
2006-07	5,009	5,454	757	11,219
2007-08	4,909	5,618	730	11,258
2008-09	5,184	5,614	744	11,541
2009-10	4,515	5,483[a]	1,211[b]	11,209
Data Reported as Mandated by the General Assembly				
1998-99	3,194	4,855	496	8,545
2002-03	3,230	5,842	671	9,743
2006-07	3,996	6,466	757	11,219
2007-08	3,928	6,599	730	11,258
2008-09	4,259	6,539	744	11,541
2009-10	3,644	6,354[a]	1,211[b]	11,209

Source: Superintendent of Public Instruction, *Annual Report*. (Richmond, Virginia: Virginia Department of Education, Selected Years.)
Bureau of Labor Statistics. See: http://www.bls.gov/cpi/
http://www.doe.virginia.gov/statistics_reports/supts_annual_report/index.shtml

[a] Assuming level-funded total local revenue.

[b] Includes $365,187,984 federal stimulus revenue plus an additional $218,985,753 federal revenue contained within Basic State Aid.

Current Fiscal Crisis

Evidence abounds that shows Virginia, like nearly all other states and the nation as a whole, has suffered a recession exceeded only by the Great Depression of the 1930s. An excellent analysis by James Regimbal[51] indicated the fiscal problems faced by both state and local governments will continue for several years and likely will become more difficult. Unless the federal government provides an additional round of stimulus funds or Virginia increases its fiscal effort for governmental services, including public schools, the fiscal pain will become increasing severe for fiscal years 2011, 2012 and subsequent years. As indicated by Regimbal, the easy budget reductions have already been made by both state and local governments.[52]

Traditionally, local superintendents and their school boards, when faced with budget reductions, attempt to protect their instructional programs, particularly programs that are held accountable by the state and the public. Typical of the strategies that are being used by local school divisions include:

- Reduction in the number of personnel, including classroom teachers, thereby raising pupil/teacher ratios. Normally, the increased pupil/teacher ratios are achieved through retirement of personnel and non-renewal of probationary teachers, although in some instances, tenured teachers are terminated;
- Early retirement incentives are provided senior personnel and their replacements are made from either existing personnel or less experienced and credentialed personnel;
- Reduction and/or elimination of administrative, instructional and support personnel not required by the SOQ;
- Freezing salaries (in some instances step increases are retained, but in other instances, steps also are frozen);
- Reduction in extra pay for extra duties, e.g., stipends for coaching, band directing, etc.;
- Implementation of joint service agreements between the school division and their local governing bodies and among other school divisions. Such agreements are usually accompanied with the introduction of centralized policy boards;
- Merger of schools, commonly with the closure of older, out-dated, or high-cost buildings;
- Consolidation of administrative and support facilities;
- Elimination of rental and service agreements;
- Reduction and/or elimination of non-SOL programs, including the reduction in the number of pupils served by Governor's Schools, support for gifted and talented programs, and similar enrichment activities;
- Deferral of maintenance projects and equipment; and
- Extension of the longevity of motor vehicles, including postponement of the scheduled replacement of school buses.

A strategy rarely considered is an overhaul of compensation policies to recognize market wages for various teaching disciplines such as information technology and English literature and to reward merit.

Observations and Conclusion

A substantial part of the current crisis is due to the fiscal decisions made by previous administrations, General Assemblies, and many local

"Unless the federal government provides an additional round of stimulus funds or Virginia increases its fiscal effort for governmental services, including public schools, the fiscal pain will become increasing severe..."

"...it is fortunate that Virginia has the potential, without the need to make extraordinary fiscal effort, to remedy the current fiscal plight confronting public schools and other governmental agencies."

Table 4: Virginia State and Local Government Revenue Spent on Public Schools Per $1,000 of Personal Income, Selected Years, 1978-79 to 2009-10

School Year	Revenue Per $1,000 of Personal Income	Rank Among States
Actual		
1978-79	$44	30
1982-83	$36	43
1986-87	$38	35
1990-91	$40	38[a]
1994-95	$37	40[b]
1998-99	$39	35[c]
2002-03	$39	37[a]
2006-07	$42	22[c]
Estimate		
2007-08	$37	39[a]
2008-09	$37	46
2009-10	$34	47

[a]Tied with 3 states.

[b]Tied with 5 states.

[c]Tied with 6 states.

Sources: National Education Association, *Rankings and Estimates*. (Washington, D.C.: NEA, Selected Years). See: http://www.nea.org/assets/docs/010rankings.pdf

United States Department of Commerce, Bureau of Economic Analysis, State Personal Income. (Washington, D.C.: Website, 2008-10). See: (Washington, D.C.: Website, 2008-10). See: http://www.bea.gov/newsreleases/regional/spi/2010/pdf/spi0310.pdf

Note: Fiscal effort for 2007-08, 2008-09, and 2009-10 was based on BEA calendar year data for 2007, 2008, 2009, and 1st quarter data for 2010. The procedure used is identical to the procedure used by the NEA as published in their series, Rankings and Estimates, but relied on estimates of state and local revenue rather than actual data. Estimated state and local revenue school year data were obtained from NEA, who in turn, requested estimates from its contacts in the state departments of education.

governing bodies. It is unfortunate that long-term tax policy often has been based on highly energized national, state and local economies that inevitably forces reexamination of policy during the most difficult times. The most obvious example is the so-called car tax relief that biennially forces the transfer of $1.9 billion state revenue to the localities. The transfer of these replacement revenues from the state to the localities should be phased out, perhaps over two or more biennia. Under current fiscal conditions, this would be a painful political process, both for the state and the localities. It is also unfortunate that when the commonwealth substantially increased state funds for public schools for FY 2005, most localities either decreased or level-funded their local appropriations for public schools.[53] If the localities had followed this seldom-seen lead of the state, fiscal disparities among local school divisions would have been reduced and the current budget reductions would not have been as devastating to the public schools. On the other hand, it is fortunate that Virginia has the potential, without the need to make extraordinary fiscal effort, to remedy the current fiscal plight confronting public schools and other governmental agencies.

The state budget reductions for public schools have affected negatively the quality of public schools throughout the commonwealth and especially in the lower fiscal capacity school divisions. Not all of the local responses to budget reductions have been harmful, and in some instances likely have increased cost efficiency without affecting educational quality. However, freezing personnel salaries for several years could well prove harmful to public schools Although reductions have been determined through the LCI, the equalization component of the state formulae, the lower fiscal capacity school divisions suffer the most. Since the lower capacity school divisions depend primarily on state aid to fund their budgets, reductions in state aid inevitably result in larger total budget reductions for the lower fiscal capacity school divisions.

Both the executive and the legislature have relied exclusively on cost containment and have implemented massive budget reductions for virtually all state agencies in order to balance the state budget. The reductions have fallen particularly hard on public education, both higher education and elementary and secondary schools. Neither the current executive nor the legislature has considered seriously modest tax increases in order to remedy the budget shortfall. Both have attempted to convince the public that their constitutional obligation to provide and maintain a high quality system of public schools has been fulfilled by engaging in a series of charades. These charades include use of federal stimulus funds to fund Basic State Aid and reductions in the caps for the number of support personnel to lower the costs required to fund the SOQ. History continues to repeat itself as the General Assembly has again completely stripped funds from the 200-year-old Literary Fund.

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Endnotes

1 Foney G. Mullins, *A History of the Literary Fund as a Funding Source for Free Public Education in the Commonwealth of Virginia*. Ed. D Dissertation. (Blacksburg, Virginia: Virginia Tech, 2001).

2 V.T. Thayer, *Formative Ideas in American Education*.(New York: Dodd, Mead & Company, Inc., 1965) p. 69.

3 *Op.cit.,* Mullins, p 32.

4 *Constitution of Virginia*, Article VIII, §8.

5 *Acts of Virginia Assembly of the Commonwealth of Virginia,* 1818.

6 *Op.cit., Constitution of Virginia*.

7 *Op.cit., Acts of Virginia Assembly of the Commonwealth of Virginia*, 1829.

8 *Ibid*., 1846.

9 *Constitution of Virginia, (1869),* Article VIII, §§1-12.

10 Virginia did not have the means to adjust assessed values to true market values until 1950 when the first assessment/sales ratio study was conducted by the Department of Taxation.

11 *Ibid*.

12 Virginia Superintendent of Public Instruction, *Annual Report of the State Superintendent of Public Instruction for the Year Ending August 31, 1871*. (Richmond, Virginia: State Superintendent of Public Instruction), p. 4.

13 *Acts of Virginia Assembly of the Commonwealth of Virginia*, 1870.

14 *Op.cit*.,Heatwole, p. 245.

15 *Constitution of Virginia*, (1902), Article IX.

16 *Constitution of Virginia* (1902), Article IX, §140.

17 Popularly known as the *Williams Building Act*, it was passed by the General Assembly, March 15, 1906.

18 This amount does not include the funds loaned to the localities for school construction projects.

19 Virginia Education Commission, *Virginia Public Schools, A Survey of a Southern State Public School System*. (New York: World Book Company, 1920), p. 34.

20 Often referred to as the Strayer-Haig equalization program named for its authors and proponents, Professors George Strayer and Robert Haig, Teachers College, Columbia University, New York.

21 The percentage of fiscal resources provided by the state does not directly address either the fiscal adequacy or equity goals of a state system of school finance. However, it has proven difficult to achieve either goal for those states that provide a low percentage of state aid for public schools.

22 A fiscal equalization program in its simplest form establishes a base program cost for each locality, determined by the state, from which a local required tax effort is deducted. The difference, which allocates greater amounts of state aid per pupil to the less fiscally able localities, is then allocated to each locality, resulting in an equalization of educational resources throughout the state.

23 Considerable evidence exists that shows that public schools, due to housing patterns, culture and tradition, remain segregated by race, ethnicity, and social-economic level.

24 John Knapp and Bruce Johnson, *Virginia Issues: The Retail Sales Tax*. (Charlottesville, Virginia: Tayloe Murphy Institute, University of Virginia, December, 1981), pp. 1-2.

25 According to the Governmental Accounting Standards Board (GASB), the national organization that sets standards for state and local government accounting, a state tax which is apportioned to localities on a formula independent of where the tax was collected is considered a state grant.

26 *Code of Virginia* (1950), Title 58 §58-441.48 (d). This citation is prior to the re-codification of statutes.

27 20 *United States Code Annotated*, Section 7703, Subchapter VIII.

28 *Burruss v. Wilkerson*, 310 F. Supp. 592 (W.D. Va. 1969) affirmed 397 U.S. 44, 90 S. Ct. 812 (1970),

29 Unlike most states, Virginia has not granted fiscal independence to local school boards and employs a system where full fiscal control is vested in the county and independent city governing bodies. Local school boards, whether elected or appointed, are required to submit annually their budgets for approval to their respective local governing bodies, a system that often results in considerable acrimony.

30 The mathematical equivalent of 6 mills on the dollar, the term used in previous legislation.

31 True valuation for each locality was determined through application of an assessment/sales ratio study (mathematical adjustment based on the assessed values of selected properties contrasted to their market values as indicated by recent sales) that was conducted by the Virginia Department of Taxation.

32 *Op.cit*., *Burruss*, 574.

33 *Constitution of Virginia*. Article VIII, §1.

34 *Serrano v. Priest*.

35 Aggregate adjusted gross income as reported on Virginia individual income tax returns ultimately replaced the personal income measure. This change was necessitated because the Bureau of Economic Analysis, the source of city and county personal income estimates, ceased making estimates for small independent cities and, instead, produced combined city-county estimates for small cities and their adjoining counties.

36 *Op.cit*., *Burruss*, 573.

37 It is technically possible for the LCI to range as low a 0.0, but that would require such localities to possess no property, and report no adjusted gross income or taxable retail sales. Typically, a handful of localities register LCIs that exceed 1.0, which raises an interesting issue. In several states, localities that exceed certain limits of state aid are required to remit payments generated from local taxes to the state, or these calculated payments are deducted from other state aid provisions. Such state provisions usually are referred to as *recapture payments*.

38 Later, the Commonwealth adopted a policy that provides that no school division will employ a LCI greater than .8000, thereby truncating the indices so than school divisions that have calculated LCIs at or above .8000 will receive 20 percent of the calculated costs of the several state aid programs.

39 The deduction of taxable retail sales receipts prior to application of the LCI reduced the required appropriations for both state and local agencies. From a mathematical perspective, the deduction of taxable retail sales initially functioned equally. That is, 50 percent could be considered state revenue and 50 percent could be considered local revenue. Later, when the fiscal responsibility for the calculated shares shifted, 55 percent could be considered state and 45 percent local revenue.

40 JLARC is a commission established in 1973 and is comprised of members of both houses. It employs a fulltime staff that is charged with the responsibility to evaluate the operations and performance of state agencies and programs.

41 Joint Legislative Audit and Review Commission, *Funding the Standards of Quality Part I: Assessing SOQ Costs*. (Richmond, Virginia: Commonwealth of Virginia, 1986). http://jlarc.state.va.us/reports/Rpt82.pdf

42 Joint Legislative Audit and Review Commission, *Funding the Standards of Quality Part II: SOQ Costs and Distribution*. (Richmond, Virginia: Commonwealth of Virginia, 1988). http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/SD251988/$file/SD25_1988.pdf

43 For school year 2010, per pupil costs for Basic State Aid varied from $7,369 for Highland County with approximately 250 pupils in ADM, to $6,000 per pupil for Virginia Beach City with 69,225 pupils, a difference of approximately 23 percent. However, if the several smaller localities are excluded from the comparison, Grayson County with approximately 2,000 pupils in ADM has a calculated per pupil cost of $6,978, yielding a variance of only 5 percent.

44 Virginia used the term, *reinstated*, rather than *freeze*. See Superintendent's Memo #057-10 (March 18, 2010): http://www.doe.virginia.gov/administrators/superintendents_memos/2010/057-10.shtml

45 See for example: W. Hussar and W. Sonnenberg, *Trends in Disparities in School District Level Expenditures per Pupil*. (Washington, D.C.: NCES, 2000). http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2000020.

46 247 Va. 379, 443 S.E. 2d 138.

47 *Ibid*., 387, 143.

48 An interim report was released in 2001 by JLARC followed by publication of its final report in 2002. See: Joint Legislative Audit and *Review Commission, Review of Elementary and Secondary School Funding* (Richmond, Virginia: Commonwealth of Virginia, 2002). http://jlarc.state.va.us/reports/Rpt277.pdf

49 Lisa Driscoll and Richard Salmon, "How Increased State Equalization Aid Resulted in Greater Disparities: An Unexpected Consequence for the Commonwealth of Virginia." *Journal of Education Finance*, Vol.33: 238-261.

50 Virginia is a relatively high income state. In 2009 the state's per capita was 112 percent of the U.S. average and the state ranked 7th among the 50 states. Because of its high income the state's fiscal effort ranks much lower in relation to personal income than it does using some other measure such as spending per pupil. Source of income data: Bureau of Economic Analysis, "State Personal Income 2009." News release dated March 25, 2010. http://www.bea.gov/newsreleases/regional/spi/sqpi_newsrelease.htm

51 James J. Regimbal, Jr., "Virginia's State Budget – A Train wreck About to Happen," (Charlottesville, Virginia: *The Virginia News Letter*, Weldon-Cooper Center For Public Service, Vol. 85, No. 5, October, 2009), pp 1-9.

52 *Ibid*., p. 1.

53 *Op.cit., Driscoll and Salmon.*

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