

The Evolution and Effect of the Joint Legislative Audit and Review Commission's

Reports on

Funding the Standards of Quality, Part 1 and Part 2

As Seen Through Key Actor Interviews

By

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Dissertation submitted to the Faculty of the

Virginia Polytechnic Institute and State University

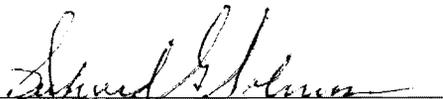
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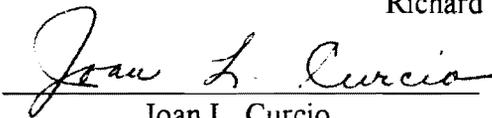
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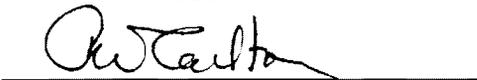
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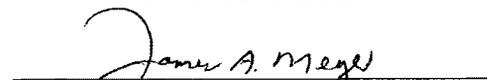
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THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION'S
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Educational Administration

(ABSTRACT)

The purpose of this study was to detail the history of the formulation of the JLARC studies in 1986 and 1988 on funding the Standards of Quality, background surrounding that formulation, political reaction, and the effect that the reports had regarding changes in the funding methodology for public schools in the Commonwealth as viewed through the recollections of key actors involved in the policy making process.

The key actor interview methodology provided the research basis for this qualitative study. Historic events were chronicled through a review of official documents, newspaper accounts, academic publications, and private correspondence. The research framework utilized application of the policy cycle as a reference for the changes in policy. Recollections were validated by triangulation. The history included essential employment of political science, quantitative studies in educational finance, and methods of collection of oral history from participants.

The focus of the study attempted to answer several key organizational questions. The findings indicated that a limited number of key actors provided an accurate history of the events, that JLARC operated exclusively as a legislative agency designed to ascertain the efficiency of state government, that legislative members of JLARC had tremendous influence, that Governor Baliles astutely incorporated elements of the JLARC studies into his educational agenda for political purposes, that Governor Baliles was able to effectively manage his proposals through the General Assembly while mitigating public opposition, and that there was no legislative-executive collusion in this change in policy. The study further discovered that within the area of appropriations, JLARC professional staff had a profound impact on funding procedures and that JLARC itself can act as a quasi-legislature outside of public view due to the manner in which budgets are passed in the General Assembly.

This study reviewed both studies and detailed the effect of the linear estimator as the mandated method of calculating the costs of the Standards of Quality. It also documented the continuing disparity in educational equity in Virginia since the implementation of the changes in 1988. Differing perspectives of the use and impact of the controversial linear estimator were presented and explained.

Dedication

This work is dedicated to my loving wife, Marcy, for her patience in the interruption of our family life, to my daughter, Amanda, for her understanding of Daddy's homework as only a seven-year-old can, to my daughter, Kathryn, who was conceived one month after I began my program and who is truly the "Cohort Kid," to my adult son, Bill, who has seen his father finish a professional dream in his 40's to follow by example, and to my late mother, Jean Parker Baker, who provided me with the example that it is never too late in life to become a student and to learn.

Acknowledgments

A individual listing of people who need to be personally thanked is too numerous to mention here. However, I will thank several key people for their contribution, as follows:

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The staff of Thornburg Middle School, who tolerated my fatigue and inattention during the past three years;

Every member of Virginia Tech's Cohort I in Fairfax, who collectively propped me up when I needed it most;

Every professor with whom we in the Cohort celebrated in our program. The Educational Leadership program at Virginia Tech has truly been superior. And, Every individual who allowed me the time for an interview or provided me with research material. Although one may have differed with another on particulars, I found each to be a public servant of integrity and character, and for whose service the Commonwealth has greatly benefitted.

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The Evolution and Effect of the Joint Legislative Audit and Review Commission's

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Funding the Standards of Quality, Part 1 and Part 2

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Chapter 1

Introduction

On April 15, 1994, the Virginia Supreme Court settled a debate about the status of public education in the Commonwealth that had continued since February 7, 1973, when Attorney General Andrew Miller had issued his interpretation of the education articles in the newly revised state constitution.¹ On that date in 1994, the Court delivered its opinion in *Scott v. Commonwealth*, in which it stated that there was no constitutional requirement for equalized funding of Virginia's public school districts.² The Miller opinion, citing Section 2 of Article VIII, had suggested something more was required. However, the Court chose to interpret their decision in plain constitutional language without reference to any extrinsic evidence as Miller had done. Twenty-one years of constitutional debate were laid to rest, and with it was a validation of changes enacted by the General Assembly

¹Miller, A. (1973, February 7). Attorney General's opinion to Delegate W. Roy Smith, cited in Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic State Aid Formula." Unpublished doctoral dissertation, Virginia Polytechnic Institute and State University, Blacksburg, VA. 199-202.

²*Scott v. Commonwealth*. (1994). 247 Va. 379.

in 1988 regarding the method of funding for the entire system of public schools in Virginia.

This study is the history of the changes in Virginia's educational funding system between 1985 and 1988 as perceived by the key actors in the political process during those years, with an emphasis on the influence of the Joint Legislative Audit and Review Commission in the process. This study became more than narrative history, however, as it delineated policy evolution from the perspective of the highest levels of state government. Accordingly, elements of policy analysis were necessary. In addition, the study reviewed funding methodologies and the legal and financial aspects thereof, and therefore referenced legal and quantitative research relative to those topics. An attempt was made to relate this history in a manner which comprised elements of all of the various types of research suggested above without becoming mired in the process of one method at the expense of the rich context of the history as a whole. It was not an attempt to write an exhaustive history of this era, a task awaiting a more meticulous historian.

On December 9, 1985, the Joint Legislative Audit and Review Commission (JLARC) released the first of its studies on funding public K-12 education in the Commonwealth of Virginia. Less than one month later, outgoing Governor Robb publically accepted the "new methodology" proposed by JLARC to determine the costs of the Standards of Quality. JLARC, the research and study agency of the Virginia General Assembly, was composed of key legislators appointed from the Senate and the House of Delegates and employed a staff of researchers and support personnel who actually

conducted the various studies directed by the General Assembly.³ The mandate for the studies in educational funding originated from Senate Joint Resolution 35, passed in the 1982 regular session of the legislature,⁴ and reflected increasing concern on the part of the state government over public school finance since the implementation of the revised State Constitution of Virginia in 1971⁵ and the legislature's adoption of the distribution formula in the 1974 session.⁶

The first study, officially transmitted to the General Assembly in 1986, became known as JLARC-1, and was designated Senate Document No. 20 in the 1986 session of the General Assembly.⁷ It was officially titled *Funding the Standards of Quality, Part I: Assessing SOQ Costs*. JLARC-1 specifically did not deal with the issues of funding equity among the local school divisions of the Commonwealth, finding only that the state could fully meet the constitutionally required funding mandate for the foundation educational program as defined by the JLARC-1 study with an increased expenditure of \$161.4 million

³*Code of Virginia*. (1973-1988). Sections 30-56 through 30-63.

⁴Commonwealth of Virginia. (1982). *Acts of Assembly, Vol II, 1982 Regular Session*. Richmond, VA. 1695-1696.

⁵Roberts, J. (1995). "The Effects of the Recommendations of the Joint Legislative Audit and Review Commission on State Funding for the School Divisions of Chesapeake, Norfolk, Portsmouth, and Virginia Beach." Unpublished doctoral dissertation, Old Dominion University, Norfolk, VA. 28-29.

⁶Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." *Passim*.

⁷Commonwealth of Virginia. (1986). Senate Document No. 20. *House and Senate Documents, 1986 Session, Vol III*. Richmond, VA.

from general funds in the 1986-88 biennium.⁸ JLARC-1 caused no substantive alteration in state law for the funding distribution of public education. Issues of critical concern to local governments regarding equity in the distribution of state aid for public schools were deferred until the release of the second JLARC study on November 24, 1987. This study was known as JLARC-2 and was aptly titled *Funding the Standards of Quality, Part 2: SOQ Costs and Distribution*.⁹ JLARC-2 became Senate Document No. 25 in the 1988 session of the General Assembly.¹⁰ By March 15, 1988, less than four months later, many of the recommendations made in both studies had been formally adopted by the state government, thereby fundamentally changing the manner in which SOQ projected costs were established and revenues distributed. The bureaucratic, legislative, and policy actions surrounding these two publications provided the foundation for the research of this study.

Purpose of the Study

The purpose of this study was to detail the history of the formulation of the JLARC studies, background surrounding that formulation, political reaction to the

⁸*Va Const*, Art VIII, Section 1. Joint Legislative Audit and Review Commission. (1986). *Funding the Standards of Quality, Part 1: Assessing SOQ Costs*. Richmond, VA.

⁹Joint Legislative Audit and Review Commission. (1988). *Funding the Standards of Quality, Part 2: SOQ Costs and Distribution*. Richmond, VA.

¹⁰Commonwealth of Virginia. (1988). *Journal of the Senate, 1988 Regular Session, Vol I*. Richmond, VA. 1436.

recommendations, and the perceived effect that the reports had regarding changes in the funding methodology for public elementary and secondary schools in the Commonwealth as viewed through the recollections of key actors involved in the policy making process.

Justification for the Study

This study was needed for several reasons, not the least of which was the inevitable direction of the arrow of time. History not gathered in a timely manner is forever lost. Since 1988 several key people involved in this particular history had died, retired, moved on to other jobs in the Commonwealth, or moved away. Personal recollection and memory had faded with the passage of time. In order to retrieve quality history, the timeliness for this study became more critical with each passing day.

Beyond the academic exercise to recapture history, however, other significant reasons for this study existed. Prior to 1988 pressure had been mounting in Virginia as well as nationally to address educational disparities among localities.¹¹ JLARC-1 validated that the state could fully fund its definition of the Standards of Quality by the use of the linear weighted average methodology for determining the prevailing costs of the standards.¹² The issue of funding equity was the paramount concern in JLARC-2, which stated that the dual foci of state educational funding were pupil equity and tax equity. The

¹¹Berne, R. (1988). Equity Issues in School Finance, *Journal of Education Finance*, 14. 159-180. And Verstegen, D., and Salmon, R. (1988). Virginia Education Finance Reform: Have Excellence and Equity Been Achieved?, *Journal of Education Finance*, 14. 200-220.

¹²JLARC. (1986). *Funding the Standards of Quality, Part 1*. 12-14.

introduction in JLARC-2 indicated that educational funding disparity among localities in Virginia was wide and that it had actually widened since implementation of the funding formula adopted for 1974-75. One aspect of the formula was designed to provide greater state aid to needy localities through the application of an index of fiscal capacity called the Local Composite Index (LCI).¹³ Thus, the changes proposed in JLARC-2 were targeted in part to address this problem. This prompted several projective and interpretative analyses in the wake of the study and subsequent legislative action. A review of selected articles in this arena was therefore needed in order to provide perspective on the studies.

Finally, the manner in which fundamental state policy evolved during the two JLARC studies needed to be reviewed. The history itself might have been interesting and unique, but the potential impact of the nature of policy making exemplified by the JLARC process presented significant lessons and insights for future policy makers and citizens alike. Contemporary reaction to that process needed to be brought to light for consideration.

Key Organizational Questions

In order to achieve the purpose, several groups of questions as outlined below were addressed.

1. Key Actor Identification. Who were the key actors in this history, and what role did each play?

¹³JLARC. (1988). *Funding the Standards of Quality, Part 2*.

2. Bureaucratic Considerations. What was JLARC, and how did it operate during the two studies? Was it difficult to determine JLARC's sources of information? Was there managed confidentiality around JLARC and its operation during the studies?
3. Policy Decisions and Subsequent Effects. What role did the studies play in the state's policy making? What were the stated goals, and what were the perceived effects of the changes prompted by the studies as measured against the goals? How did the operation of the funding formula change as a consequence of JLARC-1 and JLARC-2?
4. Legislative-Executive Interaction. What was the involvement of Governors Robb Baliles with the studies?
5. Timing. Was the timing of the release of JLARC-2 in November, 1987, related to or coordinated with the 1988 session of the General Assembly and the Governor's budget proposals?
6. Extraneous Impact. What effect did papers by Richard Salmon of Virginia Polytechnic Institute and State University and Deborah Versteegen of the University of Virginia have in the policy making process? What effect did political pressure as brought by local governments, school boards, and division superintendents have on the process?

Procedures and Method

Careful review of pertinent documents and records was required in order to provide a basis of understanding necessary for data collection. Such records included newspaper articles, governmental documents from JLARC and the General Assembly, minutes of public meetings, legislation, statutes, and texts of speeches where available. A

time line was developed from these sources for organizational purposes prior to interviews. A chronological history was then written based on the review of existing records. Cumulative knowledge derived from background research and evolving interview data established the range of key actors necessary to complete the research objectives.

In-depth interviews with key actors were then utilized as the primary research method. This method was validated by Campbell and Mazzone in 1976 in a model which was developed to analyze education policy formulation at the state level. Campbell and Mazzone proposed elements of the model as a policy cycle of inputs and outputs with key actors at the center, exerting influence in all directions.¹⁴ Recognition of the structure and operation of the policy cycle was crucial in understanding the motivation and actions of the key actors.

The use of the key actor design provided a platform from which to address matters discovered in the readings as well as to develop new material or to substantiate items discovered prior to each interview. The goal was to develop a complete history from as few key actors as possible in order to generate efficient, thorough, and valid data. The known key actors at the time were identified through research as being: JLARC Chairman and State Senate Majority Leader Hunter B. Andrews, Delegates Ford Quillen and Richard Cranwell, Governor Gerald L. Baliles, Governor Charles S. Robb, JLARC staff

¹⁴Campbell, R., & Mazzone, T. (1976). *State Policy Making for Public Schools*. Berkeley, CA: McCutchan Publishing Corporation. Passim.

member Robert Rotz, Secretary of Education Donald J. Finley, Deputy Secretary of Education Gary T. Henry, State Superintendent of Public Instruction S. John Davis and his chief finance officer Myron Cale, State Board of Education member Willard L. Lemmon, Roanoke County School Superintendent Bayes Wilson, Department of Education staff member John Rickman, and Ralph Shotwell, Director of Research and Statistics of the Virginia Education Association. Data obtained from the key actors were then woven into the historic narrative.

Two research principles needed to be established prior to data collection from individuals termed as "elite" sources. First, material was to be presented regardless of whether it might be critical or sensitive. Since the individuals being interviewed were either public officials at the time of the JLARC studies, or private citizens who voluntarily entered the public forum of debate in this issue, off-the-record data were only collected for two exceptional purposes: (1) as a matter of developing leads and (2) as subsequent corroboration of material previously developed. Second, each oral recollection was verified by at least one other individual or by a supporting historic document. This second principle allowed validation of any off-the-record data and provided a means to inspire identification of reliable data.

Interviews were audio taped. Transcripts of the tapes were provided to the individual for verification. Tapes were erased following transcription and verification.¹⁵

¹⁵Virginia Polytechnic Institute and State University. (1995, July). Unpublished procedures and application for research involving human subjects of the Department of

Triangulation was employed to validate data.¹⁶ Recollections were triangulated with other interview data, written documents, and correspondence. All reported interview data was validated with this method. In cases where resolution of significant events could not be achieved, each different recollection or perspective was presented. Introductory and follow-up contact was made by letter or telephone conversation. Any data thus obtained were preserved in anecdotal notes by the researcher. Within the framework thus established, historic research was undertaken, and the results reported within this study.

Limitations of the Study

Since this study was historic in nature, several specific limitations were apparent. This study was not to be a quantitative assessment of the funding formula, although references to such assessments were included when appropriate and quantitative conclusions profiled as needed. In a similar manner, this study was not a policy analysis in the scholarly sense, although identification of policy making implications was necessary. The resulting history of this policy shift provided the foundation for the study and findings. Organizing this historic material demanded adherence to remember "time and place" as a vital admonition.¹⁷ It was critical to keep events and actions relevant to the time in which

Research and Graduate Studies. Blacksburg, VA.

¹⁶Miles, M., & Huberman, A. (1994). *Qualitative Data Analysis*, 2nd ed. Thousand Oaks, CA: SAGE Publications, Inc. 266-267.

¹⁷Hunt, T. (1995, Spring). Class lectures in EDCI 6014, Shaping of the American School. Virginia Polytechnic Institute and State University, Falls Church, VA, campus.

they occurred and to remain aware that the events and perspectives of the years since 1988 might have carried an inherent bias when looking back.

An additional limitation of this study had to do with the difficulty of collecting historic research through oral history.¹⁸ It was anticipated that recollections from eight or more years past might well be inexact and possibly contradictory. However, validation of the key actor methodology had been established and cited by others in a scholarly study of this nature.¹⁹ As one means to address the problem of unclear recollections, interview objectives were designed and pilot-tested prior to conducting each of the interviews with a focus maintained on the key organizational questions. This was necessary since each key actor was not involved in all of the events covered by the scope of this study. Thus, objectives had to be designed on an individual basis.

With objectives in hand, the researcher had to maintain an open-ended interview method. Three problems had to be considered. First, qualitative interviews could be ambiguous due to the nature of collecting subjective data. Second, the open-ended nature of interviewing that was necessary in order to probe inviting leads could have resulted in a loss of focused research. Third, the researcher had to guard against becoming so involved

¹⁸Weiss, R. (1994). *Learning From Strangers: The Art and Method of Qualitative Interview Studies*. New York, NY: The Free Press. 9-29, 42-43, passim.

¹⁹Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education." Unpublished doctoral dissertation, Virginia Polytechnic Institute and State University, Blacksburg, VA. Passim.

in the interview conversation as to skew the interview data.²⁰ However, in view of the wealth of historic background data that was already available, such problems were overcome through careful planning and consultation. A strength of the interview method was the face-to-face format, and this was used in every situation possible. However, due to Governor Baliles' scheduling conflicts, the interview with him was conducted via telephone, with the transcription procedures followed. Two additional telephone conversations and a fax exchange supplemented this arrangement.

Five other exceptions to the personal interview methodology were noted. Two had to do with geography since Ford Quillen's location in Gate City, VA, and Gary Henry's position at Georgia Southern University were too distant. Thus, telephone, fax, and e-mail were used to develop data from these two key actors. An inability to arrange an interview with Secretary Finley led to reliance on one telephone conversation plus original material written by him and on interview data collected by another author in a 1995 dissertation.²¹ Governor Robb did not respond to requests for information, but his involvement was minimal as noted in Chapter 3. Finally, background information was obtained from John Rickman through an exchange of letters. The final transcripts of the interview data were provided in the appendix to this study.

²⁰Weiss. (1994). *Learning From Strangers*. 78-83.

²¹Winters, M. (1995). "S. John Davis: A Thematic History of Public Education in Virginia as Interpreted Through the Professional Career of the Sixteenth Superintendent of Public Instruction." Unpublished doctoral dissertation, Virginia Polytechnic Institute and State University, Blacksburg, VA. Passim.

Definition of Terms

Several key terms were used throughout this study. Their definition and understanding were crucial to appreciating the study, its development, and its findings.

1. Equity - the concept as applied to education that each individual student received fair treatment and equal access to an educational program or system. Such a concept connoted both substantive and procedural due process under the law.²²
2. Pupil Equity - the definition from JLARC-2 that each school division had the resources necessary to provide a meaningful foundation program of education as defined by the General Assembly through the Standards of Quality .²³
3. Tax Equity - the concept from JLARC-2 that the burden of resources required from local expenditures to meet the required state program levels did not vary too greatly among the localities.²⁴
4. The Virginia Funding Formula - the specific equalization formula utilized by the Commonwealth of Virginia in distributing state funds to localities for educational purposes.²⁵ The details of the formula are discussed later in this study.

²²Alexander, K., & Salmon, R. (1995). *Public School Finance*. Needham Heights, MA: Allyn & Bacon. 16-45, 132-156, passim.

²³JLARC. (1988). *Funding the Standards of Quality, Part 2*. Passim.

²⁴JLARC. (1988). *Funding the Standards of Quality, Part 2*. Passim.

²⁵Virginia Department of Education. (1995, February 16). Calculation of the composite index of local ability-to-pay. Unpublished materials available upon request

5. Local Composite Index, or LCI - the equalization index calculated as a component of the Funding Formula which used defined elements that were designed to indicate each school division's fiscal capacity to support public schools.²⁶
6. The Standards of Quality , or SOQ- the legislatively mandated minimum foundation program for public elementary and secondary education in the Commonwealth of Virginia.²⁷
7. Linear Weighted Average or Linear Estimator - the statistic introduced in JLARC-1 and used in JLARC-2 for calculating various means under the SOQ. This methodology weighted the mean personnel salary values of the median school division and scaled the weights of other school divisions' mean personnel salary values in each direction away from the median through decreasing weights. In the JLARC methodology, the weights ranged from five (5) at the median to one (1) at the extremes.²⁸ A treated mean-of-means was thereby calculated, and most important, the size of each school division was neutralized. The use of this statistic is discussed in detail in Chapter 3.
8. Prevailing Costs - the SOQ costs calculated using the L-estimator for each of the various categories within the Standards.

from the Department of Education, Richmond, VA.

²⁶Virginia Department of Education. (1995, February 16). Calculation of the composite index of local ability-to-pay. Unpublished materials available upon request from the Department of Education, Richmond, VA.

²⁷JLARC. (1986). *Funding the Standards of Quality, Part 1*.

²⁸JLARC. (1986, 1988). *Funding the Standards of Quality, Part 1, and Part 2*.

9. Minimum Foundation Program - a statewide funding plan that incorporates shared state and local funding of a specified minimal educational program. The funding is apportioned in accordance with a state funding formula which requires a certain level of local effort and the state paying the balance of the cost through allocation of basic aid.²⁹

In Virginia, the minimum program is defined through the Standards of Quality.

10. Basic Aid - those funds in Virginia that are distributed through the distribution formula and are mandated through quantified SOQ requirements or determined through an analysis of prevailing positions. See Chapter 3 for a detailed description of this process.

11. Prevailing Positions - the number of non-quantified positions required to meet the SOQ calculated using the L-estimator methodology and introduced in JLARC-2.

11. Average Daily Membership, or ADM - the statutory definition within the

Appropriations Act:

The average daily membership for grades K-12 including handicapped students ages 5-21, for the first seven (7) months (or equivalent period) of the school year in which state funds are distributed from this appropriation. Preschool and post-graduate students shall not be included in ADM.³⁰

²⁹Alexander, K., & Salmon, R. (1995). *Public School Finance*. 200-203.

³⁰Commonwealth of Virginia. (1988). *Acts of Assembly, Vol. II, 1988 Regular Session*. Richmond, VA. 1349.

Chapter 2

The Background to the JLARC Studies

Introduction

In order to understand the historic placement of the JLARC studies, it was necessary to become familiar with the context from which they evolved. Since no significant change in government policy occurs in a vacuum, specific events set the stage for these studies and the subsequent legislative process. Those events included the tenure of two Democratic governors who emphasized education as a part of their political agendas following the release of *A Nation at Risk* in 1983, the widening gap between wealthy and poor school divisions within Virginia, a mass of school funding equity cases around the nation into the 1980's¹ and the increasing threat of an equity suit in Virginia itself, the persistent biennial assessment by State Superintendent of Public Instruction S. John Davis that the Commonwealth was not funding the actual costs of the Standards of Quality that existed at the time, and the opening of the policy window for making substantive changes to the state's funding methodology. These forces combined to make the method of state educational funding a paramount governmental concern even if not an acute public issue.

As a requisite to understanding the changes that evolved in 1988, it was also necessary to understand the funding system that was established in 1973. The technical

¹Equity cases have continued beyond the scope of this study and are likely to continue into the next century.

aspects of the way the formula operated provided part of the background of the JLARC recommendations and ultimate legislatively-mandated changes. In addition, component elements of the funding system were the product of the political policy making process, and any changes in them would necessitate reexamination by the elected policy makers themselves, the members of the Virginia General Assembly.

Governors Charles S. Robb and Gerald L. Baliles

Charles S. Robb was elected Governor in 1981 and Gerald L. Baliles in 1985. Since Virginia governors cannot serve consecutive terms,² the importance of two governors pursuing complementary education agendas through eight years cannot be understated. Both Robb and Baliles emphasized K-12 education during their terms in office. Although Robb had to recommend cuts in governmental services in his budget recommendations in 1983 because a national recession was occurring,³ he proposed fully funding the Standards of Quality in the second year of the 1986-88 biennium in his State of the Commonwealth Address to the General Assembly on January 9, 1985.⁴ Robb proposed immediately adding \$53 million into SOQ funding in the first year of the biennium so the full-funding target as determined by contemporary cost procedures could be reached in the second.

²*Va Const*, Art V, Section 1.

³*Richmond Times-Dispatch*, 13 January 1983. A7.

⁴*Richmond Times-Dispatch*, 10 January 1985. A6.

Baliles emphasized a three-pronged program during his campaign for Governor: economic growth, infrastructure development, and making Virginia a national leader in public K-12 education. He reasoned that these were the three elements upon which modern democratic societies and economies were built, and that they would appeal to the public in a rapidly growing, increasingly suburban state.⁵ Thus, public education was a primary element in the way he viewed the function of governing in a democracy. What transpired during his term was his appointment of, and the recommendations by, the Commission on Excellence in Education in 1986⁶ and the issuance JLARC-2 in 1987. These reports culminated in Baliles' budgetary recommendations to the General Assembly in its 1988 term for the 1988-90 biennium. The details of the Baliles recommendations will be discussed later within the context of the key actor interviews, but the emphasis that both the Robb and Baliles administrations placed on education reflected an important component to the background of the JLARC studies.

The Disparity Gap

In 1983 Helene Boe Jones completed a dissertation at Virginia Polytechnic Institute and State University on Virginia's contemporary K-12 funding program from its

⁵Walker, G. S. (1997, February 18). E-mail to William Childs. Walker was Chair of the Fredericksburg Area Citizens for Baliles during the 1985 gubernatorial campaign.

⁶Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education."

inception in 1973 through the 1980-81 school year.⁷ This quantitative analysis of three selected school years, 1973-74, 1974-75, and 1980-81, examined various measures of school funding equity among localities in the state. Jones' findings were specific: the large per-pupil revenue disparities that existed in 1973-74 became worse during the span covered by her study; localities were required to fund disproportionately large shares of educational expenses; SOQ figures were set at low levels by the General Assembly, thereby allowing large local expenditure leeway; and the percentage of the cost paid for education by the state declined during the period. In the conclusion to her study, Jones stated:

The movement away from fiscal equity in terms of per-pupil revenue disparities, as shown by three of the four fiscal equity measures, other ancillary data, and comparison with similar state studies, demonstrates that if the intent of the Virginia school finance reform was to provide greater fiscal equity, it was not successful. It could be suggested that the following reasons may have a bearing on this conclusion. First, the percentage of total revenues for education from the state has been steadily decreasing, while school divisions have had to assume greater fiscal responsibility. Second, the major feature of the new formula was the Local Composite Index, which by its structure broadened the measure of fiscal capacity but did not result in reducing per-pupil revenue disparities.⁸

Although Jones' study ended with the 1980-81 academic year, the funding formula remained unchanged until 1988. As a consequence, any deficiencies in the equalization

⁷Jones, H. (1983). "Virginia School Finance Reform: A Comparison of the Virginia Public Elementary and Secondary School Finance Program from 1973-1981 in Regard to Fiscal Equity." Unpublished doctoral dissertation, Virginia Polytechnic Institute and State University, Blacksburg, VA. *Passim*.

⁸Jones, H. (1983). "Virginia School Finance Reform." 148-149.

potential of the distribution mechanism would cause the disparity to continue. This happened.

Jones relied on several statistical measures used in school finance to draw her conclusions: the coefficient of variation, the McLoone Index, the Federal Range Ratio, the Lorenz Curve, and Gini Index.⁹ A simplified demonstration of the continued disparity between 1981 and 1988 could be illustrated with the range ratio of the lowest and highest per-pupil expenditures among localities in Virginia during the period. These per-pupil expenditures represented cost of operation excluding facilities, debt service and capital outlay, exclusions consistent with most other states' procedures at the time. In 1981-82 that ratio stood at 2.759, in 1982-83 it was 2.859, in 1984-85 it was 2.663, and in 1987-88 it was 2.333.¹⁰ Thus, while some small closing of the range ratio was seen during this time, those localities at the top continued to be able to expend more than twice as much per pupil as those at the bottom from state and local revenues.

The fact that a state government had the power to create and maintain a system that perpetuated such funding disparities made it inevitable that the topic would be considered in several court cases during the period. If states possess such plenary powers in education, and if states also possess sovereignty over local governments, it would

⁹An explanation of each can be found in Alexander, K., & Salmon, R. (1995). *Public School Finance*. 232-245.

¹⁰Virginia Education Association, (1989; 1986; 1983), Virginia's Educational Disparities, for the years 1981-82, 1984-85, and 1987-88; JLARC, (1988), *Funding the Standards of Quality, Part 2*, for the 1982-83 data.

follow that the effects of their actions would be subject to judicial scrutiny, particularly as an issue of equal protection.

Funding Equity Cases

In 1973 the United States Supreme Court conclusively refused to extend the coverage of the Federal Equal Protection clause in the Fourteenth Amendment to issues of school funding equity cases in the *San Antonio Independent School District v. Rodriguez* (411 U.S. 1). Education was not to be recognized as a fundamental federal civil right.¹¹ Plaintiffs thereafter turned to recourse in state courts, and a host of suits ensued over the next two decades. At least thirty-two states have seen their school finance systems challenged with at least eighteen of these cases filed prior to 1988. Before JLARC-2 was released in 1987, the supreme courts in seven states had found their respective distribution schemes unconstitutional, while the high courts in fourteen other states had ruled the opposite.¹²

While the record in the equity suits was quite mixed, three standards of legal review emerged during the course of the suits. The "rational relationship test" was one in which a court would seek to determine whether the action of the state bore a rational relationship to the duties of the state absent a constitutional prohibition. At the other end

¹¹Alexander, K., & Salmon, R. (1995). *Public School Finance*. 29-32.

¹²Underwood, J. (1994, November 19). School finance symposium. Madison, WI. By 1994, the total of state systems found unconstitutional by the respective state supreme courts had risen to 14. By 1997, the number had risen to 17, with Ohio falling in March, 1997.

of the continuum, the "strict scrutiny test" was one in which a court would require the state to demonstrate a compelling interest in devising classifications under the law. Thus, strict scrutiny presumed that a fundamental right was under review or at risk. In the first instance, a court would defer oversight to another branch of government; in the second, the opposite was true. As applied to education, this meant that if a particular state defined public education as a fundamental right within its constitution, any of that state's action which had an impact on an individual's access to education would be subject to court inspection and approval as a matter of equal protection. The court would assume an active oversight. Therefore, in the arena of school finance, every child within the state would be entitled to an essentially equal public funding of their education. If, on the other hand, public education were merely mandated by the state constitution but not linked as a fundamental right with specific definitions, the state simply had to defend its actions as having a reasonable relationship to the execution of its duties. It would be incumbent upon the individual to prove that the state action injured or discriminated against them as a class in some specific manner that affected some other fundamental right. The court would accede the oversight role to another branch of government. A third "intermediate test" emerged between the two extremes whereby a court would exercise a modest judicial review of state actions.¹³

Virginia leaders were well advised that this state, too, could face a serious court

¹³Alexander, K., & Salmon, R. (1995). *Public School Finance*. 26-38.

challenge of the funding methodology. The events leading to the adoption of the funding formula in 1973 laid the foundation for legal challenges. A foreboding history already existed prior to the *Rodriguez* decision as plaintiffs sought relief under the Fourteenth Amendment in Federal courts around the nation. In a 1969 Illinois case, *McInnis v. Shapiro* (394 U.S. 322), the U. S. Supreme Court affirmed the lower court ruling that there were no standards upon which the court could assess the constitutionality of funding methods. During the same time period, a group of citizens in Bath County, Virginia, filed a similar suit in the Federal District Court for the Western District of Virginia. The case was *Burruss v. Wilkerson*.¹⁴ In upholding the lower court's dismissal of this suit, the U.S. Supreme Court held in 1970 that the plaintiffs had not shown that a class of citizens had been denied equal protection.¹⁵ The lower court's opinion that was upheld stated, "Our reexamination of the [Appropriations] Act confirms that the cities and counties receive State funds under a uniform and consistent plan. With this conclusion we resolve the chief issue of the case." The trial court then added, "However, the courts have neither the knowledge, nor the means, nor the power to tailor the public monies to fit the varying needs of these students throughout the state." Finally, the court indicated that Virginia was studying the issue of funding disparities among the localities, and concluded, "The

¹⁴Roberts, J. (1995). "The Effects of the Recommendations of the Joint Legislative Audit and Review Commission on State Funding for..." 21.

¹⁵Alexander, K., & Salmon, R. (1995). *Public School Finance*. 28-39.

General Assembly undoubtedly will come to their relief."¹⁶ Thus, in the period between 1970 when the U.S. Supreme Court upheld the *McInnis* and *Burruss* decisions and the definitive 1973 *Rodriguez* decision, a great deal of uncertainty remained as to what issues the federal courts might choose to decide. The recognition of future state legislative action given by the court in *Burruss* might have hinted at an activist judiciary giving the state an opportunity to address an issue on its own before the courts were forced to intervene. Contained within the 1971 Virginia Constitution was a stipulation that required the General Assembly to establish educational standards of quality.¹⁷ This, coupled with Governor Holton's appointment of a task force on the financial aid formula in 1972, resulted in the adoption of a distribution formula in 1973¹⁸ that was to remain in effect until the 1988 methodological changes in determining SOQ costs.

The issue of funding methodology became acute in Virginia in the years after the adoption of the original formula due to three hallmark decisions by the respective state supreme courts. In 1973 the New Jersey Supreme Court ruled in *Robinson v. Cahill* that requirements mandated by the language in the state constitution were not being met by the state government. In 1976 California extended equal protection to education as a fundamental right in *Serrano v. Priest*. In 1979 the West Virginia Supreme Court in

¹⁶*Burruss v. Wilkerson*. (1969). 310 F.Supp. 572.

¹⁷*Va Const*, Article VIII, Section 2.

¹⁸Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." *Passim*.

Pauley v. Kelly linked the state's constitutional mandate with fundamentality, covering education under the equal protection clause without specific constitutional wording as such.¹⁹ It therefore appeared that legal logic was moving towards protecting education as a fundamental state right under equal protection in the years since the *Rodriguez* decision.

The 1971 Constitutional revisions²⁰ in Virginia had defined language regarding public schooling in two articles, and the question as to whether the state could successfully defend the existing funding formula in court was debatable. Article VIII, Section 1, stated that "The General Assembly shall provide for a system of free public ...schools ...and shall seek to ensure that an educational program of high quality is established and continually maintained." Section 2 of this article required that "Standards of quality" be established by the State Board of Education, subject to revision by the General Assembly. Furthermore, the General Assembly was required to devise a funding method to support the SOQ program and to apportion the cost of funding between the state and local governments.

Article I, Section 15, contained a reference to education in the Bill of Rights which stated: "That free government rests, as does all progress, upon the broadest diffusion of knowledge, and that the Commonwealth should avail itself of those talents which nature has sown so liberally among its people by assuring the opportunity for their fullest

¹⁹Alexander, K., & Salmon, R. (1995). *Public School Finance*. 35-36.

²⁰See the Appendix for the pertinent education sections of Virginia's constitution and for the 1973 Miller Opinion cited in Chapter 1 and below.

development by an effective system of education throughout the Commonwealth."²¹

It appeared possible to read the two articles in a connective manner which compelled the state to devise a funding system that would provide an equal and equitable educational opportunity throughout all localities in the state. Attorney General Andrew Miller linked Sections 1 and 2 of Article VIII in rendering his 1973 opinion to Delegate W. Roy Smith that the funding program in place at the time failed to meet the requirements under the state constitution. Miller's conclusions held:

In summary, the Basic School Aid Formula fails to take into account the current educational practices in the Commonwealth as required by Section 2 of Article VIII of the Constitution. Use of the Basic School Aid Formula to distribute a supplementary appropriation would be subject to the same infirmities. Now that the Standards have been costed out, the General Assembly, if it is to comply with the mandate of the Constitution, should take into account these actual costs and should apportion the costs on an equitable basis. This approach will ensure that those localities lacking sufficient resources to enable them to meet the costs of the Standards will receive such supplements from the State as are necessary to offer educational programs of the prescribed quality.²²

Miller's opinion brought to focus the concerns voiced in the *Burruss* case and the transition to state courts by plaintiffs that would follow as a result of the *Rodriguez* case. The possibility of litigation had been foreseen by Governor Godwin during his address to the 1969 Special Session of the General Assembly which considered the proposed changes

²¹*Va Const.*

²²Miller, A. (1973, February 7). Attorney General's opinion cited in Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic State Aid Formula." 199-202.

to the state constitution. He successfully supported the inclusion of the term “seek to” in Article VIII, Section 1. Godwin was concerned that the term “high quality” was too subjective and posed “the gloomy prospect of endless litigation.” This concern was coupled with the legislative concern that the mandatory “high quality” language would result in the General Assembly forfeiting its right to determine its own definition of “high quality” to the courts. The combination of these dual concerns led each house of the General Assembly to insert “seek to” into the Article in the same location during their initial consideration of this section of the Constitution.²³

Leaders in Virginia could only guess at the outcome of any potential equity suit. If Virginia courts chose to strictly scrutinize educational funding as a fundamental right of equal protection under the state constitution, it was felt that the range in per pupil expenditures among localities would be difficult to defend. However, if the state was not compelled by the Constitution to view education as a fundamental right, then the funding method might pass a constitutional challenge. The sheer magnitude of state expenditures in K-12 education made consideration of the question mandatory. It seemed evident that the JLARC studies and the Commission on Excellence would be looked upon by political and educational leaders in the Commonwealth to provide the government with expert guidance in resolving the matter.

²³Andrews, H. (1997, May 27). Faxed letter to William Childs.

The 1973 Funding System

The 1973 funding system was classified as a minimum foundation program supplemented by several flat grant categories, and that description remained after the 1988 revisions.²⁴ The system itself was composed of two broad components. On the cost assessment side, the Standards of Quality mandated various staffing ratios and other requirements for the minimum foundation program. Included within the SOQ were basic aid payments and several per pupil categorical programs. Basic aid payments were funneled through the Local Composite Index, while categorical funds were distributed as flat grants for the areas of gifted education, vocational education, special education, and remedial education. Basic aid was distributed through a formula described below. Both basic aid and categorical appropriations were established by the General Assembly. The question about how costs were projected by the Virginia Department of Education and subsequently funded by the General Assembly went to the heart of the issues surrounding both JLARC studies and is discussed in detail in Chapters 3 and 4 of this study.

The second component of educational funding was the distribution methodology of equalized basic aid. The equalization component of the distribution formula relied on "the Composite Index of local ability-to-pay."²⁵ The formula itself grew out of

²⁴Salmon, R. (1990). State School Finance Programs and Their Influence on Rural Schools and School Districts, *Journal of Education Finance*, 16. 130-147.

²⁵Salmon, R., Dawson, C., Lawton, S., and Johns, T., eds. *Public School Finance Programs of the United States and Canada, 1986-87*. (1988.) Blacksburg, VA: American Education Finance Association and Virginia Polytechnic Institute and State

recommendations of the Governor's Task Force on Financing Standards of Quality for Virginia Public Schools, appointed by Governor Holton in 1972 after the first Standards of Quality had become effective in July of that year pursuant to the provisions of the revised state constitution. The Task Force had been authorized by General Assembly in Joint Resolution No. 29 in the 1972 session and was an outgrowth of the 1969 McMath Commission.²⁶ Sandidge cited several legal, political, and fiscal factors in the formation of the 1972 Task Force. These types of factors were typical of the policy-making cycle and political processes, and this same combination of factors would reoccur in the 1980's with the Baliles' recommendations, as new legal, political, and fiscal circumstances came into focus.

This infusion of federal funds (President Nixon's revenue sharing) was seen by the Governor as an opportunity to raise the state's financial commitment to education with a minimum amount of impact on the localities. The legislative recommendations were in place (i.e., the McMath report and Resolution No. 29), the legal imperatives were looming (i.e. *Serrano, Rodriguez*), the legal mandates were being finalized (i.e., the Standards of Quality), and the constituent pressures were building due to the vagueness of the Standards. All of these factors required action; this action was forthcoming from the Governor.²⁷

University. 337-346.

²⁶Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." 56.

²⁷Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." 57.

The elements of the Local Composite Index illustrated the difficulties in determining a locality's ability to raise funds. It also demonstrated the political reality of compromise in devising such policy decisions. For example, the LCI failed to specifically incorporate municipal overburden in the input structure although several people, including Lt. Governor Reynolds, requested such a consideration. However, the inclusion of population as one factor in the index was the result of a single urban legislator's influence, Senator Willey, and did address a unique circumstance of cities. A politically expedient no-loss provision was included when the new formula went into effect. Despite these changes, almost one-half of all state aid to the public schools was still not equalized.²⁸

The manner in which costs were projected by the Department of Education for subsequent General Assembly action on funding levels grew out of the second Task Force report on Financing the SOQ in 1973. The Department of Education would calculate the cost of instructional personnel using the SOQ legislatively-adopted ratios of teachers per pupil and multiply that by the actual mean statewide instructional salary. The Department would then add to the instructional costs selected support costs. The General Assembly would take these estimates and determine exactly what SOQ figure per pupil in ADM the state would finance. Each locality would then receive an amount from the state for the state share of this foundation program as determined by the locality's Local Composite Index for its pupil population. However, since the General Assembly actually set an SOQ

²⁸Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." 128-129, 132-133.

per pupil figure through the passage of the biennial Appropriations Act, the Department of Education's SOQ estimates appeared to be increasingly underfunded after Davis became State Superintendent. This happened because Davis insisted that DOE project costs based on actual statewide mean costs and report their figures accordingly. Thus, "fully funding" the Standards of Quality became an ongoing political issue during the 1980's.²⁹

The Local Composite Index was the equalization mechanism contained within the SOQ funding formula. It measured each of the locality's components in the formula against state totals, and yielded a result which represented the locality's required share of basic school aid. The state would calculate each locality's total foundation guarantee by multiplying the ADM by the legislatively specified SOQ cost. Each locality's one cent share of the state retail sales tax receipts for the locality was then deducted from the gross total, leaving an adjusted SOQ cost. The LCI of each locality would then be applied to the net foundation cost. For example, if the Local Composite Index (LCI) for a county was .4321, the locality would be responsible for raising 43.21 percent of the net cost of the SOQ foundation expenditures, minus the one cent dedicated sales tax, from local funds, and the state would provide the remaining 56.79 percent. The index for 1986-87 was defined as follows:

“Composite Index of Local Ability-to-Pay” - An index figure computed for each locality. The composite index is the sum of 1/3 of the index of wealth per pupil in ADM (unadjusted for half-day kindergarten programs) reported for the first seven (7) months of the 1983-84 school

²⁹JLARC. (1986). *Funding the Standards of Quality, Part 1*. I-IV, 4-5.

year and 1/6 the index of wealth per capita (population estimates for 1983 as determined by the Tayloe Murphy Institute of the University of Virginia); the state average in the composite index is .50. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 1983 - 50 percent; (2) individual income level for the calendar year 1983 as determined by Tayloe Murphy Institute of the University of Virginia -40 percent; (3) the sales receipts for calendar year 1983 which are subject to the state general sales and use tax, as reported by the State Department of Taxation -10 percent. Each constituent index element for a locality is its sum per ADM, or per capita, expressed as a percentage of the state average per ADM, or per capita, for the same element. A locality whose composite index exceeds .8000 shall be considered as having an index of .8000 for purposes of distributing basic aid payments. Each constituent index element for a locality used to determine the composite index of local ability to pay for the current biennium shall be the latest available data for the specified base year provided to the Department of Education by the responsible source agencies no later than December 15, 1985.³⁰

The funding methodology and definitions themselves were not compiled in a separate statute. They were located over the years in definitions attached to the biennial Appropriations Acts.³¹ The graphic representation of the formula is shown on the following page.

The various elements of the formula were designed to measure the fiscal capacities of each of the several localities relative to the state as a whole. Inclusion of the Per Capita index was the result of Senator Willey's insistence, as noted earlier. The addition of the

³⁰Commonwealth of Virginia. (1986.) *Acts of the General Assembly of the Commonwealth of Virginia, 1986 Session*. Richmond, VA. 1669-1670.

³¹See examples in the Appendix.

Composite Index of Local Ability-to-Pay: 1973-1988³²

$$\begin{array}{c}
 \left[\frac{\text{Local True Value of Real Property}}{\text{Local ADM}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total of Real Property}}{\text{State ADM}} \right] \\
 \hline
 .5
 \end{array}
 +.4
 \begin{array}{c}
 \left[\frac{\text{Local Personal Income}}{\text{Local ADM}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total Personal Income}}{\text{State ADM}} \right] \\
 \hline
 +.4
 \end{array}
 +.1
 \begin{array}{c}
 \left[\frac{\text{Local Taxable Retail Sales Receipts}}{\text{Local ADM}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total Retail Sales Receipts}}{\text{State ADM}} \right] \\
 \hline
 +.1
 \end{array}
 = \text{ADM Composite Index}$$

$$\begin{array}{c}
 \left[\frac{\text{Local True Value of Real Property}}{\text{Local Population}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total of Real Property}}{\text{State Population}} \right] \\
 \hline
 .5
 \end{array}
 +.4
 \begin{array}{c}
 \left[\frac{\text{Local Personal Income}}{\text{Local Population}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total Personal Income}}{\text{State Population}} \right] \\
 \hline
 +.4
 \end{array}
 +.1
 \begin{array}{c}
 \left[\frac{\text{Local Taxable Retail Sales Receipts}}{\text{Local Population}} \right] \\
 \hline
 \left[\frac{\text{Statewide Total Retail Sales Receipts}}{\text{State Population}} \right] \\
 \hline
 +.1
 \end{array}
 = \text{Per Capita Composite Index}$$

$$\left[[.6667 \times \text{ADM Composite Index}] + [.3333 \times \text{Per Capita Composite Index}] \right] \times .50 = \text{Local Composite Index}$$

Per Capita index helped urban areas, and some rural communities, which traditionally had seen a higher percentage of students enrolled in private schools, a higher dropout rate, and greater governmental expenses per capita than suburban and rural areas, elements of municipal overburden.³³ The one-third weight that the per capita index was given was illustrative of the sheer political influence held by Willey.

³²Compiled from Virginia Department of Education. (1995, February 16). Calculation of the composite index of local ability-to-pay. And Salmon, Lawton, and Johns, eds. (1988). *Public School Finance Programs of the United States and Canada, 1986-87*. Blacksburg, VA: American Education Finance Association and Virginia Polytechnic Institute and State University. 339.

³³Sandidge, J. (1982). "A Study of the Evolution of the Present Virginia Basic Aid Formula." 124.

The function of each of the components in the formula was easily seen. The true value of real property was a measure of a locality's wealth in general, and the .5 weight represented the approximate 50 percent of the local revenues generated on average through property taxes on real estate and public service corporation property at the time the formula was adopted. The .4 weight given to personal income³⁴ as estimated by the Tayloe Murphy Institute provided the proxy for other local tax revenues. Finally, the .1 weight given to local taxable retail sales assessed the percentage of local tax revenue generated by the one cent local sales tax. Thus, the three major bases of fiscal capacity were addressed: wealth, income, and consumption. When divided by the state ratio of each component, each locality would be mathematically compared to the state as a whole, provided the components were efficient measures for each base of wealth. As a consequence, as any component in the numerator rose in a locality, the composite index for that locality increased, thereby increasing the local share of the foundation program. One problem that could be noted from the example above, however, was that the General Assembly had to rely on the use of out-of-date data. This was due to the timing of the state budget cycle, since this was the most recent data available at the time the budget bill was prepared. The 1986-87 formula relied on 1983 tax data and estimates and 1985 population estimates. The biennial budget was just that: a budget for a two-year cycle. Thus, the Local Composite Index for the second year of the biennium was the same as the

³⁴This figure was later changed to the state-derived Adjusted Gross Income (AGI), as noted in Chapter 4.

first year by the definition in the Appropriations Act. For example, the 1987-88 appropriations were based on economic data that was four years old. Localities that saw rapid changes in population or the economy would be hurt or helped in relation to their actual ability to pay, depending on whether the changes reflected losses or gains at a rate different than the state average.

By 1987, the problems that existed with the formula itself were exacerbated by the Office of the U.S. Secretary of Commerce's notification that the key statistic used to determine local personal income would no longer be made available for cities under 100,000. Therefore, Virginia was not going to be able to calculate that component of the LCI for the 1988-90 budget.³⁵ It appeared that some changes were going to be mandatory. Thus, the window of political opportunity was being forced open.

S. John Davis

S. John Davis was named State Superintendent in 1980 by Governor John Dalton. He was reappointed to four year terms by Governors Robb and Baliles. During his tenure he developed deep professional and personal relationships with key members of the General Assembly in both political parties and was widely respected for his ability and opinion. However, Superintendent Davis consistently pointed out during the budget cycles that the SOQ were being underfunded. As noted earlier, he made such judgements based on actual cost data for the Commonwealth. But he also publicly stated his opinion

³⁵JLARC. (1988). *Funding the Standards of Quality, Part 2*. 50.

that the state was not funding the SOQ at the level required to meet the regulations.³⁶ If Davis were correct, some felt that the state was not living up to its constitutionally-mandated duty.

The dilemma in which the state found itself was, on one hand, claiming that the K-12 funding methodology was constitutional, and on the other hand, having the state's chief constitutional officer for education pointing out the deficiencies. Davis' reputation gave his assessment validity as indicated by the State Board of Education's budget requests, and the inconsistency was one that state policy makers could not allow to continue. They were being spurred to take action in an arena they would prefer to leave alone. The highly political nature of K-12 funding assured that localities and interest groups would be energized as stakeholders in any policy decision that would evolve.

The Opening Window

Campbell and Mazzoni described the policy-making cycle in validating the key actor interview methodology.³⁷ Kingdon provided more detail about the cycle in his analysis of the national political arena, particularly in discussing elements of the policy window.³⁸ The policy window that opened in 1987-88 for a change in the funding

³⁶Davis, S. J. (1996, December 17). Interview.

³⁷Campbell, R., & Mazzoni, T. (1976). *State Policy Making for Public Schools*. Passim.

³⁸Kingdon, J. (1984). *Agendas, Alternatives, and Public Policies*. Ann Arbor, MI: Harper Collins, Publishers. Passim.

methodology was the culmination of the factors reviewed above. Forces in divergent arenas were converging on this issue, and the political climate was responding. With the election of Governor Baliles and his inauguration in 1986, education was again in the forefront of political attention at the state level.

Baliles appointed a special task force on education shortly after taking office. On March 24, 1986, he signed Executive Order Number 86 which created his Governor's Commission on Excellence in Education. The Commission completed its study rather quickly, and reported its findings and recommendations to the Governor in October. The Commission suggested that its thirty-six recommendations would, "if implemented, ... place Virginia in the first rank of the states in the quality of education." The recommendations specified little regarding funding equity other than to establish a framework from which standards could be measured, and remediation and funding were then implicitly suggested. Thus, remediation for the bottom quartile on standardized tests (Recommendation 3), state support to reduce the performance gap between African-American and white students (Recommendation 5), smaller English classes (Recommendation 7), and competitive teacher salaries (Recommendation 13), among others, implied that increased funding would be mandatory. Coupled with Recommendation 33 that funds would be made available to help "deficient" schools, as well as to reward outstanding ones,³⁹ an appearance was evident that additional

³⁹Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education." Unpublished doctoral dissertation, Virginia Polytechnic

equalization of some sort was going to be necessary.

Although the focus was on programmatic and academic outputs, more uniform results could imply that more uniform inputs were necessary, particularly in terms of per pupil funding. In fact, Commission staff member William Burkholder's "pop quiz" given at the onset of considerations resulted in eight responses that per-pupil expenditures were an indicator that would "demonstrate, or measure, quality educational programs." This was the third highest response to that item, with first and second receiving fifteen and eleven responses. Also third on Burkholder's second item, "Ten Things to Bring Virginia to the Top 10," was revising the funding formula to eliminate disparities. This item received five responses, compared to nine and six for the first and second items.⁴⁰ The Commission organized into four subcommittees, with one being "Funding and Equal Access," chaired by State Board of Education member James Dyke, Jr., and joined by John Fishwick, Lois Rochester, and William Spong.⁴¹

The Governor's Commission was established within a context of an era that was focusing on educational reform by addressing quality rather than mere expenditures. As Bean noted, *A Nation at Risk: The Imperative For Educational Reform* had been

Institute and State University, Blacksburg, VA. 17-20.

⁴⁰Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education." 55-58.

⁴¹Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education." 59.

published by the National Commission on Excellence in Education in 1983. Virginia had seen the appointment of Governor Robb's Commission on Virginia's Future in November, 1982, and that Commission's two reports had been issued in December, 1984. Two national teacher education reports were published in 1986: the Carnegie Forum on Education and the Economy's *A Nation Prepared: Teachers for the 21st Century* and the Holmes Group's *Tomorrow's Teachers*.⁴² Thus, the tendency not to emphasize per pupil expenditures as the primary measure of educational quality should not have been viewed with surprise. What did happen between 1982 and 1988, however, was that the opportunity to address educational issues, from organizational matters, test results, dropout rates, as well as fiscal equity, became significant. In fact, Baliles viewed the 1988 budget proposals as part of his perspective of reform to achieve educational excellence rather than as a change in a funding methodology that he considered to be only one component part of his reform package. His view of the 1988 proposals focused as much on the recommendations in the 1986 report as on the JLARC studies. Baliles understood the policy cycle, and he realized that an opportunity was present.⁴³ Thus, the policy window that opened remained open during the decade of the 1980's.

⁴²Bean, M. (1990). "Factors that Affected the 1986 Report of the Commission on Excellence in Education." 30-33, 41-42.

⁴³Baliles, G. (1997, June 27). Interview.

Chapter 3

JLARC-1

Introduction

The primary significance of JLARC-1 was seen in two areas: the application of the linear estimator statistic for determining prevailing costs and personnel for the SOQ and the use of alternate methods for determining instructional staffing requirements. These methods differed from the calculations used by the Department of Education prior to the issuance of this study. The impact of the implementation of the changes recommended in JLARC-1 would be to reduce the amount of state aid necessary to fund the SOQ as defined by JLARC. As a consequence, it was possible for the state to redefine what was meant by the term "fully funding the Standards of Quality." Although JLARC-1 was officially issued on February 7, 1986,¹ its recommendations had been included in outgoing Governor Robb's January speech to the General Assembly in which he accepted the "new methodology" of funding the SOQ with a cautious political stipulation:

But the best is yet to come. To prepare for our next major advance, state government has completed an exhaustive study of the complex issues surrounding the full funding of the standards of quality. And while I accept the new methodology, I believe that even more money than the new study would require is necessary to maintain our steady momentum toward true educational excellence in our public schools. Accordingly, when compared with recent estimates, our budget allocates \$376 million specifically to the standards of quality, and \$670 million above

¹JLARC. (1986). *Funding the Standards of Quality, Part 1*. Passim.

the current biennium.²

By using the new methodology of calculating SOQ costs, and with the additional expenditures recommended by Robb and the newly inaugurated Governor Baliles, the SOQ appeared to be “fully funded” for the first time in history.³ However, in order to achieve this politically defined goal, the change in methodology that lowered the state’s obligation for SOQ costs was needed.

The change in altering the SOQ cost calculation methodology was necessary because, as JLARC-1 stated on page II of the Report Summary, “In lieu of quantified standards upon which to base estimates of costs, the Department of Education has used a statewide average to estimate SOQ costs. The General Assembly has never fully funded the amount of this estimate, however, and has raised questions about what cost is reasonable to use as a foundation for school division expenditure levels.” JLARC-1 provided details as to how the Department of Education estimated SOQ costs. “...DOE calculates the cost of: (1) SOQ instructional personnel, using legislatively adopted ratios of instructors to pupils, and the actual average statewide salary for all instructional positions, and (2) support services, based upon actual expenditures (minus certain State

²Text of Governor Robb’s Final State of the Commonwealth Speech to the General Assembly. (1986, January 9). *Richmond Times-Dispatch*. A-6.

³Finley, D. (1989, May). State Funding for Public Schools in Virginia, *The University of Virginia Newsletter*, 65, 9. 59-66.

and local revenues)."4 The notion that DOE was using an inaccurate procedure allowed JLARC to open the door in search of another means of determining the costs for which the Commonwealth was liable under its constitution. Whether the rationale for the use of the alternate cost methodology was constructed after it was determined that the state was unwilling to fund at the DOE-estimated levels, or whether the use of the actual statewide average by DOE was erroneous, had little practical influence. This was a political issue with political definitions as to the rules of the game. The legislature had plenary powers in establishing an educational system in accordance with the requirements of the state constitution. All decisions as to method, level of funding, and rationale rested with politicians after the constitutional requirements were met. Once JLARC-1 was released, the state government had a methodology onto which it could latch, a methodology that, if adopted, would justify less appropriations for constitutionally mandated programs.

The Linear Estimator

The JLARC staff felt that the DOE's use of the actual statewide mean salary in calculating costs was creating an inflated estimate for the SOQ. They searched for some alternate measure of central tendency which could be used. JLARC-1 stated that fifteen measures of central tendency were considered before settling on the linear weighted average.⁵ The use of the linear estimator was the work of Gary Henry, a JLARC staff

⁴JLARC. (1986). *Funding the Standards of Quality, Part 1*. 4.

⁵JLARC. (1986). *Funding the Standards of Quality, Part 1*. III.

member during JLARC-1 who moved into the Baliles Administration on May 16, 1986, as an Assistant Secretary under Secretary of Education Don Finley.⁶ Henry had done graduate work on “robust measures of central tendency,” and he advocated the use of the linear estimator average as an alternative to the actual statewide mean salary.⁷ The rationale for the use of the statistic, also called the linear weighted average and L-estimator, was fully described within the JLARC-1 report and its accompanying technical paper.⁸

The technical paper was a 31 page report that defined in detail the selection of the linear estimator as the appropriate measure of central tendency to be used in calculating SOQ costs. The statistic that was selected over fourteen others was the L-estimator with a weight of five at the median. Other statistics considered and rejected were the: mean, median, trimean, midmean trimmed at 25 percent, midmean trimmed mean at ten percent, midmean trimmed mean at five percent, midmean trimmed at two standard deviations, Winsorized mean at 25 percent, Winsorized mean at ten percent, Winsorized mean at five percent, Winsorized mean at two standard deviations, L-estimator with a weight of ten, L-estimator with a weight of three, and L-estimator with a weight of two.⁹ The criteria for

⁶Henry, G. (1997, January 31). E-mail to William Childs.

⁷Henry, G. (1996, October 10). E-mail to William Childs.

⁸JLARC. (1986B). *Selection of a Statistic to Represent Local Educational Expenditures*. Richmond, VA. Passim.

⁹JLARC. (1986B). *Selection of a Statistic...* 13.

selection of the statistic included an appropriate amount of sensitivity response by the statistic to changes in data values while maintaining a desirable amount of stability in the calculated value, ease of calculation, a calculated value that lay between the mean and median for most data points, inclusion of every local value in the calculation, and understandable meaning in communicating its use to lay audiences.¹⁰ This examination of so many statistical treatments could become viewed by critics as an attempt by JLARC to find a method that would fit a predetermined state funding level rather than a search for actual SOQ funding needs.

The conclusions in the technical paper provided a basis for the use of a value other than the mean. One statement of interest was that the statewide mean of teacher salaries was itself a weighted average. "In effect it is a weighted average across all school divisions with weights for each school division based upon the number of teachers employed in the school division."¹¹ This notion appeared to ignore the fact that the number of teachers employed was fundamentally a function of student population and not a matter of local choice. The emphasis on finding a proper prevailing cost was what drove the search for an appropriate calculation. However, the report noted one potentially serious problem: "To establish a foundation level that is too low increases the

¹⁰JLARC. (1986B). *Selection of a Statistic...* 10-12, 20-25.

¹¹JLARC. (1986B). *Selection of a Statistic...* 4.

underfunding problem to more localities."¹²

Thus, the purpose of the L-estimator was to diminish the influence of large school divisions that had high salaries, such as those in urban and suburban areas in northern Virginia and Tidewater. The impact was dramatic. In 1983-84 the statewide average for all instructional positions as calculated by DOE was \$20,457, using the actual statewide mean. By substituting the L-estimator, the linear average for elementary teachers was \$16,740 and for secondary teachers it was \$17,959. L-averages were also calculated for administrative positions at each level which had been previously included in, and counted with, all instructional positions. The state would see an immediate decrease in the estimated SOQ costs because the composite instructional salary as computed by JLARC was \$17,775 rather than \$20,457. As such, the state would immediately appear much closer to fully funding the SOQ. In fact, the amount needed to fully fund the SOQ by the JLARC methodology would be an additional \$161.4 million in state general revenue funds, compared to \$396 million as estimated by DOE in December, 1986. This total included all of the recommended adjustments made by JLARC-1, including recalculation of fringe benefits and support costs described later in this chapter.¹³

Calculation of the L-estimator was fairly straightforward. The statistic itself was designed to mitigate the effect of data outliers collected through a sampling technique. As

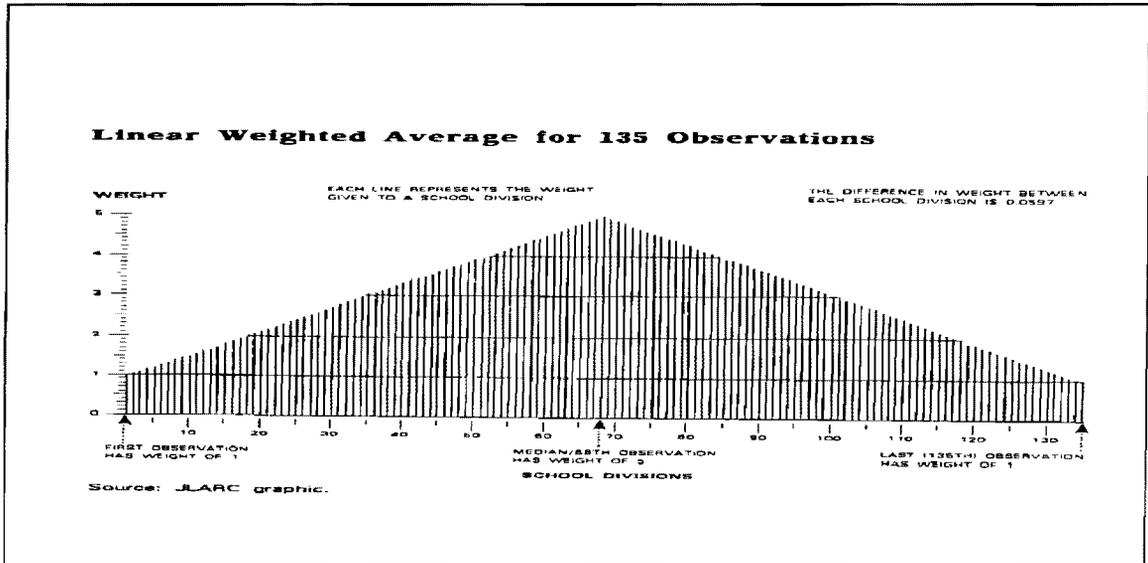
¹²JLARC. (1986B). *Selection of a Statistic...* 19.

¹³JLARC. (1986). *Funding the Standards of Quality, Part 1.* Passim.

such, data were arrayed from lowest to highest along a continuum. The median point was assigned a weighted value and points along each side away from the median towards each extreme were assigned a decreasing weight. The values were then multiplied by their weights, summed, and divided by an n that represented the sum of the weights. The effect for SOQ costs was to lower the weighted average from the mean towards the median. In the case of Virginia's school divisions, a mean of means was calculated because each school division was allocated its mean value and then arrayed along a continuum with all other school divisions prior to the weights being assigned. When 135 school division observations were used, the 68th observation was assigned a weight of five, the values at each extreme, 1 and 135, assigned a weight of one, and each subsequent value weighted at ± 0.0597 from the adjacent value, depending upon whether it was towards the center or the extreme. The use of this method was to severely depress the effect of school divisions with large numbers of employees, school divisions that concurrently happened to be at the upper end of the salary scale. Thus, Fairfax County, with about 125,000 pupils in 1987, held one position along the continuum, just as did Highland County, with 395 pupils.¹⁴ When reduced to one spot, and then having that mean multiplied by a low-value weight at the extreme, the statistical influence of Fairfax County in sitting the prevailing cost was doubly suppressed. However, the exact comparison was not possible because the JLARC

¹⁴JLARC. (1986). *Funding the Standards of Quality, Part 1*. 12-14, 38-45.

data set was not available in any published form. The graphic depiction of this method follows.¹⁵



JLARC's recommendation to use the L-estimator did not go unnoticed or uncriticized. In the State Board of Education's resolution on the issue of SOQ calculation, included on pages 111-112 of JLARC-1, a call was made for a "blue ribbon commission" to be appointed to study the funding formula and collateral issues prior to the adoption of any new methodology, including the L-estimator proposed by the JLARC-1 study. That resolution was adopted on January 17, 1986, and was forwarded to JLARC, the Governor, the Secretary of Education, and each member of the General Assembly. The State Board cited several concerns with what it called "the new methodology." The

¹⁵JLARC. (1986). *Funding the Standards of Quality, Part 1*. 14.

resolution specifically referenced the differences from the methodology recommended by the original Task Force in 1972; the problems apparently overlooked in the new procedures related to density, sparsity, municipal overburden, and costs of living; and the appropriateness of weighting given to certain school divisions. The Board went on to cite its concern over winners and losers under the L-estimator.¹⁶

In addition to the concerns over the methodology expressed by the State Board of Education, disagreement existed in the academic community. Salmon noted that the "alternate method of determining the costs for funding the Standards of Quality has been criticized soundly because of misapplication of statistical methodology."¹⁷ The point was that the L-estimator was designed to mitigate the impact of outliers in a sample, but the values used to determine average costs of the SOQ comprised the entire population. There were no outliers because there was no sample. Thus, the use of such a statistic was inappropriate from an academic perspective.

Superintendent Davis' response to JLARC-1 was also appended to the report. His explanation of DOE procedures in calculating average salaries referenced back to the 1973 Attorney General's opinion. Davis stated, "I understand the constitutional requirement to

¹⁶JLARC. (1986). *Funding the Standards of Quality, Part 1*. 111-112.

¹⁷Salmon, R. (1987, December 21). *An Analysis of JLARC II: Funding the Standards of Quality Part II: SOQ Costs and Distribution*. Richmond, VA: Virginia Education Association. 2.

determine costs based on actual school division data.”¹⁸ Davis favored a delay in changing the funding formula and recommended the formation of a task force to study the issue. His response cited several instances where the L-estimator could be criticized. He noted that similar weights were given to Cape Charles, with its eight elementary teachers, and Alexandria, with its 439. In another comparison, he noted that seven-tenths of one percent of the elementary teachers on the bottom end of the scale were weighted the same as 14 percent on the top end. He cited JLARC’s assertion that 118 of the state’s 135 divisions paid instructional staff less than the statewide mean, but contrasted this with data on the remaining 17 divisions which employed about 42 percent of the total statewide instructional staff.¹⁹ Davis’ appended response was interspersed with ten text boxes added by JLARC as reaction and response to his points. When Davis was asked about the editorial injections, he stated, “Their purpose was to reduce the state share of the SOQ, and they did it.”²⁰ His former chief financial officer, Myron Cale, reacted more pointedly to the comments: “The editorial notes were self-serving.”²¹ Whatever the reason for the comments, JLARC did provide a forum within the content of the report to voice criticism of the L-estimator prior to its adoption and use.

¹⁸JLARC. (1986). *Funding the Standards of Quality, Part 1*. 88.

¹⁹JLARC. (1986). *Funding the Standards of Quality, Part 1*. 81-108.

²⁰Davis, S. J. (1996, December 17). Interview.

²¹Cale, M. (1996, December 17). Interview.

JLARC's position on the estimator was equally aggressive. JLARC staff viewed the constitutional and statutory mandate to focus on a unit of the school division rather than the teaching position. Henry stated, "One problem is that from a legal standpoint the state funds school divisions, not teachers. So, some would say the divisions deserve equal weight."²² Viewed from this perspective, Davis' point regarding the percentage of teachers employed by the largest divisions lacked context. Henry also argued that the use of this statistical method could be appropriately applied to population data. He stated, "Because an estimator was developed for one purpose doesn't mean it can't be fruitfully used for another (Where would we be without TANG?)."²³ JLARC project leader Robert Rotz described a current analogy to support the use of an alternate prevailing cost measure with population data. He stated,

Whether the data are for the population or a sample, when the data are skewed, a simple average or mean does not accurately reflect the typical values within the distribution. A single sufficiently extreme observation can render the average meaningless for this purpose. A practical example would be if you were doing research for a magazine with a small circulation of subscribers, and you were asked to answer the question, "What is the typical salary of our subscribers?" You go out and do a survey, and you're able to do the entire population of subscribers, and you get that data back, but it happens that Bill Gates is one of your subscribers. The folks who say that the average is the only usable statistic because you have the entire population, I just don't see where that's practical, reasonable, or accurate. If you are asked, "What is the typical or

²²Henry, G. (1997, January 31). E-mail to William Childs.

²³Henry, G. (1997, January 31). E-mail to William Childs. Henry was referring to TANG's development for use in space flight and later being employed for public consumption.

prevailing salary of the subscribers?”, and you could say it’s \$10 million based on a simple average, but an average in this case would not be typical of the salary of most subscribers, just as in most cases the statewide per-pupil expenditure average is a very inaccurate measure of the typical per-pupil cost among the school divisions.²⁴

Instructional Position Analysis

The second aspect of altering the manner in which DOE estimated annual SOQ costs had to do with division micro analysis of cost factors. The logic was that divisions were configured differently, and that a blanket application of a cost estimate would not adjust for all local circumstances. JLARC-1 looked at the use of instructional aides to meet some quantified kindergarten staffing standards, while utilizing a different assessment of which instructional positions to count. JLARC's method was specified on page 17 of the report:

The standards identified offer quantified requirements for the following types of instructional positions: principals, assistant principals, teachers, instructional aides, librarians, and guidance counselors. This list of positions differs in three respects from the positions which the Department of Education includes in its instructional personnel component. DOE excludes kindergarten instructional aides, and includes instructional supervisory and visiting teachers.

DOE does not include any instructional aide costs in its estimate of SOQ costs. However, instructional aides are instructional personnel, and they are required for kindergarten and special education classes of a certain size. To the extent that instructional aides are utilized to achieve cost-effective staffing under the standards, they should be recognized as SOQ instructional personnel.

On the other hand, DOE classifies instructional supervisors and

²⁴Rotz, R. (1997, January 31). Interview.

visiting teachers as instructional personnel, and the salaries for these positions are used by DOE in calculating salary costs for SOQ instructional personnel.

JLARC reassigned instructional supervisors and visiting teachers as support costs items because they were no longer included in the existing quantified SOQ. As a consequence, the quantified standards for instructional personnel used by JLARC mirrored the standards cited above.²⁵ The inclusion of teacher aides as a factor in determining a least-cost method for each school within the state in establishing SOQ costs had the potential to be quite controversial. However, the VEA took no position on this matter, choosing to attack the overall methodology rather than this subtle point.²⁶ By using the least-cost combination of kindergarten teachers and aides on a school-by-school basis, it was possible to reduce somewhat the number of teachers required under the SOQ, thereby reducing the required state support under the SOQ. JLARC-1 also analyzed add-on staffing for Special Education, Vocational Education, Remedial Education, and Gifted programs and included these add-ons in the instructional positions needed to fund a locality's SOQ program.

JLARC's calculations of positions needed per 1,000 pupils in the ADM were as follows: 45.1 Basic, 0.3 Basic Aides, 6.4 Special Education Add-On, 0.3 Special Education Aides, 3.3 Vocational Education Add-On, 1.2 Remedial Education Add-On,

²⁵JLARC. (1986). *Funding the Standards of Quality, Part 1*. 15-34.

²⁶Shotwell, R. (1996, November 26). Interview.

and 1.1 Gifted and Talented. This resulted in a total of 57.7 positions per 1,000 pupils viewed in large scale. However, when applying the standards to the school divisions as configured at the time, JLARC found that 59.5 positions per 1,000 pupils were necessary to meet the standards.

In areas where no quantified ratios existed, JLARC analyzed the staffing ratios in order to determine the number of positions required to meet the SOQ. The resulting analysis of combined quantified and non-quantified positions showed a required 56,537 teachers needed to meet the standards. Since there were already 61,061 such positions in 1984, JLARC concluded that many school divisions were employing staff to meet needs beyond the requirements of the SOQ. Thus, the state saw an immediate savings of 4,524 positions that would not need to be funded from Richmond.²⁷

Other JLARC-1 Issues

In addition to analyzing prevailing costs and instructional positions, JLARC also looked at the SOQ cost issues of fringe benefits for all staff and support costs of non-instructional personnel. In a criticism of DOE's methodology for calculating fringe benefits, JLARC noted that these costs were actually underestimated. In order to arrive at its estimates, JLARC again employed the L-estimator's prevailing salaries. In order to establish an estimate for the highly variable fringe benefit of health insurance, JLARC adopted the rate used for public school educators by Blue Cross/Blue Shield of Virginia.

²⁷JLARC. (1986). *Funding the Standards of Quality, Part 1*. 15-34.

JLARC then excluded all other fringe benefits from state support because there were too many variations among the localities around the state.²⁸ Thus, while claiming that the DOE underestimated the cost of fringe benefits, JLARC further reduced the amount of fringe benefits accountable under the SOQ by restricting it only to a uniform health insurance.

In the area of support costs, JLARC found that DOE again overestimated costs. As JLARC stated it, "The use of a statewide average essentially credits all expenditures for support as a part of the SOQ. Thus, costs that are not required by State standards, such as those due to inefficiency or local aspiration, are inappropriately included."²⁹ The L-estimator was also applied to the components within this category, including Administration, Instructional Support, Attendance and Health, Transportation, Operation and Maintenance, and Fixed Charges. It was used to determine both salary costs and the number of positions necessary, as explained in the report:

Differences between the linear weighted average and statewide average costs reflect the variations between school divisions in the number of support personnel, the support salaries, and the levels of expenditure in non-personnel support categories. For example, the school divisions actually employed about 30,260 support personnel in FY 1984. The estimate based on the linear weighted average recognized about 28,040 of these positions, or 92.7 percent; this means that one position in every 13.6 is not considered part of a prevailing personnel level, and is not attributed

²⁸JLARC. (1986). *Funding the Standards of Quality, Part 1*. 47-51.

²⁹JLARC. (1986). *Funding the Standards of Quality, Part 1*. 53.

as part of SOQ costs.³⁰

The differences between the DOE and L-estimator figures were dramatic, with the total cost of these categories being \$760.42 million and \$633.49 million respectively, resulting in an immediate savings to the state of \$126.93 million in support costs alone when using the L-estimator.³¹

Conclusion

Side-by-side comparisons of DOE and JLARC bases and estimates of various cost components illustrated the variance created by the L-estimator regarding expenses and numbers of positions, as can be seen in the table that follows.³²

CATEGORY	DOE ESTIMATE	JLARC ESTIMATE
Fully-Funding SOQ: added costs	\$396 million	\$161.4 million
Total SOQ Positions	61,061 (actual 84)	56,537 (86/88)
Salary-Instruct. Personnel (83/84)	\$20,457	\$17,775 (composite)
Salary-Elementary Teachers	\$18,973	\$16,740
Salary-Secondary Teachers	\$20,589	\$17,959
Salary-Elementary Principals	\$31,623	\$28,132
Salary-Secondary Principals	\$34,666	\$31,098
Other Admin Staff (ratio/pupils)	52.0 per 100,000	33.0 per 100,000

³⁰JLARC. (1986). *Funding the Standards of Quality, Part 1*. 57-58.

³¹JLARC. (1986). *Funding the Standards of Quality, Part 1*. 53-59.

³²JLARC. (1986). *Funding the Standards of Quality, Part 1*. Passim.

The effect of the L-estimator was pervasive. It was not only used to calculate salaries; it was used to calculate the number of non-quantified positions that would be required under the SOQ. Thus, the initial impact of the L-estimator in reducing statewide averages, or as JLARC put it, "prevailing costs," became ingrained in the entire fabric of SOQ cost determination. At each step of the way, state constitutional mandates were minimized. This effect was seen in the \$234.6 million difference in estimates between the DOE and JLARC in fully funding the SOQ. Beyond this, however, was JLARC's persistent criticism of the methods that DOE had used for years in determining SOQ costs. Yet JLARC acknowledged that the DOE methodology grew out of the two SOQ Task Force reports in 1972 and 1973, with a reliance on the methodology contained in the 1973 report. Since there was no legislatively mandated methodology to calculate SOQ costs prior to JLARC-1, the General Assembly simply legislated a per pupil SOQ dollar figure which established funding. JLARC emphasized that the SOQ per pupil cost was a minimum foundation program that fulfilled the requirements of the state constitution.³³ JLARC's reliance on a concept of "prevailing costs" differed significantly from the definition put forth by Attorney General Miller in his 1973 opinion.³⁴

The report also explicitly stated that no determination of what should be contained

³³JLARC. (1986). *Funding the Standards of Quality, Part 1*. I, 1-3.

³⁴See the Miller opinion in the Appendix.

in the SOQ was implied by the study.³⁵ Yet the application of the L-estimator did imply such a determination. The simplest way to calculate the per pupil costs under the SOQ was to take the total actual statewide costs of meeting the various requirements and divide through by the number of pupils statewide, as Davis had done. The resulting per-pupil figure could then be applied to current enrollments to determine funding. The effect of the L-estimator resulted in a downward adjustment of both primary elements in determining costs: the statewide average salaries and the number of positions needed to meet SOQ requirements. The effect doubly diminished the state's obligation under its constitutional mandate. When this was filtered through an equalization mechanism to determine final state aid to each locality, more problems arose. But the question of equalization was to be dealt with in JLARC-2.

One final matter in dealing with the impact of JLARC-1 had to do with the lack of legislative changes as a result of the recommendations. When the report was officially released in February, 1986, Governor Baliles was in his second month in office with a budget bill introduced by the exiting Robb administration in early January. JLARC-1 had been made public on December 9, 1985,³⁶ and had been available to Robb in preparation of the new budget. However, the methodology used by the Robb administration in proposing education funding under the 1986-88 budget was the same as had been used

³⁵JLARC. (1986). *Funding the Standards of Quality, Part I*. I.

³⁶Rotz, R. (1997, January 31). Interview.

previously. The foundation program was defined as it had been in earlier budgets. A set per-pupil SOQ amount was defined in the Appropriations Act: \$2,044 in 1986 and \$2,254 in 1987. There were no references to the L-estimator or other JLARC-1 cost procedures in the Act.³⁷ Although Robb had stated that he accepted the “new methodology,” no changes were made in the Act’s definitions for the biennium. Rotz indicated that the L-estimator had been used in the 1986 budget, but such references were absent from the Appropriations Act. However, L-estimator SOQ cost figures were used to calculate the per pupil appropriations.³⁸

Thus, the question arose as to what happened as a result of JLARC-1? Hunter Andrews suggested an explanation:

The systems under JLARC, what makes them so great, is that they are professionals, they do the work, and they present it. And the members don’t interfere while they do the work. They come up with their professional judgement, and you either accept it or not. The politics of their results are done by the legislature. That gives them a lot of respect, and I hope it doesn’t change. So they came up with JLARC-1, and we didn’t have any money to do anything. So what do you do when you don’t have anything? You stall. And people started raising hell. It wasn’t any study resolution for JLARC-2; we just did it. Then the budget started getting more money, and that’s the background for the change. But even during all these changes when they were raising hell about the formula, and we had some legislative discussions on the matter, it wasn’t that the formula was wrong; it was that we weren’t getting enough money.³⁹

³⁷Commonwealth of Virginia. (1986). *Acts of Assembly, Vol II, 1986 Session*. Richmond, VA. 1668-1672.

³⁸Rotz, R. (1997, January 31). Interview.

³⁹Andrews, H. (1997, March 14). Interview.

By the time the next budget cycle arose, Baliles had been in office for two years, and he had ample time to develop a budget that reflected the needs as he saw them. When JLARC began researching the equalization aspects of education funding, the staff thought they would have ample time to prepare the report prior to formulation of the 1988-90 budget. This was not to be the case.

Chapter 4

JLARC-2 and the 1988 General Assembly Session

Introduction

JLARC-2 was planned for a release on September 14, 1987. However, due to the amount of work undertaken by the JLARC staff in researching various methods of equalization of funding among local divisions, the development of the computer programs necessary to project these proposed funding scenarios, and compiling a finished report from this data, the report was not ready for release until JLARC's November 24 briefing.¹ The consequence of that delay made the time frame for consideration of the report's recommendations very short if any of the budgetary elements were going to be incorporated in the 1988-90 biennial Appropriations Act. This turned out to be the case.

Compounding the consideration of the JLARC-2 recommendations was the desire by Governor Baliles to include recommendations from his 1986 Commission on Educational Excellence in his budget proposals,² as well as his adoption of major JLARC-2 proposals. Thus, when Governor Baliles included additional new funds in his education requests, it became quite difficult to determine the impact of the JLARC-2 changes in an isolated environment. The stage was set for a major overhaul of the funding methodology

¹Rotz, R. (1996, July 10). Written answers to questions posed by W. Childs during correspondence of February 20, 1996.

²Baliles, G. (1997, June 27). Interview.

for K-12 education in Virginia to be conducted in a hurried and closed manner with little time for public discussion and consideration.

The JLARC-2 Recommendations

The issue under consideration in JLARC-2 was the distribution of state education aid for the foundation program among the 135 school divisions within the Commonwealth. The questions of funding adequacy and equity were addressed. The complexities of each of these questions were vast, particularly when cast against a funding system that utilized the Local Composite Index as the device to measure required local effort. JLARC's focus needed to be narrow enough to be understandable, yet broad enough to address the many facets posed by the questions studied. As such, the report indicated that 11 broad goals were identified, with two being set apart as the highest priority. The complete 11 included:

- | | |
|-----------------------------|--|
| pupil equity | maximize simplicity |
| tax equity | challenge each pupil |
| efficiency | realistic costs in relation to resources |
| local control | consistency with tradition |
| incentives for achievement | no losses for any locality |
| incentives for local effort | |

In order to narrow the focus, JLARC established pupil equity and tax equity, as defined by the JLARC staff, as the two highest priority goals . Pupil equity was defined as: "the provision of the resources necessary for a meaningful foundation education program for the pupils in all school divisions." Tax equity was defined as: "the apportionment of State and local responsibility for the SOQ program in a manner to

ensure that the proportion of local taxable resources required to provide a meaningful foundation program does not vary greatly across localities."³ By using these specific and limited definitions with particular reference to "a meaningful foundation program," JLARC was able to avoid the debate over funding adequacy. Indeed, JLARC noted that the "meaningful foundation program" was defined by the SOQ, a proprietary function of the General Assembly and the State Board of Education. Their logic precluded any suggestion as to what the SOQ should be, but it was consistent with the position expressed by Governor Godwin in 1969 in the debate over the wording in the Education Article in the state constitution cited previously. This was explicitly stated in the last paragraph of the study: "However, the issue of whether the SOQ are sufficient has not been a part of this study's scope."⁴ Obviously, this limitation restricted the range of discussion in considering the JLARC-2 options. A further limitation of the study arose when JLARC continued the use of the JLARC-1 methodologies for determining SOQ costs.⁵ All of the problems associated with the use of the L-estimator would be carried into the budget process as a result of the JLARC-2 recommendations. This was the product of the search for prevailing costs and prevailing staffing when focusing on the division as the unit of measure rather than the number of employees statewide.

³JLARC. (1988). *Funding the Standards of Quality, Part 2*. 2-3.

⁴JLARC. (1988). *Funding the Standards of Quality, Part 2*. 63.

⁵JLARC. (1988). *Funding the Standards of Quality, Part 2*. 9-32.

The JLARC-2 study itself was statistically thorough, albeit built upon the L-estimator. As an additional prerequisite limitation of the study, JLARC again excluded other funding issues that might have rightly been equity concerns, particularly capital outlay and debt service, on the grounds that the state had not traditionally provided assistance in these areas.⁶ Distribution issues related to rapid population growth or decline, municipal overburden, land use taxation, and the demographics of local poverty were thus removed from consideration. However, JLARC did attempt to isolate two questions in looking at funding equalization. The first was whether SOQ calculations and state aid could be more sensitive to needs of each locality. The second had to do with whether the state could do a better job of equalizing more of the basic aid.⁷ Thus, two components of the funding question were being studied: the amount of state aid that would be equalized, and the method of equalization through the Local Composite Index or some other value.

In analyzing whether the amount of equalization was satisfactory, JLARC looked at the root of funding through the Local Composite Index: the single per-pupil amount. JLARC concluded that three cost refinements should be considered. First, the number of instructional positions per pupil required to meet the SOQ should vary from one locality to another due to factors beyond local control that created different staffing levels for the

⁶JLARC. (1988). *Funding the Standards of Quality, Part 2*. 1.

⁷JLARC. (1988). *Funding the Standards of Quality, Part 2*. 4-5.

same standard. This was primarily, but not exclusively, related to population sparsity, and ranged from the state minimum of 51 basic and 57 total positions per 1,000 students to Cape Charles' 127.4 per 1,000. Indeed, 74 of the state's 135 divisions required more than the mandated 57 per 1,000 for basic, special and vocational education. Also, when compiling the entire range of SOQ positions, including basic, special, vocational, gifted, and remedial education programs, the combination of variations was unique to each locality. Thus, it was decided that the SOQ position requirements had to be individually calculated for each locality.

The second cost refinement that JLARC recommended had to do with salary differences among the regional planning divisions around the state. JLARC concluded that the divisions within Planning District 8, Northern Virginia, needed a 12.53 percent cost-of-living addition to the state L-estimator figures for instructional costs, while the other districts needed no adjustment.

The third area needing cost refinement was pupil transportation. JLARC proposed a six-cell matrix of a locality's land area and number of pupils transported in order to calculate transportation aid which would be brought under the equalization formula.⁸

By including special, vocational,⁹ gifted, and remedial education and transportation under SOQ calculations that would be run through the equalization mechanism, JLARC

⁸JLARC. (1988). *Funding the Standards of Quality, Part 2*. 27-38.

⁹JLARC. (1988). *Funding the Standards of Quality, Part 2*. 56.

reasoned that more funds would become a part of the equalized SOQ, thereby providing more equalization among the state's local school divisions. JLARC also included the most recent changes in the SOQ mandated by the State Board of Education for first grade, secondary English, and elementary guidance positions in its calculations.¹⁰ Thus, the cost estimates in JLARC-2 were as up-to-date as one could expect using the L-estimator and other elements above. However, this made it more difficult to determine the effect of the changes from the previous funding because the funding bases were no longer the same.

In assessing whether a more appropriate method of equalization was possible, JLARC addressed its perspective of tax equity. Problems with the Local Composite Index were considered. One criticism was that real property varied widely among localities, both in dollars and as a percentage of the local tax base. Real property amounted to 14 percent of Wise County's revenue, while it was 82 percent in Surry County. Real property represented an average of 49 percent of the revenue in counties, while it totaled only 39 percent in cities. Yet real property was weighted at 50 percent in the LCI. In addition, the weights within the LCI had not been changed since its inception in 1973 although their importance to individual localities might well have changed, and each component of the index might vary from one locality to another. JLARC also noted that the LCI rested upon dual bases, with 2/3 weight given to ADM and 1/3 given to population. The difficulty caused by the LCI was that it standardized the elements within it for each locality

¹⁰JLARC. (1988). *Funding the Standards of Quality, Part 2*. 31.

on a statewide basis, failing to take local conditions into account.¹¹ The 1973 weighting reflected a political compromise within the state rather than a methodology grounded in educational finance.¹²

JLARC then went on to discuss two other methods of measuring local fiscal capacity in order to establish a locality's share of the SOQ. One was revenue capacity, a measure used by the now defunct U.S. Advisory Commission on Intergovernmental Relations and adapted for use in Virginia by The Tayloe Murphy Institute at the University of Virginia. The other measure was the equalized fiscal effort approach in which the state would decide the level of local effort required for SOQ support by calculating a required effort statistic for which each locality would have to raise as the percentage of its local revenue capacity. The state would then fund the remaining portion of the SOQ costs for each locality.¹³

JLARC-2 briefly discussed the components used in calculating the Local Composite Index and revenue capacity. This discussion was made imperative because personal income, the statistic used as one element within the LCI, was no longer going to be calculated by the U.S. Department of Commerce. Therefore, some legislative change

¹¹JLARC. (1988). *Funding the Standards of Quality, Part 2*. 42.

¹²Salmon, R. (1994, Summer). Class lectures in EDAE 6914, Seminar in Advanced School Finance. Virginia Polytechnic Institute and State University, Falls Church, VA, campus.

¹³JLARC. (1988). *Funding the Standards of Quality, Part 2*. 44-49.

in the funding mechanism was mandatory. JLARC recommended that the use of adjusted gross income was a viable alternative.¹⁴

Robert Rotz indicated that some of the JLARC staff felt that revenue capacity would be an improvement over the Local Composite Index,¹⁵ but the report analyzed each proposed alteration to the distribution methodology in a thorough manner, applying the same set of budgetary increases in each option.

The Seven Funding Options

JLARC organized its study around seven funding options that it proposed as changes to the existing formula. All seven options reflected a set of identical changes in the distribution mechanism: recognition of positions above the 51 basic and 57 total instructional positions per 1,000 on a local needs basis; application of the new SOQ standards; a 5.8 percent salary increase in each year of the biennium; the cost of competing differential to Northern Virginia divisions; equalization of basic aid, vocational, special, gifted, and remedial education, and pupil transportation; and requiring local expenditure in all SOQ program categories per the equalizing methodology. Two options proposed equalizing fringe benefits and proposed moving the state share from 50 percent to 52 percent in the second year of the biennium to compensate localities for the inclusion of this category. Pertinent data regarding the options appears in the chart below. A summary of

¹⁴JLARC. (1988). *Funding the Standards of Quality, Part 2*. 50.

¹⁵Rotz, R. (1997, January 31). Interview.

each option appears in the Appendix.

JLARC calculated a biennium Cost-Allocation Summary for each local division for each of the options using the L-estimator. The total statewide cost for the foundation program during the biennium for each option was held constant at \$6,213,388,897, as was the total cost for the program for each locality, with state and local shares differing according to the variations in each option.¹⁶ However, significant differences appeared from one locality to another in the JLARC options. Selected examples of required local foundation costs and the required local percentage of the foundation costs are also included in the chart¹⁷ to illustrate the variation among options.

	Option 1 Composite Index	Option 2 Composite Index w/ Fringes	Option 3 Revenue Index	Option 4 Revenue Index w/ Fringes	Option 5 Rev Index Income Adjust.	Option 6 Equalized Effort	Option 7 Equalized Effort Inc. Adj.
Local Income Adjust	No	No	No	No	Yes	No	Yes
State Share (per year)	1: 50% 2: 50%	1: 50% 2: 52%	1: 50% 2: 50%	1: 50% 2: 52%	1: 50% 2: 50%	1: 50% 2: 50%	1: 50% 2: 50%
Tot. State Biennium \$ Increase	379,715,767	386,059,429	365,527,993	372,145,674	316,585,580	414,118,596	353,716,745
General Fund Bi. \$ Increase	299,522,104	305,865,766	285,334,330	291,952,011	236,391,917	333,924,933	273,523,082
Chesterfield County	94,941,401 46.38%	94,372,973 44.52%	94,176,089 45.99%	93,612,414 44.15%	135,379,153 66.87%	75,479,821 35.87%	108,194,568 52.16%

¹⁶JLARC. (1988). *Funding the Standards of Quality, Part 2*. V-VI, 73-100.

¹⁷JLARC. (1988). *Funding the Standards of Quality, Part 2*. V-VI, 73-100.

Fairfax Co/City	478,632,615 73.48%	476,720,156 70.54%	458,628,745 70.24%	456,801,825 67.43%	518,955,373 80.00%	421,215,733 64.23%	518,955,373 80.00%
Highland County	1,679,795 62.26%	1,670,658 59.77%	1,743,831 64.67%	1,734,341 62.08%	1,408,785 52.06%	1,295,915 48.06%	1,048,199 38.69%
Pittsylvania County	13,883,712 29.53%	13,842,015 28.35%	15,154,526 32.39%	15,108,789 31.09%	12,237,957 25.82%	18,250,980 39.57%	14,706,723 31.55%
City of Richmond	69,610,876 59.76%	69,452,214 57.37%	68,068,935 58.37%	67,913,961 56.04%	55,487,683 47.04%	85,830,075 75.53%	69,799,951 60.86%
City of Roanoke	24,987,872 47.25%	24,942,183 45.36%	26,263,005 49.78%	26,214,872 47.79%	20,710,043 38.77%	36,569,637 72.06%	28,794,843 56.13%
Roanoke County	27,132,186 44.63%	27,008,560 42.84%	27,742,118 45.67%	27,615,599 43.85%	31,425,433 51.98%	29,470,781 49.05%	33,392,788 55.82%

The income adjustment noted in Options 5 and 7 was applied in order to recognize the concept that localities with higher income residents could levy higher property taxes than localities with low income residents. The income adjustment ratio was a function of median adjusted gross income as follows: $\text{Income Adjustment Ratio} = \frac{\text{Local Median AGI}}{\text{State Median AGI}}$. The adjusted SOQ local share was then a function of the SOQ local share multiplied by the Income Adjustment Ratio.¹⁸ The effect of this adjustment was seen in the variations in Chesterfield and Fairfax above, both of which had a greater proportion of high income citizens than the state as a whole. Highland County, on the other hand, appeared to be wealthy in terms of personal property values until equalized effort with an income adjustment was included.

One additional general note regarding the options was that the Local Composite Index in Options 1 and 2 maintained weighted components, with the ADM receiving a

¹⁸JLARC. (1988). *Funding the Standards of Quality, Part 2*. 50-51.

weight of 2/3 and population receiving a weight of 1/3, as did the Local Revenue Index used in Options 3, 4, and 5. Equalized Effort in Options 6 and 7 was a new concept that anticipated that each locality would contribute the same proportion of revenues from the local tax base to fund the foundation program. This was an offshoot of the pre-1972 notion of the Minimum Education Program that required a specified yield from property taxes, based on a 100 percent evaluation of real property, whereas Equalized Effort looked at the entire local tax base that was available. The state would establish the required local effort. If, for example, the state set the Equalized Effort at .25, each locality would then have to pay 25 percent of its total revenue capacity for the SOQ foundation program.¹⁹ The state would then pick up the difference, if any. Thus, localities with a high revenue capacity, wealthy localities, would pay a higher proportion of the SOQ program out of local funds, since their tax base was greater. The opposite would be true for poorer localities. A weighting system between ADM and population was not used with Equalized Effort.

Initial Political Reaction

Reaction to the JLARC-2 study was immediate but the political groundwork had been laid. Although JLARC-2 was not released until November 24, 1987, drafts of the recommendations were circulated earlier in the year. The Department of Education had

¹⁹JLARC. (1988). *Funding the Standards of Quality, Part 2*. 44-49.

one available in August which Myron Cale used for initial budget planning.²⁰ Secretary of Education Finley promptly indicated on November 24 that he would use JLARC-2 in constructing the budget proposals for the 1988-90 biennium.²¹ Since Finley's office was within the executive branch, it would be possible for his staff to put together a confidential and coordinated budget proposal that would be congruent with all of the Governor's recommendations, not only from JLARC-2 but also from his Commission of Excellence and any other expenditures he chose to introduce. Cale suggested that Finley was prepared well before the official release:

You're looking at two people who were instrumental in getting all that put together in the Fall of '87 even before the report was released: Don Finley, Secretary of Education, and Gary Henry, who in JLARC-1 was on the JLARC staff as a statistician and the Fall of '87 was already Deputy State Secretary of Education. He, under Don's direction, put that whole thing together.²²

Robert Rotz at JLARC also indicated that Henry had been an active player in the Governor's budgetary considerations. Although the Governor remained silent on the study, during the time JLARC was analyzing various funding scenarios, Henry, representing the Governor, would be a key participant on behalf of the Governor:

The main way that we worked with him and realized that he was critical to what they were doing is because he was the one on behalf of the

²⁰Cale, M. (1996, December 17). Interview.

²¹Hardy, M. (1987, November 25.) "Schools need state fund boost, JLARC suggests." *Richmond Times-Dispatch*. A-1.

²²Cale, M. (1996, December 17). Interview.

executive branch who brought us the requests for computer runs. He'd have a batch of about thirty things that he'd like to see the impact of, and he'd want to see them almost immediately (chuckle). He was defining a lot of what types of options they were looking at.²³

Senator Hunter Andrews, Chairman of JLARC in 1987, issued a public statement regarding JLARC-2 on the day of its release, assuring that a no-loss provision would be included in any legislative changes to the funding formula, as he "...sought to allay fears by many fellow lawmakers and lobbyists that the revisions would cause economic catastrophe or losses for some losing localities." At the public briefing on the release of the study, JLARC staff member Rotz criticized the existing formula as "often making a mockery of the state's professed attempts to offer all children an equal chance at a top education." He cited an unidentified instance of one locality having seven times the wealth as another, yet getting more per pupil in state aid than the poorer locality.²⁴ His statement suggested that the per-pupil expenditure disparities would be a key issue that needed to be the topic of public discussion. Any question of changing the formula would have to be handled delicately in the political arena.

Support for maintaining the Local Composite Index came from within JLARC's legislative membership. Delegate Ford Quillen felt that this known procedure was beneficial to his constituents. A statement in the final pages of JLARC-2 was borne out by

²³Rotz, R. (1997, January 31). Interview.

²⁴Hardy, M. (1987, November 25.) "Schools need state fund boost, JLARC suggests." *Richmond Times-Dispatch*. A-1.

the interview data. JLARC stated: "Despite the limitations of the composite index, it has become a familiar measure and may be difficult to replace."²⁵ Such a conclusion was reflected by both Willard Lemmon²⁶ and Quillen.²⁷ The concern over changing a known procedure to one in which less funds might be forthcoming was clear, as pointed out by Delegate Cranwell:

Every time you change the formula, there are winners and losers. That's the reason that those of us in Southwest Virginia are always a bit reticent about any formula because usually the first thing they want to do is base it on population, and that's an immediate (bad deal) for this part of the state.²⁸

Both Lemmon and Quillen felt that retaining the LCI was a victory for rural and poorer localities. Lemmon said he felt that the LCI helped with the level funding since Governors Robb and Baliles "were going to put as much more money into education as they could possibly drive into it."²⁹ Quillen was more specific: "We maintained the Composite Index; it gave us a comfort zone in Southwest Virginia."³⁰ He explained the political considerations as follows:

²⁵JLARC. (1988). *Funding the Standards of Quality, Part 2*. 62.

²⁶Lemmon, W. (1996, November 29). Interview.

²⁷Quillen, F. (1996, November 21). Letter to William P. Childs.

²⁸Cranwell, C. R. (1996, July 25). Interview.

²⁹Lemmon, W. (1996, November 29). Interview.

³⁰Quillen, F. (1997, February 10). Telephone conversation.

When they moved to the medium (L-estimator) as opposed to the average (mean) cost, this hurt Southwest Virginia, because the state participation under average cost theory was more. This was one that probably became a compromise in the decision to go with the average, but in turn we would also keep the composite index. The alternative to composite index is revenue capacity. The revenue capacity showed many of the areas I represented to have more ability to pay than I believed was accurate. Normally, Scott and Lee Counties, which were in my district, were the lowest on the composite index. Also, the composite index was based on the 50-40-10 formula (which) was a very simple and straightforward method to use. Real estate is 50%, income is 40%, and 10% is sales. For that reason, I and others favored keeping the composite index. Since I represented the two counties which had the lowest composite index at the time, I did not want it changed.³¹

At the onset of JLARC's formal consideration of the report, this concern of maintaining the Local Composite Index and the political benefits of the current formula became important to many people who had significant influence in the policy making process. JLARC's minutes reflect that Quillen expressed concern about the report on December 14, 1987. Thus, a public hearing was to be called by JLARC to discuss the report.³² At the next regular meeting in January, the Commission voted to approve JLARC-2 for printing. Quillen arrived after the vote but did not object as long as the motion was to "receive and authorize printing."³³ Governor Baliles recognized the subtlety of this action regarding JLARC studies.³⁴

³¹Quillen, F. (1996, November 21). Letter to William P. Childs.

³²JLARC. (1987, December 14). Commission Minutes.

³³JLARC. (1988, January 13). Commission Minutes.

³⁴Baliles, G. (1997, June 27). Interview.

Less than a month after the report's release, on December 21, at the two-and-a-half hour public hearing called for at the December 14 meeting, most of the twenty speakers urged the General Assembly to delay any changes in the formula. Some speakers requested that a blue ribbon commission be appointed to study the issue and make recommendations to the General Assembly for the 1990 session. Groups that requested a delay included the Virginia Education Association, the Virginia Association of Counties, and the Virginia School Boards Association.³⁵ Mary Collier, president of the School Boards Association, complained that the data on which JLARC made its recommendations were not available for examination.³⁶ Quillen suggested at that time that nothing would be undertaken by the General Assembly unless Governor Baliles incorporated the recommendations in his budget proposals.³⁷

The Salmon and Verstegen Papers

In the period between November 24 and December 21, the VEA and the VSBA had been reviewing the JLARC proposals. Each organization had immediately contracted a comparative study from two experts in education finance: Richard G. Salmon of Virginia Polytechnic Institute and State University worked on both studies and Deborah

³⁵Hardy, M. (1987, December 22.) "Legislators are urged to delay JLARC plan." *Richmond Times-Dispatch*. B-1, 9.

³⁶Associated Press. (1987, December 22). "Va. School Funding Plan Stalled." *The Washington Post*. A-8.

³⁷Hardy, M. (1987, December 22.) "Legislators are urged to delay JLARC plan." *Richmond Times-Dispatch*. B-1, 9.

A. Verstegen of the University of Virginia co-authored the report for the VSBA with Salmon. The VEA report was presented on December 21³⁸ and the VSBA report was presented about the same time.³⁹ Each paper used a constant expenditure methodology to assess the various options detailed in JLARC-2. This method was necessary because of the added appropriations included in the JLARC analysis: the cost of living adjustment for Northern Virginia, implementation of the additional standards under the SOQ stemming from the recommendations of the Commission on Excellence in Education, and the inflation adjustments increases of 5.8 percent in each year of the biennium. In order to overcome the effect that these additions had of hiding or disguising possible losses in state support to particular localities, the authors argued in each paper that only by calculating fixed dollars through the existing method and each one of the proposals could comparisons then be made. Additionally, both authors indicated that since JLARC had not provided the data sets upon which it had made its calculations, conclusions might be preliminary or lacking in depth. This lack of data on the part of the researchers was not due to a lack of effort on their parts in attempting to be provided with it. State Board of Education President Lemmon had written a letter on their behalf to Secretary of Education

³⁸Salmon, R. (1987, December 21). *An Analysis of JLARC II: Funding the Standards of Quality Part II: SOQ Costs and Distribution*. Richmond, VA: Virginia Education Association. Passim.

³⁹Verstegen, D., and Salmon, R. (1987, December). *An Analysis of the Alternatives to Current Law for Funding Public Education in Virginia as Proposed by the Joint Legislative Audit and Review Commission --FY 1988-89--*. Charlottesville, VA: Virginia School Boards Association. Passim.

Finley on December 1 explaining that both professors had been asked by the VSBA to do a study and requesting the JLARC data for them.⁴⁰ That request was not met. Indeed, Lemmon did not expect that JLARC could provide the data considering the short time frame until the legislature was to convene.⁴¹

Both reports were attention-getting in their conclusions. The constant cost methodology indicated vast differences in “winning” and “losing” school divisions among the proposed options. However, the conclusion of each report was that none of the proposed methods effectively closed the disparity gap when using the measure of variance or the Pearson Product Moment Coefficient of Correlation.

In Salmon’s VEA paper, a Pearson Product Moment Coefficient of Correlation was made between the funds distributed under the Local Composite Index in the 1986-1987 formula and between the LCI and each option under JLARC-2. The study produced results in which the coefficients between the LCI and each option varied from -.9746 under Option 2 to -.7458 under Option 6.⁴² Salmon arrayed the data by division from each option in one chart that demonstrated actual dollar differences and in a second chart

⁴⁰Lemmon, W. (1987, December 1). Letter to Donald J. Finley.

⁴¹Lemmon, W. (1987, December 1). Letter to Richard G. Salmon.

⁴²Salmon, R. (1987, December 21). *An Analysis of JLARC II: Funding the Standards of Quality Part II: SOQ Costs and Distribution*. Richmond, VA: Virginia Education Association. 10-12.

that displayed “Winners and Losers (High to Low)” for each option.⁴³ Salmon concluded that there was no significant movement towards greater equalization under any option.

In the paper co-authored with Versteegen for the VSBA, Salmon repeated the data found in the VEA paper. A more complete background and analysis was found in this paper, but the conclusions were substantially the same. More discussion was focused on school division data in this study, with an emphasis on per pupil gains and losses being a major component of the review.⁴⁴ This undoubtedly reflected the audience for which this paper was prepared. These reports were delivered and available to the VEA and VSBA prior to the public hearing on December 21.

As a result of continuing uncertainty related to the funding levels in the proposals as demonstrated in the earlier chart, the City of Richmond attempted to directly lobby the Governor in early January, 1988, to express their concern with both the existing and proposed funding methods. The City Council and the School Board sought a joint meeting with the Governor, making a public announcement of their desires on January 5. Their stated specific concern was that none of the proposals took urban fiscal stress into

⁴³Salmon, R. (1987, December 21). *An Analysis of JLARC II: Funding the Standards of Quality Part II: SOQ Costs and Distribution*. Richmond, VA: Virginia Education Association. Exhibits.

⁴⁴Versteegen, D., and Salmon, R. (1987, December). *An Analysis of the Alternatives to Current Law for Funding Public Education in Virginia as Proposed by the Joint Legislative Audit and Review Commission --FY 1988-89--*. Charlottesville, VA: Virginia School Boards Association. Passim.

account.⁴⁵ The Verstegen and Salmon analyses of the seven JLARC options coincidentally indicated that Richmond would lose state support in six of the seven proposals.⁴⁶ The public nature of the city's attempt to meet with the Governor was a transparent example of local power politics.

The Governor's Budget

Against this background, Baliles pursued a legislative program that went beyond the JLARC studies. He followed up on his campaign agenda in education. He explained his perspective as follows:

It was clear to me, long before the campaign itself, that education was a matter of concern. One of my first goals in the area of higher education was to put Virginia's faculty salaries in the top ten in the nation and first in the Southeast. This was needed to attract and maintain the national leaders in faculty and to attract additional "bright lights" in speciality fields of knowledge which would help us attract the types of high tech companies to Virginia whose impact might not be felt for five or ten years. That required up-front public investments. Similarly, attention was needed to K-12 education. That would require three things: new programs, new money, and a change in the funding formula.⁴⁷

Despite of the initial criticisms of JLARC-2 and the requests for delay and greater study, Delegate Quillen's observation about the Governor's support was prophetic. On January 13, 1988, Governor Baliles delivered his budget proposals for the 1988-90

⁴⁵Campbell, T. (1988, January 5.) "2 bodies seek school talks with Baliles." *Richmond Times-Dispatch*. B-3.

⁴⁶Verstegen, D., and Salmon, R., (1987, December); and Salmon, R. G., (1987, December 21).

⁴⁷Baliles, G. (1997, June 27). Interview.

biennium in a speech to the General Assembly. He endorsed almost all of JLARC-2's substantive recommendations except one: he kept the existing Local Composite Index as the basis for equalizing state aid rather than opting for a revenue index or equalized effort.⁴⁸ He also proposed increasing the state share of the SOQ from 50 percent to 55 percent over the next five years,⁴⁹ a modification of JLARC's recommendation of a two percent increase under two of its options. He proposed a 7.3 percent pay raise each year for teachers.⁵⁰ But the proposal that drew the most rapid legislative reaction was the inclusion of the cost-of-living differential for Northern Virginia. The Governor had to defend this proposal in a news conference the day after his speech. Delegate Thomas Forehand, Jr., was quoted as saying: "Those localities up there are the wealthiest in the state, and they already have the highest paid teachers. I'm not convinced that the teachers cannot be paid with local money." Senator Virgil Goode, Jr., cautioned that the plan could create greater disparity.⁵¹

⁴⁸Cox, C. (1988, January 14). "Plan to equalize school spending backed." *Richmond Times-Dispatch*. A-9.

⁴⁹Text of Governor Baliles' speech. (1988, January 14). *Richmond Times-Dispatch*. A-8. Also found in Commonwealth of Virginia. (1988). Senate Document No. 1. *House and Senate Documents*. Richmond, VA.

⁵⁰Cox, C. (1988, January 14). "Plan to equalize school spending backed." *Richmond Times-Dispatch*. A-9.

⁵¹Hockstader, L., and Melton, R. (1988, January 15). "Downstate Officials Assail N. Va. School Financing." *The Washington Post*. C-1, 6.

The political reality was that Secretary Finley and his staff, including Gary Henry, had only about three weeks from the release of JLARC-2 before they made budgetary and policy recommendations to the Governor for the upcoming biennium. The administration had seen several “exposure drafts” of the report during the fall of 1987, but in-depth briefings by JLARC for Finley’s staff began during October and November. In addition, his staff was not given the computer programs from which JLARC developed its recommendations until the report was officially released. Furthermore, they had expected less than the seven options that were developed, and were thus faced with a wider set of choices than they anticipated. As a consequence, they had to propose what they believed was good political policy in spite of the complex choices and their inability to generate concise local estimates for each year of the biennium. The JLARC computer programs did not generate annual figures, and Finley claimed his staff did not have the time to modify the programs before the Governor was scheduled to issue his budget.⁵²

One significant break with traditional practice corresponded to the short time frame for proposing a K-12 budget for the 1988-90 biennium. In the budgetary cycles prior to this one, the K-12 budget had been prepared by the State Superintendent of Public Instruction in conjunction with the State Board of Education and the staff at the Department of Education. The new Baliles budget was drawn up by Finley and his staff

⁵²Finley, D. (1997, April 29). Telephone conversation.

within the Executive.⁵³ Much has been made over this event as a shift of power to the Executive from DOE. The reality was that Finley and Davis worked well together,⁵⁴ and that the time frame to prepare the education budget using the new methodology was too short for DOE to complete the task. In fact, Cale indicated that it took the next biennium for DOE to incorporate the JLARC methodology into their programs so that they could make effective budgetary projections.⁵⁵ Baliles thought of Davis as a key member of his education team.⁵⁶

With the introduction of his budget proposals, the Governor ended any discussion of the details of the JLARC recommendations, either in JLARC-1 or JLARC-2. By accepting the L-estimator methodology with specific references in the budget bill's definitions, any discussion of the merits of this methodology was also muted. By continuing the use of the Local Composite Index, any hopes for legislative study and revision of the overall funding formula was effectively ended. By putting the weight of the Governor's office behind one set of options, a wider discussion about the role and philosophy of the state's system of public education, and the financing thereof, was eliminated.

⁵³Winters, M. (1995). "S. John Davis: A Thematic History..." 368-369.

⁵⁴Davis, S. J. (1996, December 17). Interview. And Finley, D. (1997, April 29). Telephone conversation.

⁵⁵Cale, M. (1996, December 17). Interview.

⁵⁶Baliles, G. (1997, June 27). Interview.

In the ebb-and-flow of political support, the Governor's proposals, including his JLARC recommendations, were gaining support from school officials in the Richmond area as a result of briefings held in the days following their introduction. On January 15, the Executive Director of the VSBA, Frank Barham, indicated that he would recommend that the VSBA lobby for passage of the Governor's initiatives. It appeared that the no-loss provision was helping win some support.⁵⁷ Certainly local school boards were also receptive to the state's planned share increase to 55 percent for the SOQ foundation program.

The confusion over determining proposed division allocations continued and was not confined to school officials or university researchers. Some members of the General Assembly and other state officials were apparently unhappy with the manner in which the Governor guarded his proposals prior to his speech. As a consequence of not being consulted, lawmakers were occasionally unable to answer constituent questions about the impact of the budget, and some state officials called reporters to get budgetary information they were lacking.⁵⁸ However, any notion that Governor Baliles was inept in the legislative process was countered by Quillen's perspective:

The fact that there were return dates for reports prior to the Legislative session was done for the benefit of the Legislature, not for the

⁵⁷"School package favored." (1988, January 16). *Richmond Times-Dispatch*. A-7.

⁵⁸Associated Press. (1988, January 17). "Baliles' no-leak policy irks some Va. officials." *The Roanoke Times*. C-2.

governor. However, information was disseminated from JLARC to the state agencies and to the governor at appropriate times. In other words, as interim reports came out, the Governor also received these reports... The fact that Governor Baliles used the JLARC report as a way to increase educational funding was, in my opinion, smart management on his part. It was obviously the most compatible way to achieve his educational goals in that he was willing to substantially increase funding and at the same time make adjustments in the state level funding, which has always been in controversy. If you will remember, at that time, the state had a surplus in revenues.⁵⁹

Baliles approached the legislative challenge as an experienced leader familiar with the legislative process. He stated:

The JLARC recommendations were compelling and persuasive, and it seemed to me that we could review those, select details and recommendations that would help us advance the Commission on Excellence in Education's goals and to put it together in a package that the General Assembly would adopt. As with most of these programs, controversial as they were, it is unlikely that the proposals that are advanced are the proposals that are actually adopted, but they provide you with a working framework. That's what I saw in the JLARC recommendations.

Inertia being what it is, I didn't think that the program I proposed would be the program that would be ultimately approved. I recall there was only about \$1/2 billion worth of new money that was available. If one simply advanced new education money without advancing the reforms, the thought was that new money alone, given the climate about education, would not have been as easy to promote as money for reform in educational programs and changes in the funding formula.

We all recognized that the course would not be easy, that it was not altogether clear that we would get what we desired. The legislative climate is always so fluid and changing. We had to maintain a certain measure of flexibility, and because the numbers were not altogether there initially, and there was some early confusion about the proposals among local

⁵⁹Quillen, F. (1996, November 21). Letter to William P. Childs.

governments, our program really required a great deal of effort by Gary and the whole team.⁶⁰

The issue of need-to-know sparse information in the legislative process, coupled with the closed manner in which JLARC operated, made assessment of the educational recommendations quite difficult from the outset. As a consequence, newspaper analysis of the educational proposals became quite informational. The *Richmond Times-Dispatch* ran a long, detailed article in its Sunday, January 17, issue. Proposed budget figures were listed for each school division in the state, indicating the 1986-88 biennium allocations, the 1988-90 Governor's recommendations, the dollar differences between them, and the percentage change between them.⁶¹ *The Roanoke Times* ran a story on January 21 which focused on the new state mandates in the Governor's proposals, citing that the cost of these programs would amount to over \$4.8 million for the City of Roanoke, with only ten percent of that money coming from the state. That would leave the city to come up with the remaining 90 percent out of local taxes.⁶²

The confusion over pinning down exact allocations for each school division continued while the legislative process proceeded. For example, the *Times-Dispatch* had

⁶⁰Baliles, G. (1997, June 27). Interview.

⁶¹Cox, C. (1988, January 17). "'No-loss' plan to help rich, poor schools." *Richmond Times-Dispatch*. A-1, 4.

⁶²Skinner, N. (1988, January 21). "Roanoke schools face \$4.8 million state costs." *The Roanoke Times*. B-1, 5.

indicated on January 17 that Roanoke County would receive \$3.56 million in new funds.⁶³ Yet by January 22, Roanoke County Superintendent Bayes Wilson reported, “by my figures it looks more like \$600,000 to \$800,000” annually in new money rather than the initial \$3.5 million for the biennium.⁶⁴ By January 31, Secretary Finley had met with school superintendents in a series of area meetings and had held individual conferences with about twenty members of the General Assembly. Finley suggested that the cause of the confusion was that individual superintendents had tried to translate the initial statewide figures down to their local divisions. Associate State Superintendent Myron Cale suggested that the media had reported too much money being available.⁶⁵ But the continued confusion began to see negative media reaction in the form of editorial opinions.

The Roanoke Times ran an editorial on January 28 entitled, “School funds: Now you see them...” The catalyst for this reaction was the uncertain figures heard by Roanoke City and County officials and the effect that such uncertainty would have on the local budget process and local taxpayers. The editor stated, “Local budgets must be drawn up, and the state has delayed the planning process. If the ‘real’ figures haven’t been released

⁶³Cox, C. (1988, January 17). “‘No-loss’ plan to help rich, poor schools.” *Richmond Times-Dispatch*. A-1, 4.

⁶⁴Eure, R. (1988, January 22). “School chiefs baffled, angry over funding.” *The Roanoke Times*. B-1.

⁶⁵Douglas, F., and Allen, M. (1988, January 31). “‘Modern math’ brings grumbles.” *Richmond Times-Dispatch*. B-1.

yet, let's have them. This imagery is not a pretty sight."⁶⁶

The *Richmond Times-Dispatch* was a bit more supportive of the Governor. The editor concluded on January 29, "In the main, though the governor's effort to spread education improvements more evenly over the state does appear to be well-conceived, though no formula is likely ever to be universally popular."⁶⁷

Finley indicated that the lack of specific figures for each year of the biennium for each locality was partly his decision. Once his office had developed the program adjustments to project the appropriations, he decided not to release a side-by-side array of figures. This decision was primarily dictated by the nature of managing the legislative process of the budget. Finley knew that wealthy localities which did not fare as well under the proposals would generate political pressure on their state legislators to oppose the Governor. He anticipated that so many votes would be lost that the initiatives themselves would be in jeopardy. He cited the opposition at the committee level in each house of the legislature as an indication that there was the potential for legislative opposition to the plan. He recalled about five opponents in the committees against the education budget proposals, an uncomfortably significant opposition bloc for him. In order to mitigate that potential of greater opposition, he simply chose not to release the figures to the press.

⁶⁶Editorial. (1988, January 28). "School funds: Now you see them..." *The Roanoke Times*. A-14.

⁶⁷Editorial. (1988, January 29). "Dividing the School Pie." *Richmond Times-Dispatch*. A-12.

However, his office did install a “hot line” to which local divisions could call to ask questions and obtain information. That hot line was manned throughout the session, and many calls were answered.⁶⁸

By the end of January, the budget proposals remained secure, plodding through the legislature with other bills. The political reality was that the budget bill had been one of the last to be approved at the conclusion of General Assembly sessions. Substantive discussion of details of the budget took place in the House Appropriations Committee and the Senate Finance Committee. Significant amendments to a budget bill were unlikely once the bill came to the floor of each house.⁶⁹ This was understandable due to the complexity and size of the biennial budget and the compromises that had to be hammered out in committee. Since the funding methodology for public education was attached as definitions within one section of the overall budget bill, it was exceedingly difficult to address issues of funding philosophy outside the context of the budget bill as a whole. Only a major political outcry was likely to slow, alter, or stop this process. The potential for such an outcry loomed on the horizon in Wytheville, Virginia.

The Wytheville “Rebellion”

A major concern over the level of state funding appeared to be coming from the Roanoke area. Both the City and County of Roanoke stood to lose under the Baliles’

⁶⁸Finley, D. (1997, April 29). Telephone conversation.

⁶⁹Andrews, H. (1997, March 14). Interview.

proposals. Not only were the initially announced state funds lowered in subsequent reports, but the outlay of the appropriations over the two year biennium showed some inconsistency. Local officials could not get a grasp on the figures. Additionally, the Governor's proposed teacher pay increase of 7.3 percent would not be fully funded from additional state revenues.⁷⁰ A great unease existed as city officials announced that an additional \$3.5 million in local funds would be needed to meet new state funding mandates. The city finance director announced that either services would have to be cut or taxes increased.⁷¹ A tax increase on the order of 15 to 20 cents per \$100 of assessed value for real estate could be required to meet the change in funding.⁷² Roanoke County was facing a 10 cent real estate tax increase or the release of up to 100 teachers.⁷³ Salem, too, would experience a shortfall, although not as great as initially thought, nor large enough to require a tax increase.⁷⁴ Events such as these led to the emergence of Richard Kelley, Assistant Superintendent of Finance for Roanoke City, and Bayes Wilson,

⁷⁰Editorial. (1988, January 28). "School funds: Now you see them..." *The Roanoke Times*. A-14.

⁷¹Turner, J. (1988, January 30). "Baliles' school plan spells financial crisis, Roanoke official says." *The Roanoke Times*. A-1.

⁷²Turner, J. (1988, February 2). "Roanoke says Baliles' school plan could boost taxes by 20 cents." *The Roanoke Times*. A-1.

⁷³Layman, M. (1988, February 5). "Official says county facing tax increase: Higher real-estate levy would go to schools." *The Roanoke Times*. A-1.

⁷⁴Taylor, L. (1988, February 10). "Salem schools not badly hurt under new budget, board told." *The Roanoke Times*. B-2.

Superintendent of Schools in Roanoke County as individuals frequently cited by the media for their concerns in funding changes with the Baliles' budget.⁷⁵ Other localities in Southwest Virginia that expected less than a ten percent increase in state funding included Buchanan, Craig, Dickenson, Wythe, Grayson, Giles, Smyth, Botetourt, Bedford County, Montgomery, Radford, Tazewell, Washington, Patrick, Russell, Pulaski, and Bristol.⁷⁶

Many school officials from Southwest Virginia felt that their unique concerns were being ignored, especially since some of these systems were experiencing enrollment losses.⁷⁷ Their feeling was that State Superintendent Davis could not help due to political pressures. Legislators in other sections of the state failed to respond to the concerns. But support continued from Delegates Cranwell of Roanoke and Quillen of Scott County. With unanswered concern mounting, Wilson and several other superintendents in Areas 6 and 7, stretching from the Roanoke area to the Southwest tip of the state,⁷⁸ organized a meeting for school and local government officials to discuss the impact of the proposed funding changes. The meeting was held in Wytheville and had Professor Salmon as the

⁷⁵Skinner, N. (1988, January 21). "Roanoke schools face \$4.8 million state costs." *The Roanoke Times*. B-1, 5. And Eure, R. (1988, January 22). "School chiefs baffled, angry over funding." *The Roanoke Times*. B-1.

⁷⁶Virginia Education Association. (1988, February 16). "Percentage change in state aid for 1988-89 over 1987-88." *The Roanoke Times*. A-8.

⁷⁷Pittsylvania, Pulaski, Roanoke County and City, and Martinsville were noted as expecting losses in enrollment in the January 17, 1988, article by C. Cox cited from the *Richmond Times-Dispatch* noted earlier.

⁷⁸The location of these areas is found in Dellinger, P. (1988, February 10). "Southwest school officials now back funding formula." *The Roanoke Times*. A-1.

featured speaker. Others who spoke included Clarence McClure, Superintendent of Botetourt County, Wilson, and Kelley. Kelley's comments were the strongest, and some people were upset by them.⁷⁹

The Wytheville meeting was held on February 3, 1988, at George Wythe High School and was well covered by the press. About 400 people attended, representing almost 34 school divisions in Southwest Virginia, and included superintendents, school board members, and local government officials. A resolution was passed that asked the General Assembly to delay implementation of the new funding proposals, to apply all of the Governor's increased monetary requests through the existing formula, and to give school officials around the state time to consider and discuss the JLARC recommendations. Only five dissenting votes were cast. However, one key individual who attended the meeting urged support for the Governor's proposed changes. That person was W. L. Lemmon, President of the State Board of Education and a resident of Marion, Virginia. He argued that poorer localities would actually benefit from the changes because more state aid would be equalized through the new formula.⁸⁰ Lemmon felt that Kelley's statements were incorrect, and he made an attempt to challenge them. The exchange became heated. Lemmon felt that the amount of money the state was going

⁷⁹Wilson, B. (1996, October 29). Interview.

⁸⁰Dellinger, P. (1988, February 4). "Officials decry plan for funding: Western Va. schools seek formula delay." *The Roanoke Times*. A-1. A printing error resulted in part of the story being deleted, and the full text was repeated on February 5 as "Delay budget changes, school chiefs urge." B-2.

to fund was finite, and he believed that in such a situation, if more state money was equalized, poorer localities would receive a proportionally larger share. He explained his position and actions quite specifically:

You have to go back to this and maybe Kelley and some of the others could fault me here. I maybe felt a little more practical. I felt that there was a finite sum of money. There was no way, at that point, given the people in the General Assembly, and everyone else, that we were going to raise the kind of money that the average salary might have recommended. I didn't think there was any possibility because when you look at it, it was a tremendous, tremendous sum of money. So I was looking at the fact that there was a finite sum of money that's going to be available, and both Robb and Baliles had put considerably more money into the budget than had been in there before, and that we weren't going to get enough money to fund the average salary, that therefore the best thing we could do was to take every penny we could get. That speaks to the *adequacy* of the funding for everybody. There are two different subjects here: the Roanoke people were interested in the adequacy; they wanted more money period. I don't know where they're going to get it; they wanted more, period, to be put in there. I felt that the amount of money the General Assembly was going to put into education, which had increased tremendously at that time, was what we had: therefore, let's speak to the equity of trying to get the poorest school divisions in to the point that they had a fairly decent chance, compared to the wealthy school divisions. I remember this fellow Kelley made some statements that were just absolutely incorrect. And he wanted everyone to go in from the two planning districts, the two areas, and I don't know whether he wanted them to sue or not — I can't remember — He really was hot, and I got hot and got up and challenged him and what he was saying.⁸¹

Wilson felt that Lemmon did not understand the impact of the Governor's budget.

At the same time, he held Lemmon in high regard for his contribution to public education.

Wilson characterized the Wytheville meeting itself as "interesting and lively." He

⁸¹Lemmon, W. (1996, November 29). Interview.

described Kelley's remarks as "a very heated, passionate, presentation that was very critical of some of the state figures, [and] the State Department." Wilson also noted that he and Superintendent Robert McCoy of Wythe County talked to Lemmon after the meeting when Lemmon was "really livid." He stated, "I think some people thought Dick Kelley may have come on a little strong," upsetting Lemmon.⁸²

The Governor's office was quite concerned about the political potential posed by the Wytheville meeting. Gary Henry was dispatched to observe, and he did so, reporting back by phone during the meeting and directly to Finley and the Governor upon his return to Richmond.⁸³ Finley saw the need to control the impact of Wytheville more directly: "We had to put down the rebellion because we would have lost." He saw Lemmon's role as crucial to the Governor's efforts.⁸⁴

Lemmon did have the final word in Southwest Virginia, although his pleas in Wytheville had gone unheeded. Region 7 superintendents passed a resolution in support of the Governor's proposals on February 9. This region included school divisions from Giles County and Radford all the way to the western tip of the state. The resolution of support included two reservations: a guarantee of no funding losses for enrollment declines and a phase-in time frame for the higher level of local spending that might be

⁸²Wilson, B. (1996, October 29). Interview.

⁸³Henry, G. (1997, March 24). E-mail to William Childs.

⁸⁴Finley, D. (1997, April 29). Telephone conversation.

required. The resolution was passed at a meeting that was held in Marion, Lemmon's home town, and followed a private meeting between the Region 7 "Study Group" and Lemmon, Gary Henry, and Superintendent Davis.⁸⁵

With one-half of the Southwest Virginia opposition to the Baliles' budget lopped off, the influence of the remaining area around Roanoke was effectively muted. The politics behind the scenes had been effective. Henry made several trips to Roanoke and Wytheville during this time.⁸⁶ He kept his superiors informed, giving regular updates to both Finley and the Governor. He kept supporters like Lemmon updated and armed with analyses to combat the opposition's studies. Lemmon worked hard on behalf of the Governor. Henry viewed him as crucial because of Lemmon's background in the General Assembly, as President of the State Board of Education, and for his understanding of the workings of the funding formula.⁸⁷ The coordination among Lemmon, Henry, Finley, Davis, and Baliles was extraordinarily effective. It took less than one week to turn the Wytheville Rebellion into a skirmish.

The Final Budgeting Process

The path of the budget process continued in the General Assembly. The manner in

⁸⁵Dellinger, P. (1988, February 10). "Southwest school officials now back funding formula: New distribution plan acceptable is two conditions met." *The Roanoke Times*. A-1.

⁸⁶Henry, G. (1997, March 18). E-mail to William Childs.

⁸⁷Henry, G. (1997, March 24). E-mail to William Childs.

which hearings were held at the committee level in each house made amendments and adjustments to the budget bill quite difficult for any legislator not serving on those committees.⁸⁸ However, with the Wytheville events in the past, and with opposition to the Governor's proposals eroding, the only possibility for change remained within each house. Thus, on February 10, Delegate Cranwell met with Secretary Finley and several Roanoke Valley school officials and announced that he hoped the legislature would find an additional 30-40 million additional dollars to ease state fund cuts to divisions that were experiencing enrollment losses. Delegate Thomas of Roanoke had already introduced a budget amendment for an additional \$17.5 million to freeze enrollment numbers for 19 such divisions. These school officials also asked Finley for help in spreading out the mandated 7.3 percent teacher pay raises in the face of their funding cuts.⁸⁹ Finley had his staff work the legislative process in detail. He and key staff went from door-to-door visiting and lobbying individual legislators. They shared the figures that they had, and kept the entire process out of the media and public view.⁹⁰

By February 21, both the Senate Finance Committee and the House Appropriations Committee had passed their versions of the budget bill. Neither house had made major changes in the Governor's education proposals. The House committee added

⁸⁸Andrews, H. (1997, March 14). Interview.

⁸⁹Eure, R. (1988, February 11). "Cranwell hopes to find more school funds." *The Roanoke Times*. B-8.

⁹⁰Finley, D. (1997, April 29). Telephone conversation.

a sliding scale of two to four percent, based on local ability to pay as indicated by the Local Composite Index, through which to funnel the added \$21.6 million in state aid recommended in Baliles' proposal. The committee also suspended the implementation of any new state mandates during fiscal 1988-89 except for the required teacher pay raise. Sufficient money had been placed in the budget for that expense. The Senate committee also attempted to protect rural and inner-city localities against funding cuts but guaranteed a minimum increase in the first year of the biennium. However, Senator Andrews was quoted as warning that the allocated funds were "not sufficient to protect localities from the wrenching changes produced by the governor's recommendations."⁹¹ The no-loss amendments for enrollment drops would protect the affected divisions from 80 percent of the loss the first year of the biennium and 40 percent the second. Delegate Thomas of Roanoke issued a continuing statement of caution for the Roanoke area from his seat on the House Appropriations Committee.⁹²

Within four days, both houses had passed their versions of the budget. The House passed the budget by a vote of 97-2 and the Senate by 36-4 on February 24. The changes in the K-12 SOQ calculation methodology were not discussed in the Senate during its five hour debate. All attempts to change the bill in the Senate were defeated. There were few

⁹¹Hardy, M., and Booker, B. (1988, February 22). "Baliles budget fares well in committees." *Richmond Times-Dispatch*. A-1, A-15.

⁹²Eure, R. (1988, February 22). "More money for schools OK'd." *The Roanoke Times*. A-1, A-8.

differences in the education sections of the House and Senate bills, and the two versions of the \$22.5 billion biennial budget were only about \$100 million apart. The versions were sent to a conference committee to resolve the differences.⁹³ Senate conferees were Andrews, Senator Walker, and Senator Anderson. House conferees were Delegates McDiarmid, Ball, and Dickinson.⁹⁴

The conference committee process for the budget bill was shrouded in secrecy. The committee consisted of these six senior money committee members. They met in private at undisclosed locations. While some details of the process leaked to the press, nothing of note concerning education items was indicated. By March 10, the press' game had become one of trying to locate the negotiators.⁹⁵ By March 12, the game was over as the conference committee report was passed by the House 75-20 and by the Senate 27-12. The budget bill was now the Appropriations Act, awaiting only the Governor's signature. The only change in the education section resulted when the conference committee voted to allow school divisions to count their contribution to teacher retirement benefits as a part of the mandated 7.3 percent pay raises. This would have the effect of lowering the raises if a locality chose to do so, a fact that upset the VEA.

⁹³Fisher, M. (1988, February 25). "Budget wins Senate approval." *The Roanoke Times*. A-1.

⁹⁴Commonwealth of Virginia. (1988). *Journal of the Senate, 1988 Regular Session, Vol. I*. Richmond, VA. 1032, 1418.

⁹⁵Hardy, M., and Booker, B. (1988, March 10). "Where have all the budget negotiators gone?" *Richmond Times-Dispatch*. A-10.

The only issue to arise out of the education items involved the conference process itself and not the content of the budget. Since the education items in the two versions of the bill were not in disagreement, the conference committee was not supposed to have changed them. However, the benefit change was made and subsequently passed by each house, and the issue became moot.⁹⁶ Andrews recalled this incident, and reflected upon it by saying,

Technically, you can only take up matters in conference where there is a difference between the two sides. Of course that's a matter of interpretation. Obviously, we technically always found differences, by definition. We would normally do that by unanimous agreement of the conferees. This is just a better deal. And it's done all the time now. They used to debate the issue that you had no authority to do that. But if you come up with a better deal, nobody complains.⁹⁷

The concern and uncertainty over funding continued in those areas that had expressed it during the process, especially in the Roanoke Valley. Occasional feature articles on funding decisions and dilemmas for specific localities could be found in *The Roanoke Times* during the entire General Assembly session from January through March. Some of the people who held concerns were hoping that the Governor would still modify specifics with a veto,⁹⁸ but such was not to be. Baliles signed the Appropriations Act on

⁹⁶Fisher, M., and Eure, R. (1988, March 13). "Assembly Oks budget compromise: Legislators adjourn after passing plan that could cut teacher raises." *The Roanoke Times*. A-1, A-14.

⁹⁷Andrews, H. (1997, March 14). Interview.

⁹⁸Fisher, M., and Eure, R. (1988, March 13). "Assembly Oks budget compromise: Legislators adjourn after passing plan that could cut teacher raises." *The*

March 30,⁹⁹ thereby ending all legislative avenues of appeal.

The Aftermath: an Overview to 1994

With the enactment of the 1988-90 budget, significant elements of the JLARC studies were formalized in the Appropriations Act. The L-estimator was established as the method for determining both prevailing costs and the prevailing number of positions not quantified by the SOQ. The Local Composite Index had been maintained. Although the SOQ mandates were lowered, the disparity in funding between wealthy and poor school divisions continued. The expansion of accounts equalized through the LCI actually contributed to this continued disparity since the SOQ costs were statistically depressed. A precise method for determining the state's foundation cost under the SOQ was now defined. Although the General Assembly legally could still pick an SOQ figure of their choosing, the anticipation was that such would no longer be the case since the newly-defined procedures produced costs that were already below the level of funding that was being appropriated. The issue and consequences of the mandated level of funding were what would drive future events past 1988.

It was difficult to quickly assess the effect of the 1988 changes. However, by late 1989, one study had been published that attempted to analyze those changes occurring between the 1987-88 and 1988-89 school years. Salmon and Verstegen again co-authored

Roanoke Times. A-1, A-14.

⁹⁹Commonwealth of Virginia. (1988). *Journal of the Senate, 1988 Regular Session, Vol. I*. Richmond, VA. 1474.

this study published in the *Journal of Education Finance's* Fall issue. The major finding announced in their study was that the funding disparity between wealthy and poor localities had actually increased using the new formula and procedures. Less equity was shown using a variety of education finance measures: the Range, Range Ratio, Restricted Range, Restricted Range Ratio, Federal Range Ratio, the Coefficient of Variation, the Gini Index, the Theil Index, the McLoone Index, and the Atkinson Index.¹⁰⁰ A follow-up study in 1991 added the second year of the biennium to the analysis. While this study found some improvement in 1989-90 over 1988-89 in four measures, the 1989-90 statistics still fell below the level achieved under the old methodology in 1987-88. More troubling was that less equity was seen in five measures between 1988-89 and 1989-90. Additionally, the McLoone Index, which looked specifically at the bottom end of revenue distribution, saw a widening disparity at the lower end of the revenue scale.¹⁰¹

On the political side, Southwest Virginia continued to see opposition to the funding formula. By the end of 1989, complaints about funding disparities had surfaced at an educational forum in Abington. The forum was sponsored by the University of Virginia, Virginia Tech, the area superintendent's association, Virginia Highlands Community College, and a group called Forward Southwest Virginia. Wise County's

¹⁰⁰Verstegen, D., and Salmon, R. (1989). The Conceptualization & Measurement of Equity in School Finance in Virginia. *Journal of Education Finance*, 15. 205-228.

¹⁰¹Verstegen, D., and Salmon, R. (1991). Assessing Fiscal Equity in Virginia: Cross-Time Comparisons. *Journal of Education Finance*, 16. 417-430.

Superintendent of Schools, James Graham, expressed his opinion at that meeting that the state's funding system could not withstand a court challenge.¹⁰² Thus, interest in the possibility of a disparity suit was again a topic of consideration.

In December, 1989, the *Richmond Times-Dispatch* ran a three-part series on Virginia's education system entitled "Unequal education, unequal opportunity." The header on the continuing page in the first article was "Gap between rich, poor schools in state widens." This first article contrasted Charles City's school division with Falls Church's. However, Secretary Finley was quoted in this article as saying the 1988 changes produced a formula that was "dramatically improved." He pointed out that 64 percent of state foundation aid was now run through the Local Composite Index, and thereby equalized. He noted that 75 percent of that aid would be equalized by 1993. Finley's claims seemed unconvincing when the facts cited in the article were considered. The article's descriptions of the disparities between the two divisions were quite dramatic, ranging from facilities, to teacher salaries, test scores, dropout rates, educational programs, and state aid.¹⁰³ The second article examined equity litigation around the nation and briefly discussed Virginia's situation in contrast to other states, notably Kentucky. It also contained a VEA-produced chart of funding comparisons among all state localities in

¹⁰²"Southwest educators seek new financing formula." (1989, November 16). *Richmond Times Dispatch*. B-3.

¹⁰³Walker, R. (1989, December 24). "Unequal education, unequal opportunity." *Richmond Times-Dispatch*. A-1, A-6.

1987-88, including each locality's ability and effort rankings.¹⁰⁴ A similar comparative article appeared in *The Roanoke Times* on January 21, 1990, contrasting 1987-88 statistics from several school divisions.¹⁰⁵ The Fairfax County *Journal* ran its own comparison between Highland County's Highland High School and Fairfax's South Lakes High School on January 31, 1990.¹⁰⁶ Thus, the issue of disparity was again becoming publicized statewide during this time frame. The broad spectrum of that publicity was significant, ranging from the traditionally conservative Richmond media market with its statewide influence, to the Roanoke Valley's center of opposition to the funding formula, to a local newspaper in the heart of the wealthiest school divisions in the state.

On January 10, 1990, the Highland County Board of Supervisors took the dramatic action of refusing to appropriate \$100,000 mandated by the state Board of Education to fund the SOQ, providing further publicity of the issue. The supervisors passed a resolution stating their action and position and called "Virginia's school funding formula unfair and possibly unconstitutional." Although Virginia Tech professors Kern Alexander and Salmon cautioned that the action would probably not hold up in court, they

¹⁰⁴Walker, R. (1989, December 25). "Unequal education, unequal opportunity." *Richmond Times-Dispatch*. A-1, A-12.

¹⁰⁵Baden, P. (1990, January 21). "Va. schools fighting for an equal chance: Disparity in education funding leaves state with moral, perhaps legal, dilemma." *The Roanoke Times*. A-1, A4.

¹⁰⁶Fogg, A. (1990, January 31). "Tale of Two Schools: Disparity may spell higher taxes here," and "Complex formula figures school funding." *The Fairfax County Journal*. A-1, A-12

agreed that Highland had a serious political and fiscal problem that would require state action to resolve. The difficulty centered on Highland's placement of 14th from the top in wealth and fifth from the bottom in adjusted gross income. As a consequence, Highland's Local Composite Index was near .60. The combination of Highland County's unusual relationship between high local property values, small population, and low adjusted gross income were unique.¹⁰⁷ Thus, the county found it almost impossible to tax sufficiently to raise the funds required under the SOQ using procedures adopted in 1988.

During this same period, the VEA released its study by Verstegen and Salmon that compared the 1987-88 state funding figures to those in 1988-89. This study contained many of the conclusions published in the *Journal of Education Finance* in its Fall, 1989, issue cited earlier. The new Secretary of Education, James Dyke, Jr., indicated that he would provide the report to Governor Wilder's recently-appointed Commission on Educational Opportunity for All Virginians. Dyke referenced a problem with the downturn in the state economy, saying that the recent recession was having a negative effect on the funding picture.¹⁰⁸

Finally, there had been rumors during the time prior to the JLARC studies that Virginia might face a disparity suit. This undercurrent was still evident in the period

¹⁰⁷Campbell, P. (1990, January 11). "Board says no to state." *The Highland & Bath Recorder*. 1, 8.

¹⁰⁸Walker, R. (1990, January 26). "Study of rich, poor schools says gap worse." *Richmond Times-Dispatch*. A1, A7.

between 1990 and 1992 as a group of 38 local school divisions organized as the Coalition for Equity in Educational Funding repeatedly threatened to refile an equity suit they had withdrawn a year earlier to give the General Assembly time to solve the problem.¹⁰⁹ By May, 1993, the suit had been refiled and was pending before the state Supreme Court.¹¹⁰ A decision was handed down one year later, on April 15, 1994. In that case, *Scott v. Commonwealth*, Virginia's system of funding its public schools was upheld.¹¹¹

Scott v. Commonwealth upheld the trial court's decision to dismiss the original suit which attacked the disparity in the state system of funding as violating the state constitutional requirements. The trial court had given the plaintiffs an opportunity to amend their original bill of complaint prior to issuing a decision, but they declined to do so and chose to argue the original bill. Thus, the trial court ruled on the Plaintiff's complaint that the Virginia funding system violated Article VIII, Section 1, and Article I, Section 15, paragraph 2 of the Virginia Constitution. The Virginia Supreme Court cited several undisputed statistics in which the Court acknowledged the range of funding disparity. However, the Court ruled that Article VIII, Section 1, required only that a system of free public schools be maintained and that "an educational program of high quality" was

¹⁰⁹Bradley, P. (1992, April 20). "Virginia is set to join school disparity lawsuit list." *Richmond Times-Dispatch*. C-8.

¹¹⁰Williamson, L. (1993, May 8). "How the funding formula works, and also doesn't." *The Roanoke Times*. A-8.

¹¹¹*Scott v. Commonwealth*. (1994). 247 Va. 379.

“merely aspirational,” qualified by the direction that the General Assembly “seek to” maintain such a program, as noted in the 1969 Godwin amendment described earlier. The Court stated, “Even applying a strict scrutiny test, as urged by the Students [Plaintiffs], however, we hold that nowhere does the Constitution require equal, or substantially equal, funding or programs among and with the Commonwealth’s school divisions.” As such, the critical issue was decided. The Court also stated, “Therefore, while the elimination of substantial disparity between school divisions may be a worthy goal, it simply is not required by the Constitution. Consequently, any relief to which the Students may be entitled must come from the General Assembly.”¹¹² The Virginia school equity funding debate appeared finished.

¹¹²*Scott v. Commonwealth*. (1994). 247 Va. 379.

Chapter 5

Discussion, Recommendations, and Conclusions

Introduction

The closure necessary for this study involved revisiting the key organizational questions posed at the onset as well as resolution of issues uncovered as a result of the research. The research data appeared to clearly answer some key questions while leaving others unresolved. Furthermore, some original notions were dispelled as incorrect while other concepts from basic political theory were affirmed. In order to provide some element of focus on this policy shift and its associated history, this chapter addressed three broad research topics: findings, implications, and recommendations. The chapter was organized accordingly.

Findings - Key Actors

Initial conceptions regarding the identification of key actors were primarily correct. Rather than widening the range of key actors, research data actually narrowed the field. This narrowing focused on which individuals played primary and significant roles in the development of the policy shift as it evolved. As a consequence, the arena of key actors changed over time, originating within the legislative agency, JLARC, and composed mainly of JLARC staff. The primary individuals working on the project were Robert Rotz and Gary Henry. Although JLARC transitioned from one director to another between the two studies, Rotz was the Project Team Leader on both studies.¹ As such, the

perspectives from interviews and correspondence with these two staff members gave significant insight into the research operations of the agency.

The next individuals who emerged as key actors were the legislative members of the Commission. It was clear that the agency was an arm of the General Assembly, and that it existed to serve as a check on the Executive branch and its departments. The legislators who were clearly significant, especially during JLARC-2 when consideration was being given to methodological changes, were Senator Andrews and Delegate Quillen. Senator Andrews was critical because of his multiple roles as the Chair of JLARC in 1987-88, Chair of the Senate Finance Committee during the 1988 session, and as the chief senator on the Conference Committee for the 1988-90 budget bill. In these three roles, Andrews played a part in the policy change from its birth at JLARC to its legislative maturation in the Appropriations Act. Quillen was key because of his support for maintaining the Local Composite Index as the equalization mechanism and for his ultimate support for Governor Baliles' recommendations.

After the Commission released JLARC-2, the arena of key actors shifted to Governor Baliles and his administration. At the point Baliles lifted what he wanted from JLARC-2 into his budget, the involvement of the General Assembly and its agency effectively ended. Baliles made the recommendations an Executive proposal in the form of the budget bill. When he did so, he assumed responsibility for marshaling his agenda

¹JLARC. (1986; 1988). *Funding the Standards of Quality, Part 1, and Part 2.* JLARC Staff listings.

through the legislative process, including management of political pressures that swirled about his plan. His adoption of specific recommendations began with Secretary Finley and Gary Henry and broadened to encompass Superintendent Davis and Assistant Superintendent Myron Cale at the Department of Education under the administrative umbrella. The Governor's political management strategies reached out to rally Willard Lemmon's support in his critical position as President of the State Board of Education.

Against this backdrop was the emergence of significant opposition to the JLARC recommendations and the Governor's budgetary proposals. Individuals key to that opposition were Superintendent of Schools Bayes Wilson from Roanoke County for his part in the Wytheville meeting and Ralph Shotwell of the VEA. Delegate Cranwell was able to translate some of the opposition into more dollars for counties anticipating funding losses. Further opposition was seen in the research, writings, and activities of Richard Salmon at Virginia Tech and Deborah Verstegen at the University of Virginia.

Tangential roles were played by other individuals at each stage noted above. Although not interviewed as key actors, each certainly played a significant role in this history. They included Governor Robb, Katherine Kitchen and John Rickman at the Department of Education, Phillip Leone at JLARC, and legislators who rallied behind Baliles during the 1988 General Assembly session. But the identification of the key actors who were identified and interviewed allowed the development of a relatively complete picture of this policy evolution.

Findings - Bureaucratic Considerations

Clearly, JLARC operated for the benefit of the legislature. As such, there was no coordination or cooperation with the Executive branch during either study.² There was a specific concern on the part of JLARC staff to maintain confidentiality on behalf of the legislature during the study process.³ Not only did JLARC operate in secrecy, the Commission did not release the data used in the formulation and calculation of its SOQ estimates. The same aura of managed information was evident in the actions of the Baliles' administration after his budget proposals were submitted, as cited in the previous chapter, but for more political purposes. Furthermore, there was no formal legislative-executive interaction during the development of either JLARC study and no coordination between the executive and legislature after Baliles took the recommendations he chose.⁴ As noted earlier, periodic advisory updates and drafts were circulated among Commission members and, at appropriate times, to the Department of Education and the Secretary of Education's office.

²Andrews, H., (1997, March 14), Interview; Quillen, F., (1997, February 10), Telephone conversation with William Childs; and (1996, November 21), Letter to William Childs; and Rotz, R., (1997, January 31), Interview.

³Quillen, F. (1996, November 21). Letter to William Childs.

⁴Andrews, H., (1997, March 14), Interview; and Quillen, F., (1997, February 10), Telephone conversation with William Childs; and (1996, November 21), Letter to William Childs.

Despite of an obvious veil of secrecy around JLARC staff research and report generation, praise for the professional nature of JLARC's work was almost universal. Individuals on both sides of the funding issue indicated that the JLARC staff was a talented group of honest professionals who took their work seriously with the intent of producing high quality research that the Commission and General Assembly could use.⁵ While certain options offered by JLARC staff in each SOQ report implied policy shifts, there was an overt effort to interpret their charge and duties within what they felt was an appropriate interpretation of the statutes. The focus on the school division as the unit of measure, rather than numbers of teachers, is one example. In addition, when policy shifts were suggested, staff attempted to offer several options for consideration. As Andrews explained it:

One of the reasons they've been so successful is they'll give you a whole menu and you spread it out in the public and see which one the people gravitate to. I'm not saying that they're so sophisticated that they could tell you which one, but by having the choices it becomes in the public domain. Rather than come up with one proposal, with anything controversial JLARC always has a whole smorgasbord, which is fine.⁶

Furthermore, Andrews and Quillen suggested that JLARC's integrity made it about the only avenue through which changes in the funding formula could be considered. Rather

⁵Andrews, H., (1997, March 14), Interview; Quillen, F., (1996, November 21), Letter to William Childs; Rotz, R., (1997, January 31), Interview; Henry, G. (1997, January 31), E-mail to William Childs; Shotwell, R., (1996, November 26), Interview; and Cale, M., (1996, December 16), Interview.

⁶Andrews, H. (1997, March 14). Interview.

than going through a public study commission approach, with all of its concomitant public pressure, debate, and argument in the policy arena, both felt that this issue was so politically charged that it had to be evaluated in quiet study by a group like JLARC.⁷

These findings led to the dispelling of preliminary notions in two areas. First, no evidence was uncovered that there was any grand design, back-room conspiracy, or political scheme on the part of the state government to alter the manner in which public schools were financed so as to artificially lower SOQ costs, although the adopted methodology did just that. The nature of separation of powers led to the creation of JLARC as a legislative check on executive authority. There was no way that the legislature was going to soften the intent of JLARC's mission in any instance.⁸ Thus, in the case of the second preliminary notion, there was no deliberate delay in the issuance of JLARC-2 in order to avoid public input and study or to coordinate a legislative agenda between the Governor and the General Assembly. The November, 1987, issuance was the result of a staff delay in completion of computer programs and the subsequent data runs. It took a great effort by JLARC's staff to meet the November release due to the extensive amount of computer work required. In spite of this discovery, there are those who sincerely believe that JLARC was given the task of finding a method to divide up a

⁷Andrews, H., (1997, March 14), Interview; and Quillen, F., (1996, November 21), Letter to William Childs.

⁸Andrews, H., (1997, March 14), Interview; and Quillen, F., (1996, November 21), Letter to William Childs.

predetermined amount of state dollars, and that the L-estimator and JLARC-2 was the result of those limits. Some people believe that the stage was set, and they point to the short time frame as one example of that process in action.⁹ Andrews had another plausible explanation as to how a budgetary consensus existed without formal exchanges or cooperation. He suggested that several staff members in the money committees of the legislature and in key executive departments were former JLARC staffers. As such, an unofficial network existed that remained intact over the years.¹⁰ Thus, a sense of the revenue limits of the state existed, as did a knowledgeable understanding of expenditure needs and projections. Since taxes had been increased in 1987 to pay for the Baliles' transportation initiatives, any notion of another tax increase would not have been well received.

The manner in which the legislative process works also played a traditional role in the history studied here. Although the legislature does not fall lock-step behind a Governor and his proposals, Baliles' use of recommendations from the legislature's own watchdog agency was astute, as noted by Quillen in the previous chapter. Andrews was more direct in explaining Baliles' talent as Governor. When asked about the Administration's awareness of JLARC-2, Andrews indicated that "they observed the JLARC study very closely." He also said, "Baliles played his cards close to his chest, as

⁹Davis, J., and Cale, M. (1996, December 17). Interview.

¹⁰Andrews, H. (1997, March 14). Interview.

he should as a Governor.” When asked to react to the notion that Baliles was a thorough, details-oriented Governor, Andrews concurred with praise: “more than most of them.”

And when asked whether Baliles consulted with key legislators as he was devising the 1988-89 budget, Andrews explained:

Yes and no. He may have asked questions, but never let on what he was talking about. I think Jerry was a great Governor. He played his cards close, and he was lucky as a governor that the revenues were increased. Our economy was ahead of the nation; the revenues were flowing in. That all came to a halt in 1990, and this is 1997 and we're still not back to the level we were in the 1980's. So he was very fortunate at that time.¹¹

Thus, Baliles' use of JLARC recommendations was viewed as shrewd leadership by legislators who were crucial to any legislation that would come before the General Assembly. This in itself was critical to understanding how the adoption of JLARC's proposals gave the budget a head start in the legislative process. The reason had to do with the composition of the legislators who served on the Commission. The authorization statute provided membership on the Commission as follows:

There is hereby created the Joint Legislative Audit and Review Commission. The Commission shall consist of nine members of the House of Delegates appointed by the Speaker thereof, of whom at least five shall be members of the House Appropriations Committee, and five members from the Senate appointed by the Privileges and Elections Committee of the Senate, of whom at least two shall be members of the Finance Committee, and the Auditor of Public Accounts, ex officio, who shall have no vote.¹²

¹¹Andrews, H. (1997, March 14). Interview.

¹²*Code of Virginia*. (1973-1988). Section 30-56.

Since the Commission's membership was so selective, JLARC recommendations had significant legislative influence when introduced into the General Assembly. The explanation for this is not as direct as it appears. When the Commission votes to send a study to the General Assembly, no vote of endorsement is implied, as explained by Rotz:

[When] our commission votes on these reports, ... they are votes to allow the publication of the report as a legislative document. The vote itself does not connote that they agree with the contents of the report. What that means is to the extent that an individual endorsed a report, it was outside of that vote process. It was in terms of their discussions with other legislators, and things like that. That's been important in terms of keeping the reports themselves from becoming politicized. It's not a matter of negotiating, 'I don't like this part,' so we take that out, and this sort of thing. They are staff reports, and they decide what they really want to support legislatively from there.¹³

However, members understand the implications of such reports, particularly when they become incorporated into proposed legislation. Quillen's concern that the motion for the receipt and approval for printing of JLARC-2 by the Commission be qualified only to "receive and authorize printing" clearly demonstrated his understanding that there was an inherent endorsement with the publication.¹⁴ He recognized that the members of the Commission had great legislative clout.¹⁵ Thus, if a report received a vote of publication with the support of several legislators on the Commission, and if it were transformed into proposed legislation, the reality of who those legislators were in terms of influence in the

¹³Rotz, R. (1997, January 31). Interview.

¹⁴JLARC. (1988, January 13). Minutes.

¹⁵Quillen, F. (1996, November 6). Telephone conversation.

General Assembly carried great weight with other legislators. That reality is also recognized outside of governmental circles by organizations which have to lobby a legislative agenda.¹⁶ When Governor Baliles, the highest elect Democrat in the Commonwealth, adopted JLARC's recommendations and put the weight of his political influence behind his proposals, other loyal Democrats on the Commission could be expected to be supportive if he could manage the political policy cycle. Those loyal Democrats included Andrews and Quillen, as well as a majority in the Senate and House of Delegates. That was how JLARC's proposals would inevitably have an advantage within the legislature.

Findings - Extraneous Impact

Two areas of extraneous pressure that could have had significant impact on the process were brought into the policy cycle. They involved the work of academicians on one hand and of citizen opposition on the other. No significant impact resulted from either area although both were highly publicized in the press.

The work of Professors Salmon and Verstegen had the potential to undercut the JLARC studies. However, because both were hired by special interest groups to analyze the impact of JLARC's and the Governor's proposals, key legislators lumped them with other lobbyists. Andrews described Salmon as, "Oh, he's a hired gun, and he does a good

¹⁶Shotwell, R. (1996, November 26). Interview.

job. When he comes in, it's the VEA's expert against ours. He's not exactly impartial."¹⁷ This provincial perspective had the effect of minimizing the academic standing that these two professors held among their peers on the national level, a stature that would not be generally known in the political world. However, that standing was acknowledged by JLARC staff in JLARC-2 when an unidentified 1985 *Journal of Education Finance* article was quoted to substantiate increasing disparity among Virginia's localities as a means of justifying changing the existing formula.¹⁸ That article was co-authored by Salmon, and it used accepted statistical measures in the field of education finance to draw its conclusions.¹⁹ Those same conclusions would later be rejected by supporters of the Governor's proposals as inappropriate to the goals they defined as pupil and taxpayer equity when the later analyses were critical of the impact of the changes.

Political change often involves managing opposition in the public forum, especially when the changes are the result of the legislative process. This was done effectively by the Baliles' administration when opposition arose. In Salmon's case, the political pressure increased after the changes were legislated, and it came from Secretary of Education

¹⁷Andrews, H. (1997, March 14). Interview. However, it is necessary to note that Salmon's research was published in academic journals and that the December, 1987, studies were done at the request of groups with divergent interests: the VSBA and the VEA.

¹⁸JLARC. (1988). *Funding the Standards of Quality, Part 2*. 5.

¹⁹Jones, H., and Salmon, R. (1985). A Seven Year Fiscal Equalization Analysis of the Virginia Public School Finance Program, *Journal of Education Finance*, 10. 524-534.

Finley. It involved what appeared to be an attempt to dampen potential opposition in the future. In an April 14, 1988, letter to Paul Torgersen,²⁰ Interim President of Virginia Tech, Finley attacked the February 3 paper by Verstegen and Salmon²¹ which analyzed the impact of the Governor's proposals. This paper used the same constant cost methodology that had been used in the VEA and VSBA studies in December, 1987, which analyzed the seven JLARC-2 options. The purpose of the methodology was to strip the additional dollars away from the Baliles proposals so as to see the impact of the formula changes only. The identification of specific "winners" and "losers" apparently upset key individuals within the administration and in each money committee in the legislature. Finley cited the conclusions of both the House Appropriations Committee and the Senate Finance Committee. Finley's quoted the House report as saying, "The data which was [*sic*] developed on the basis of grossly oversimplified distribution techniques and did not include the proper estimates of sales tax and student enrollment for 1989-90 was a great disservice to the dialogue that should have occurred..." His citation of the Senate conclusion was, "Apprehension of localities has been fueled by misleading analyses of 'winners' and 'losers,' which have been based on uninformed and simplistic assumptions." Finley then added, "I concur in the conclusion that the report is flawed."

²⁰Finley, D. (1988, April 14). Letter to Paul E. Torgersen.

²¹Verstegen, D., and Salmon, R. (1988, February 3). Financing Excellence and Equity for Virginia Public Education: A Constant Comparison. *Passim*.

The political pressure was targeted squarely upon the university to keep its staff in check. Finley reasoned as follows:

School funding is an important public policy issue in any state. It is also of major significance in Governor Baliles' program for improving our Commonwealth. You can understand our serious concern when erroneous information is publicly reported, particularly during the course of public and General Assembly consideration of the Governor's proposals. I know that the University has sound policies with regard to research and outside consulting and the quality of such research. Therefore, I thought you would want to know of this incident.

Please be assured that I fully support the value to higher education and the Commonwealth of external consulting by faculty. I also respect the rights of faculty to offer advice and express opinions. Particularly in public policy questions, however, there is a concomitant responsibility to base advice and opinion on accurate research.²²

Torgersen's response was to write to Robert Smith, Dean of the College of Education, asking for advice as to how to determine the quality of the research in question and suggesting that the issue be openly shared with Salmon. Torgersen's suggestion was that another professor review the research to ascertain its quality and to support the right of staff to act based upon research.²³ That verification was subsequently done, and the quality of the research was upheld.²⁴

This anecdote demonstrated the manner in which the Executive attempted to manage extraneous influence on the policy cycle, even though those inside the cycle felt

²²Finley, D. (1988, April 14). Letter to Paul E. Torgersen.

²³Torgersen, P. (1988, April 25). Letter to Robert E. Smith.

²⁴Salmon, R. (1996, January 29). Personal conversation with William Childs.

that the research in question had little or no effect on the political process. Both Davis and Cale indicated that the Salmon and Versteegen studies were “peripheral” and that they had no impact.²⁵ Andrews concurred,²⁶ suggesting that Salmon was a “hired gun” as cited previously. However, the potential of Finley’s letter was that a chilling effect would be felt by academicians who were employed by state institutions when they chose to analyze policy proposals or program shifts. Finley explained that his motivation for writing the letter was one of “policy indignation,” and he recalled that Baliles discouraged him from writing it. But he felt deeply that Salmon and Versteegen had done the Commonwealth “a great disservice.” He questioned the validity of the methodology employed by the authors by saying that they had tried to substitute values that they thought would work, but which produced errors in projections. He realized that they had not spoken to JLARC, and insisted that they did not have the analytical capacity to project the numbers because they did not have JLARC’s data.²⁷ Apparently he was unaware that Lemmon had failed in his effort to get the data for the two professors from JLARC.

The second area where political opposition within the policy cycle was managed involved the events related to the Wytheville Rebellion and opposition to the Baliles initiatives by superintendents of schools. The Governor organized an effective

²⁵Davis, S. J., and Cale, M. (1996, December 17). Interview.

²⁶Andrews, H. (1997, March 14). Interview.

²⁷Finley, D. (1997, April 29). Telephone conversation.

counterattack as elements of this opposition emerged. When the first concern arose after the budget was introduced, Finley and Davis immediately met with key individuals in the legislature and school community. That effort effectively muted opposition in the Richmond area, and quieted the critical media outlet associated with the state's capital. When it became apparent that the Roanoke area was continuing to be a center of rising opposition in late January, 1988, the Governor sent Henry to that section of the state on several trips. He also involved Finley, Davis, and Lemmon in those efforts. When the Wytheville meeting resulted in a resolution opposing the Governor's plans, it took only one week to cut that opposition in half, leaving only the Roanoke area isolated in opposing the proposals. While the Governor was apparently not proactive in the initial management of the public reaction to his proposals, the evidence clearly demonstrated that he was effective in managing the reaction thereafter. Thus, he showed great skill in dealing with the policy cycle, as did key members of his administration and the Department of Education.

Findings - Policy Implications

Although JLARC operated within the confines of its statutory mandate, two views of the function of JLARC emerged during collection of interview data. The divergent perspectives revolved around whether JLARC staff was supposed to make, or whether it did actually make, policy recommendations and changes. The more conservative, traditional perspective was held by Lemmon. As a member of the House of Delegates when JLARC was formed, Lemmon felt that staff was not to make any policy

recommendation in its reports; that was the exclusive duty of the General Assembly. His view was thorough and may have provided insight as to why Baliles would find JLARC's studies so beneficial. When asked to reflect on JLARC's potential to recommend policy changes outside the legislative process, and upon the notion that JLARC staff could act almost as an independent legislature in recommending policy, Lemmon said:

The only argument I ever had with Jerry Baliles was when he was on the Appropriations Committee over that very thing you just said. The guy who really came up with the idea of JLARC was Roy Smith from Petersburg. He liked Herb Bateman, even though they were different parties, and Herb had future aspirations. If I remember correctly, he gave his thoughts about JLARC to Herb, and Herb was the one who actually got it passed. JLARC was conceived as — and I talked to Smith and others about this, because I felt very strongly about just what you had to say — as an audit commission. The idea was to let them determine whether the agencies and everyone else were carrying out the intent of the General Assembly. It never, never was conceived as a study commission. We used to have a study group that divided up; I forget what we called it. JLARC was never, ever, conceived as that. Jerry had a bill one time that he put in that would have asked JLARC to study something and come forward with recommendations, and I hit the ceiling. I got so mad I just trembled. This was in the Appropriations Committee, and I said what I thought, which was basically that the minute they started proposing legislation, how could they possibly audit from then on. Jerry backed off and changed the wording of his bill. They'd study to determine whether the intent was done and not make recommendations. I don't think there's any question at all, and the JLARC people know I felt this way — Who was the fellow that headed it before Phil Leone? He was the one who took JLARC into this stage, and the legislature let him get away with it. And, gosh, Roy Smith was discouraged with it. I was disgusted with it. I thought it served a marvelous purpose as an audit commission, and thought it served a terrible function and never should have been allowed to make legislative policy recommendations.²⁸

²⁸Lemmon, W. (1996, November 29). Interview.

This view sharply contrasted with the perspective held by Rotz as a JLARC staff member. He indicated that he felt that JLARC's research function included implications for policy: "But the idea was that we would prepare a report that indicated some of the things that we thought were consistent with the Standards of Quality, and the Standards of Quality framework, and express some thoughts about that and our analysis of that."²⁹ This sense of policy flexibility and recommendation was held by Andrews, too, when he reacted to the comment that JLARC staff appeared to have wanted something other than the Composite Index as the equalization mechanism. He stated, "I'm quite sure that they would. They are truly professionals. They're not supposed to apply politics. They're human beings, and they read and listen to what people say."³⁰

That Baliles would use JLARC findings should not have been surprising in light of Lemmon's comments. The role of JLARC had indeed expanded since its conception, and it had done so with the acquiescence of the General Assembly, suggesting broad support for the staff's activities in the policy arena. Baliles also used JLARC reports extensively in the transportation area as he translated campaign promises into reality.³¹ His selective use of the reports as Governor no doubt helped his legislative agenda. A by-product of his use of JLARC recommendations was to enhance JLARC's operation in the policy cycle, and it

²⁹Rotz, R. (1997, January 31). Interview.

³⁰Andrews, H. (1997, March 14). Interview.

³¹Quillen, F. (1996, November 21). Letter to William Childs.

was a far cry from Lemmon's vision of what JLARC should do. But it well suited the political purposes of a strong-willed Governor with a stated set of policy goals. Baliles was committed to pumping more money into education, and he was equally committed to reducing funding disparities among localities for SOQ expenses.³²

Baliles maintained a focus on the legislative goals during his tenure as Governor. As such, he knew the legislative process well, and he knew how to guide proposals through the intricacies of the legislative maze. Furthermore, Baliles had a keen sense of leadership and how to translate his vision into reality. He described it as follows:

To me that's one of the challenges of the office: how power can be employed to advance something that will serve the Commonwealth for decades. Of course, formulas should not be static. They should represent the demographics of the Commonwealth and be changed occasionally because demographics are fluid. As I recall, that was the case in Virginia in 1988. The formula had not been changed for about 15 years. No one liked the formula, but no one could reach agreement on how it should be changed. To me that represented a challenge. The JLARC proposals offered us an opportunity to address some of the concerns that we'd been hearing about. We had the opportunity to advance new money, tying it to programs that would advance excellence in education, and create some needed changes in the formula.³³

Therefore, Baliles was willing to use the JLARC studies as a springboard to advance his own education goal of excellence. However, one obvious possible misuse of JLARC as a policy-recommending agency has to do with the potential of a quasi-legislature of non-elected staff determining state policy in sensitive and critical political

³²Finley, D. (1997, April 29). Telephone conversation.

³³Baliles, G. (1997, June 27). Interview.

issues. The closed manner in which the staff research process must operate, coupled with the legislative composition of the Commission, presents the specter of significant policy shifts originating in secrecy, being endorsed by key members of the General Assembly, and translated into law without significant public input or study. Such a situation was considered in this study, but events suggested that the delay in the completion of JLARC-2 was not intentional. However, the behind-the-scenes management of the Governor's budget proposals was intentional. The combination of inadvertent delay in the completion of JLARC-2 and the willful political management by the Governor's staff during the legislative session had the effect of ramming major funding changes in the entire system of public K-12 education through the legislature without deliberate discussion and debate in the policy arena. Because the changes were incorporated within the budget bill, large numbers of legislators were also cut out of the policy cycle due to the manner in which the budget bill was considered by the General Assembly. This shadowy legislative process out of public view enhanced the ability to the Governor to win support from individual legislators in a one-on-one manner by reducing the electoral risk to those legislators should the changes adversely affect their home districts. Input into the policy cycle was effectively controlled, curtailed, and manipulated..

Discussion - Funding Philosophy

The role of the state in funding a system of free public schools is clearly defined in Virginia's constitution. The debate that continues is whether the funding is adequate to meet constitutional standards even though the Virginia Supreme Court ruled in 1994 that

it does. The narrow view of the Court relied upon plain language as it interpreted specific sections of the constitution. Lemmon thought that the case might have been better argued before the Court by Andrew Miller, the coalition's attorney and the former Attorney General who had written the 1973 opinion cited in Chapters 1 and 2:

I disagreed with the Supreme Court, I might say. But I'm not a lawyer. I felt that the Constitution said that the General Assembly shall provide for a system of free public education throughout the Commonwealth, and in arguments on the floor of the House, I found a definition of system in the dictionary as "a grouping of substances that is in, or tends toward, equilibrium." I used to try to read the Constitution on the floor in floor debates as saying, "The General Assembly shall provide for" a grouping of school divisions that are in, or tend toward equilibrium throughout the Commonwealth. Andrew didn't use that argument in his debate. I don't know. That was my non-lawyer interpretation.³⁴

There are a number of people who believe that Lemmon's interpretation is correct. Thus, although the issue has apparently been definitively decided, interest in constitutional challenges has not died. The question rests on the issue of equity in terms of equal access to a quality foundation program by all students in school divisions across the Commonwealth. Those who support the Court's decision note that the SOQ addresses only the foundation spending, and it is this foundation spending that is equalized through the Local Composite Index. Finley had a goal of seeing at least 67 percent of foundation aid to localities equalized through the formula, with the balance remaining in categorical grants. He cited an increase to 64.4 percent of the funds as equalized in 1988-90,

³⁴Lemmon, W. (1996, November 29). Interview.

compared to 54.2 percent in 1986-88.³⁵ Finley knew that the total per pupil disparity would not close under Virginia's system that allowed vast local leeway in school funding. He advised policy makers that two state directives would be necessary in order to close the total per pupil disparity: one, the state would have to establish a maximum per pupil cost that localities could not exceed, and two, the state would have to establish a fixed statewide teacher's salary scale. He did not support such measures, nor did he feel that they were politically possible.³⁶

Other opponents of the JLARC methodology thought that the state could directly intervene with more funding to close the disparity gap. To do so would require scrapping the L-estimator and prevailing cost methodology and to return to calculating SOQ costs using the actual statewide means for the various categories of expenses, with the state fully funding those costs. Ralph Shotwell of the VEA recollected that an additional \$700-800 million would have been necessary to meet these levels in 1988.³⁷ Lemmon thought it was more like \$2 billion for the biennium, "a tremendous increase, and the whole atmosphere in Virginia at the time was that we weren't going to do that."³⁸ Baliles had

³⁵Finley, D. (1989, May). State Funding for Public Schools in Virginia, *The University of Virginia Newsletter*, 65, 9. 59-66.

³⁶Finley, D. (1997, April 29). Telephone conversation.

³⁷Shotwell, R. (1996, November 26). Interview.

³⁸Lemmon, W. (1996, November 29). Interview.

asked for an additional \$554 million for education in his 1988 biennial budget.³⁹ These added funds financed all of the additional projects, and clearly showed that SOQ calculations had been significantly lowered through implementation of the JLARC methodology when compared to the funding additions based on mean values recalled by Shotwell and Lemmon.

Finley's approach to reducing the disparity gap reflected a reality-based political perspective on the problem. Another approach would have been to continue to use the SOQ cost procedures followed by Superintendent Davis, requiring a specified level of staffing at accurately determined cost levels. The Local Composite Index, or another equalization methodology, could then be employed to apportion the costs between the state and localities. To substantially close the disparity gap, the 20 percent state allocation floor would likely have to be eliminated in addition to the measures cited by Finley. Such broad alterations and increases to the state K-12 funding scheme would have to come through a highly public policy cycle. Finley, Andrews, and Lemmon felt that such a political event would not happen in the current era of tax caution.

Does the political reality suggest that the disparity issue is dead? Although the question is open to great debate, the interpretation of law does change over time. What is legal today might not be legal tomorrow. Questions of equity, ethics, and morality may not be one and the same. It is possible for something to be legal and not moral or ethical.

³⁹Cox, C. (1988, January 14). "Plan to equalize school spending backed." *Richmond Times-Dispatch*. A-9.

It is possible for Virginia's funding methodology to be constitutional and yet unethical.

The line between law and morality is fluid, and the barrier along that frontier in the world of education finance is constitutional equal protection. The center of the debate over funding disparity and equity rests along the barrier, and it is likely that the position of that barrier will change in the future. Whether it expands to encompass Virginia's disparity gap as unconstitutional or whether it moves in the opposite direction remains the question.

Were JLARC's objectives regarding pupil and taxpayer equity achieved? By using their definitions as cited in Chapter 1, it is possible to generate some value judgements about these two goals. Tax equity can be achieved independently from pupil equity when no regard is given to the adequacy of an educational program. When a state establishes a minimum foundation program, a degree of interdependence arises between the two concepts. The reason for this has to do with the proposition that citizens of individual localities cannot independently control local tax effort if the foundation program is dictated. When an equalizing method is superimposed on the distribution formula, the foundation program must be adequate. If it is not, localities will expend larger shares of tax dollars to create an adequate program. With such local leeway expenditures varying from jurisdiction to jurisdiction, tax equity across localities becomes elusive. This involves more than a quantified notion of funding dollars; it extends to the quality of the program children experience. It is a concept that was recognized by JLARC in the technical paper for JLARC-1 cited in Chapter 3 when Henry warned:

To establish a foundation level that is too low increases the underfunding problem to more localities. It does avoid requiring localities to expend funds in excess of what is necessary to fund the Standards and reduces the numbers of localities that receive more State funds than necessary to provide the standard program. Thus, negative consequences could occur from erring by either overfunding or underfunding.⁴⁰

The result of such a low foundation level is that poorer, low effort localities fall much farther behind wealthy, high effort localities in pupil equity while tax equity is also lost. Thus, the disparity gap actually increases in such a situation.

Finley assessed the effect of the changes in the formula with this statement: “The changes in school funding during the 1980s have been dramatic. The equity of the school funding formula has been significantly enhanced.”⁴¹ His argument was the same as Lemmon had pointed out: if more money for the foundation program were funneled through the equalization mechanism, needy localities would get a proportionally greater share. However, if the foundation program were underfunded, disparity would increase. It presented a paradox of an appearance of greater equity by one measure while the disparity was actually worsening.

The root of this paradox has been addressed in funding suits that have looked at quality rather than equality. Thro stated the concept succinctly in a commentary he wrote for *West's Education Law Reporter* assessing the decisions by state supreme courts that

⁴⁰JLARC. (1986B). *Selection of a Statistic...* 19-20.

⁴¹Finley, D. (1989, May). State Funding for Public Schools in Virginia, *The University of Virginia Newsletter*, 65, 9. 64.

invalidated funding systems in Montana, Kentucky, Texas, New Jersey, and Oregon:

Instead of emphasizing the state equal protection clauses and equality of per pupil expenditures ('equality suits'), which had been the theory of choice during the 1970's and 1980's, these decisions focused on the state education clause and the quality of education delivered ('quality suits'). The finance systems were struck down not because some districts have more money than others and all districts must have the same amount, but because the quality of the poorest schools is below the constitutionally mandated norm and the finance system must be changed in order to bring the schools up to that norm.⁴²

JLARC agreed that the foundation program in Virginia was defined by the Standards of Quality. They disagreed with the cost methodology used by DOE because they felt that the SOQ were being overfunded. Davis felt that the SOQ were underfunded, and publicly stated this opinion from the time he became State Superintendent in 1980. He pointed out that the state developed several mandates under the biennial SOQ revisions for which they appropriated no money. Localities were being burdened with unfunded state mandates.⁴³ But no cost methodology existed beyond DOE's estimates, and the General Assembly merely selected a per pupil dollar amount that could survive the legislative process.

What remains absent from Virginia's present funding methodology is statutory status. The funding system is defined in definitions in the Appropriations Act on a biennial basis. Andrews pointed out that the Appropriations Act is not a statute in the routine

⁴²Thro, W. (1993). Commentary: The Role of Language of the State Education Clauses in School Finance Litigation, *West's Education Law Reporter*, 79. 21-22.

⁴³Davis, S. J. (1996, December 17). Interview.

sense; it expires every two years. Therefore, Virginia's funding system has no lasting life in terms of the law.⁴⁴ In order for Virginia to institute a statutory funding system, it will need to do so in a separate law, incorporated in the *Code of Virginia* as are the various elements of the educational system already defined in Section 22. Lacking such status, the alteration or re-enactment of the current system is mandatory every two years within the context of the budget bill. Political will is fickle, and the entire underpinning of public education in the Commonwealth rests every two years upon that will. Baliles noted that, "Either process requires legislative approval. If you have the votes to change the current approach, you would also have the votes to change the statute."⁴⁵ The difference, however, is that the budget process is closed by practice and tradition, and an avenue of open discussion and debate is not available. In the case of the statutes within the state *Code*, the entire legislature would have an opportunity to openly discuss and debate proposed changes on the floor of each house.

Thus, the question as to whether Virginia's system of educational funding is appropriately equitable depends upon perspective. The Virginia Supreme Court has agreed with the General Assembly, JLARC, and several Governors that the system meets the requirements of a minimal foundation program. Continuing studies by Salmon and Verstegen indicate that disparity continues and may be worsening among the poorest

⁴⁴Andrews, H. (1997, March 14). Interview.

⁴⁵Baliles, G. (1997, June 27). Interview.

citizens in the poorest localities. It appears that the JLARC warning against underfunding a foundation program was prophetic, and that this is what has happened. Whether the Court will agree in the future, perhaps with new arguments, remains to be seen.

Recommendations for Further Study

Several areas of study are suggested by topics touched by this research. Many quantitative studies can be generated from this era. The issue of whether Salmon and Verstegen were accurate in their research can be resolved by an analysis of actual division allocations and expenditures in 1988-90 and correlated with the projections of these two educators, providing all data are now available. In depth analyses of expenditures and disparities can continue to be made and contrasted over time. Studies can be done to determine the actual amount and percentage of equalization emanating from the state budgets over the years.

Additional qualitative studies are also suggested. Thorough histories are needed in several areas. The lives and political accomplishments of Andrews, Quillen, Lemmon, and Baliles are yet to be written. In-depth political histories of this era are yet to be written. A history of the Coalition for Equity in Educational Funding awaits a committed historian.

Any slice of history allows infinite points of view. Those perspectives add flavor and balance to conflicting images. Such balance is yet to be resolved by this study, and it is the addition of future studies that will align this view.

Conclusions

The task undertaken in this study was complex and cumbersome. The nature of the study itself posed problems that had to be overcome. By definition this was not to be definitive history, nor was it to be a policy analysis or a quantitative assessment of the changes in the funding scheme for the state. In order to capitalize upon the oral history of key actors, this study had to be a series of snapshots of the events described herein and had to capture elements of all of the various methodologies surveyed. It is only with the overlaying of those snapshots that one begins to appreciate the panorama that comprised the history. Like all history, the picture is not pure or complete. But it is hoped that the findings will contribute to a better understanding of educational funding in the Commonwealth, that they will promote discourse about the problems that are evident, and that solutions will be found to keep Virginia from falling into the depths of disparities described by Kozol in *Savage Inequalities*.⁴⁶

Baliles made three folksy comments about judging the impact of the 1988 changes. Each held profound lessons about the reality of politics and provide a fitting conclusion to a study that was designed to allow the key actors to speak for themselves as much as possible. He said:

My grandfather used to have a saying: “One never steps in the same river twice because the water’s always changing.” That’s how I look at the educational system. As I recall, and I was one who was always keeping

⁴⁶Kozol, J. (1991). *Savage Inequalities: Children in America’s Schools*. New York, NY: Crown Publishers, Inc. Passim.

score, I think the Commission on Excellence made 36 recommendations. Don Finley told me that when we left office, 34 of the 36 were implemented or being implemented. But it is difficult to quantify the impact of a teacher, a program, or a system because people tend to look for a snapshot analysis, and some of these can be quantified, given time. There's an old saying that a poor surgeon only hurts one person at a time, but a poor teacher can hurt 130 at a time. Clearly, the impact of the educational system is the subject of a lot of discussion today. Marcus Aurelius said, "Change is the only constant." The difference today is the acceleration of the change, which imposes upon us the responsibility for greater responsiveness of building a better educational system. So one cannot make advances in education and declare victory. There must be a sustained commitment in time and resources. And that kind of sustained commitment requires advances across the years and across administrations.⁴⁷

⁴⁷Baliles, G. (1997, June 27). Interview.

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Appendix A

Interview Transcripts

Transcripts appear in the chronological order of the interviews. Complete transcripts of taped and edited interviews are provided in order to give the reader a more thorough picture of the history, issues, and perspectives as recollected by the key actors in this shift in state policy during the 1980's. By reading the transcripts in order, one can see the evolving discovery of the material on the part of the researcher. Each participant edited and approved the material presented here.

**Transcript of Interview With
Delegate C. Richard Cranwell
Thursday, July 25, 1996**

Delegate Cranwell was a member of the House of Delegates during the 1988 Session in which the funding formula changes were made. The interview took place at Del. Cranwell's law office in Vinton, VA.

Childs: What I'm doing is a dissertation in consultation with Dick (Salmon) on the evolution and formulation of the JLARC-2 study on the Standards of Quality, and I'm trying to do key actor interviews with the people that were in the process just to get some anecdotal history. I want to write the anecdotal history of that particular thing, and I have several overall questions.

Cranwell: I wasn't on JLARC.

Childs: I know you weren't.

Cranwell: I don't know what I know about this. Let's run through it and see.

Childs: You may have had an acquaintance with some of it. I'll give you my time line very quickly. Of course the report came out in late November of '87. Governor Baliles gave the State of the Commonwealth address on January 13, and he incorporated not only all of the recommendations from JLARC-2 but also the recommendations from his Commission of Excellence, so there was a lot of money floating around, and there was a lot of positive reaction to the changes at least for the next week-and-a-half. Then all of a sudden the worm kind of turned on the recommendations in the changes at least as far as the funding formula, and a lot of that started down here in Roanoke because Roanoke school officials had an article hit the paper saying that they were going to have a \$4.8 million, almost \$5 million, income loss if this new funding formula went through. Within a couple of days, Bayes Wilson and Kelly from the Roanoke office went to Richmond and met with both appropriations committees. Then there was an article in the paper that Don Finley was trying to put out some fires. Then February 3 there was a meeting down in Wytheville that's been described to me as the "Wytheville revolt" because there was apparently 34 school divisions represented with over 400 participants from two regions, and basically they passed a resolution encouraging the Assembly not to make any changes. On the 9th of February, a week later, in Southwest Virginia, Region 7, reversed itself and passed a resolution endorsing it. It was two planning districts in that meeting originally. I'm wondering what you knew about what went on down here.

Cranwell: Have you talked to Bill Lemmon yet?

Childs: I have not talked to him yet.

Cranwell: Bill was a player in all that. Check and see. I think Fairfax County was going to be a loser in that, and that put them in bed with us in Southwest Virginia. I think that was where a coalition was put together. I'm trying to think... We had a meeting in my office of all the folks from Southside and Southwest putting together the votes to make sure that thing didn't adopt. And I can't remember what all the details were.

Childs: Okay. Was Bayes Wilson involved at that point?

Cranwell: Yes. Bayes had already been to see me at that point, and there was pretty solid support in Southside and Southwest among the legislators, and it sticks in my mind that there were some splits in Northern Virginia that helped us, but I can't remember exactly what they were.

Childs: I've got some articles from the Richmond Times-Dispatch and the Washington Post. I may be able to call up some names there.

(Unrelated conversation regarding mutual acquaintances in the Assembly in the "Coffin Corner.")

Cranwell: It sticks in my mind that it was something important that Northern Virginia wanted that year and we made a little deal to help them with what ever it was that they wanted in return for them agreeing to help us.

Childs: I know what it was.

Cranwell: What was it?

Childs: They wanted a 13% cost of living adjustment.

Cranwell: I don't know what it could have been but it was something that was very important to them. I think that there was some give-and-take there. We worked with them. The Northern Virginia folks and the Southwest Virginia folks and Southside have had a pretty good working coalition.

Childs: Do you recall whether any of the legislators had any idea what was going to come out of the report prior to its release?

Cranwell: No. The people that were on JLARC would be the only ones.

Childs: Bob Rotz told me that JLARC ran over a hundred different variations of the formula prior to putting that report together. I just can't imagine the amount of work that went into that thing in crunching the numbers.

Cranwell: Well, every time you change the formula there are winners and losers. That's the reason that those of us in Southwest Virginia are always a bit reticent about any formula because usually the first thing they want to do is base it on population, and that's an immediate (bad deal) for this part of the state.

(Unrelated conversation about current proposed changes in the transportation formula)

Cranwell: Talk to Ford Quillen. He's a judge now. And Bill Lemmon.

End of interview.

**Transcript of Interview With
Dr. Bayes Wilson
Tuesday, October 29, 1996**

Dr. Wilson is the former Superintendent of Schools in Roanoke County. He was a key figure during the 1987-88 funding formula debate. The interview took place in the lobby of the Hotel Roanoke.

Childs: The main reason you're a key actor is because you were involved particularly after JLARC-2 was released and the General Assembly session opened there was some concern down here in this part of the state especially about the impact of the changes that were being proposed. No one seemed to know the impact of those changes. You were Superintendent in Roanoke County or City?

Wilson: Roanoke County.

Childs: Do you recall whether you were going to be a winner or loser under the new changes?

Wilson: We knew enough about it to be able to calculate that we were going to be the losers. Of course, we had Dr. Salmon working with us, and he did computations, too, along with some of the rest of us. All we could see was that we were going to lose on that, which we ended up doing. Obviously, it weighed toward Northern and Eastern Virginia.

Childs: One of the things when I had to add JLARC-1 to my research, I got in touch with Gary Henry via e-mail. He's down at Georgia Southern now. JLARC-1 came out in '86, actually it was released through the Senate in February of '86, and I've got to go back to the statutes and see, but I believe the L-estimator was incorporated in the '86-'88 biennium just in terms of using the current methodology that they had at the time. Do you recall any reaction in the '86-'88 period to the use of the L-estimator from JLARC-1? Did it make any impact that you could feel in Roanoke?

Wilson: Well, I think that's when some of us really started taking a look at it and opposing the thing. We could understand enough about it to know that it wasn't going to help us, and it was going to hurt us out here in the western part of the state. Not many people understood the formula and the L-estimator. We used, of course, Dr. Salmon as a

consultant out here. I say "we" as some of us superintendents out this way. With his help and Ralph Shotwell at the VEA, we had, I think, a better handle on it than anybody in the state as to what was going on. All we could see was bad news for our part of the state.

Childs: Do you recall when the Wytheville meeting...

Wilson: Oh, yes. Very vividly.

Childs: How did that come about?

Wilson: Well that came about because we couldn't get much action out of the State Department of Education. Jack Davis, the State Superintendent, and his staff, were very reluctant. In fact, I think they just took a hands-off approach. They didn't want to do anything, for political reasons, I suppose. We'd been down there and couldn't get anything done. We talked to some legislators. We just couldn't get much moving, so some of us superintendents out in this part of the state, our group around here in Area 6 and Area 7 out in the southwest part of the state, got together and sponsored that meeting, primarily to give visibility to what was going on. And I think it had some impact from that standpoint, giving some visibility, trying to impart to people what the impact would be for Southwest Virginia.

Childs: Now you all met, it was actually February 3rd, down in Wytheville, and the General Assembly had been in session a little bit less than a month, and the Appropriations bills were moving forward. In a month and ten days the session was going to be over, and the Appropriations Act was going to be legislated. Did you have any sense before hand that all the changes were going to be recommended? JLARC-2 was issued, I believe, on November 27 of '87, and apparently the Governor didn't let anybody know what his budget requests were going to be until he gave the State of the Commonwealth address. All of a sudden all of these proposals came out. Did you have any lead on what might have been coming out of Richmond, or was it all fairly hush-hush?

Wilson: Well, as I recall, it was pretty much hush-hush. Of course, we sort of suspected what was going on, but really didn't have anything to go on until he came out with it. I think that was intentional on his part to railroad it through. And I guess for the most part, it worked. That was the reason we called that Wytheville meeting, to get county and city managers and members of the city councils and boards of supervisors aware of it. We knew the state funding was going to be cut back, or the amount of new funds reduced

proportionally, and more of the load was going to fall on the localities. I think that was a good part of our reason for having that Wytheville meeting. It gave us some visibility not only as to what the state was doing, but how it was going to impact the localities.

Childs: The meeting itself, I'd heard that Gary Henry was there from the Governor's staff, Bill Lemmon was there. He at the time, I believe was President of the State Board of Education....

Wilson: No. He was past-President, but he had chaired a committee, as I recall, that had endorsed what JLARC had recommended. I don't think he was on the State Board at that time. I think he'd already gotten off.

Childs: Now he came out of the General Assembly, and retired, and was then named to the State Board. He had some experience with those people that were involved.

Wilson: That's right. I believe he got off the State Board as was a member of this commission that endorsed the recommendations.

Childs: He was there and he spoke?

Wilson: He was there. I'm trying to recall whether he spoke or not. The Superintendent of Wythe County, Bob McCoy, and I got into a very heated discussion with Bill Lemmon after the meeting was over for a period of time, probably about half an hour. And we surmised that he didn't fully comprehend all the recommendations, the changes, and the impacts. I think his intentions were good. He's from Smyth County, Marion, and was very supportive of public education. We didn't think that he understood what was going to happen with all the JLARC recommendations, how the burden was going to shift toward the localities.

Childs: In that meeting you had two planning districts or areas that were represented, and about a week later the Southwest Virginia group reversed their position, so to speak, and decided to endorse the Governor's plan. Do you recall why they did that? Was there a deal in the works that enticed them?

Wilson: I don't recall that it was any deal. I think it was more political in nature than anything else. They just thought that they'd better get on board politically.

Childs: Do you remember whether you got any support or heat at that meeting from General Assembly members like Dickie Cranwell, Ford Quillen, and others?

Wilson: Oh, they were supportive. Dickie Cranwell, being from Roanoke County here, and we'd just been down to visit with him. As I recall, I believe we had Dr. Salmon down there with us, a few days prior to that Wytheville meeting, and had gone over things with Dickie Cranwell. Ford Quillen was supportive of our efforts out here. From the standpoint of our local legislators, we had support here for what was going on. They were realistically pointing out, too, that they were probably going to be out-voted.

Childs: Do you recall whether anybody else from the Governor's Office besides Gary Henry or the Administration was there at that meeting?

Wilson: I don't recall anyone else. I think that was pretty much it.

Childs: It was interesting, I talked to somebody just the other day, Voigt, who I guess was Principal of the school at the time, his job was to watch Gary Henry at the meeting, to tend to whatever Gary's needs were. And apparently at some point during the meeting, Gary needed to get to a phone urgently, so he took him in the Office, and Gary made a call directly to the Governor, and he said over and over again to the Governor, "They just don't understand it; they don't understand." Dick Salmon reflected to me they understood it alright; that was what the problem was.

Wilson: That's right. Yes, we had Dick as our featured speaker at that meeting. And Clarence McClure, Superintendent of Botetourt County, who I believe was the Chairman of our District Six group at that time. I introduced Dick and made some remarks. Dick Kelley, who was Assistant Superintendent of Finance here in Roanoke City, made a very heated, passionate, presentation that was very critical of some of the state figures, the State Department. But that was an interesting and lively meeting.

Childs: Would you think the meeting got out of hand? Was there a lot of temper, or did they...

Wilson: Well, it was pretty well in hand. I think some people thought Dick Kelley may have come on a little strong, and Bill Lemmon was really livid at the end when Bob McCoy and I talked to him. Bob McCoy, retired Superintendent of Wythe County, might be a good person for you to talk to.

Childs: That's good to know. I've got to go down and interview Bill Lemmon. I've talked with his wife on the phone, and with him by letter. He's surf fishing in the Outer Banks right now, but he said in November for me to come on down.

Wilson: Bill Lemmon did a whole lot for public education in this state and I certainly respected his efforts. He just didn't fully understand the impact of what was coming.

Childs: Do you know what role Gary Henry played in either JLARC-1 or JLARC-2?

Wilson: Well, I think he was very influential in it.

Childs: In JLARC-1, and I've communicated enough with him to know this. He's got a whole series of questions to answer for me and e-mail me back, but he designed the L-estimator, or he applied it, when he was at JLARC during the JLARC-1 part of this study, but during JLARC-2 he'd moved over to the Governor's Office, so he'd left JLARC, to become involved in the Administration.

Wilson: I think he was the architect of it all issued it through down there.

Childs: Do you have any idea who greased the skids during the session in JLARC-2? I mean we go from a point in November that it's issued, early March it's law, and it was not a single substantive change in any of the proposals that was put forth by the Governor. The whole thing was legislated.

Wilson: I think the Governor and his staff, with Gary Henry there, I think they did their job well in putting it through. And I think they probably had done some work behind the scenes with members of the General Assembly, particularly from the eastern and northern part of the state. That's what Dickie Cranwell and some of our legislators were telling us, that they thought the political support was there for it.

Childs: Well, Hunter Andrews was Chairman of JLARC when JLARC-2 was done, and he apparently was fully behind it. I've got to go up and interview Al Smith in Winchester. The day that the motion was made to submit the report to the General Assembly, which was in December of '87, Hunter was not there, but Al made the motion to submit it. And it was passed over the objection of someone, maybe Ford Quillen, who wanted more time before they issued it through. But it was submitted anyway.

Wilson: Are you talking to Ford?

Childs: I'm going to have to go down to talk to him. It's going to be a two-day trip for me to go talk to him. A couple of people have told me that staff members of JLARC, the General Assembly, and the Governor's Office, had a retreat in 1987 prior to the report being issued. Did you ever hear anything about that?

Wilson: I don't recall that. But the way the thing went through, someone had gotten with the leaders down there, obviously. They had things pretty well lined up. Despite all that, I think our Wytheville meeting did some good from the standpoint, particularly in our part of the state, raising some questions about it in pointing out the implications of it for the western part of the state, and I think it was good back home that the governing bodies were made aware of what was going to happen there.

Childs: You had four hundred and some people at that meeting.

Wilson: Yes, we had a good turnout. A big group. The Wytheville Rebellion. Clarence McClure might be good; he's the retired Superintendent over here in Botetourt County. He will remember it quite clearly, I'm sure.

Childs: What groups opposed the changes? You had your group down here; there were some other groups that opposed it.

Wilson: I don't remember specifically, other than our groups out this way. Our two superintendents groups took in the whole western part of the state, from here all the way out. I don't recall other groups. I'm not sure about Southside Virginia.

Childs: The first reaction, the public media reaction, was obviously over the loss of funding. Do you think that these people really understood the changes that they were about to make in the entire philosophy of public school funding in Virginia as a result of making these modest changes in the formula?

Wilson: No, I don't think they did. And that was the big concern of us superintendents in working with Dick Salmon and Ralph Shotwell, who had better insights than most people had on that thing. That was the big concern we had, and I think our Wytheville meeting help put out some understandings on it. Still I think, Bill Lemmon is a case in point, as I

mentioned before, I just don't think he understood what was going to happen with all those changes.

Childs: I have surmised, just from looking at what's come out in the newspaper reports of that time, that there was a bit of a shell game going on because the Governor was infusing, I think \$500 million, or \$300 million, of extra money over the biennium above and beyond the funding formula change that in effect, it appeared to me, hid the impact of the changes. Do you think there was a consensus that the state was underfunding public education prior to '88?

Wilson: I think that's probably been believed all along, that they have never fully funded the Standards of Quality, and it certainly was back then. They'd come out with figures that showed they were, and again when you calculated the need based on the formula, they weren't funding their share. And for that first biennium I think you're exactly right. They pumped enough money in there that not enough impact was felt the first couple of years. It's on down the road that it really impacted the counties and cities in the Southwestern part of the state.

Childs: Someone told me that out of the Wytheville meeting grew the coalition that ultimately filed *Scott v. Commonwealth* in 1994.

Wilson: Yes.

Childs: Do you think that there was a consensus on the part of the superintendents that the state had a constitutional duty to fund at a higher level than it did? Was the decision in *Scott v. Commonwealth* a surprise to anyone?

Wilson: No. I doubt it was a surprise, but I think that all of us understood or felt that the state had an obligation to do more than they were doing. I think the coalition served a good cause and gained raised visibility. I don't think that we'd have gotten as much money in public education if we hadn't had the Wytheville meeting followed by the efforts of the coalition's legal proceedings. I think that stimulated a whole lot more action on the part of the General Assembly in funding public education.

Childs: Dickie Cranwell was able to get \$40 million put in late in the game. He submitted an amendment after the Wytheville meeting.

Wilson: That's right.

Childs: I was talking to Dr. Salmon about some of these issues, and he said that today, I think, the state is about \$500 million short of what you'd consider fully funding a fair education system, and part of the way you'd get that \$500 million was to first of all eliminate the .80 cap for the composite index and then you have to infuse some more money into the funding. Do you have any notion of where it goes from here?

Wilson: I don't know what the future holds. I think they're going to have to build into the formula a requirement for more local effort. Some counties make the necessary commitment. But some rural counties do not. I think it has to be a shared responsibility and effort that's going to have to be state mandated. It's going to have to be something to require the localities do more in addition to having the state do more. It needs to be a joint effort.

[Unrelated conversation about the zip code problem with the funding formula.]

Childs: JLARC-2 proposed seven funding plans. There was an absolute unwillingness to replace the composite index. I think that was because it had been so difficult to adopt it originally in 1972-73 that they weren't about to fight that battle over again.

Wilson: Yes.

Childs: That's about all I have to ask right now. Is there anything you want to add?

Wilson: I think we've pretty well covered the pertinent points.

End of interview.

**Transcript of Interview With
Ralph Shotwell
Tuesday, November 26, 1996**

Mr. Shotwell is the Director of Research for the Virginia Education Association. The interview took place in his office at the Virginia Education Association headquarters in Richmond, VA.

Childs: During JLARC-1 and 2 you were doing the same thing that you're doing now?

Shotwell: Yes, Director of Finance and Research for the VEA.

Childs: Dick Salmon had pushed me to look at JLARC-2 but he kept talking about the L-estimator, so I got a copy of JLARC-1. But I had not studied that until about two weeks ago when I went through it for the third time, and all of a sudden it hit me in the face, the problem that was coming out of '88 was not so much JLARC-2 as it was the underpinning from JLARC-1 with the L-estimator.

Shotwell: Exactly.

Childs: How much publicity was there with JLARC-1's coming out in late '85 or early '86?

Shotwell: I don't think there was a lot of publicity about it. The way that these JLARC reports are done is that they work on it as a staff, and then they deal with all of the important players in the process, put the report together, and then they release it. So there's a very short time line in terms of having an impact on any report that comes from JLARC. The process is, I think, fairly well controlled, so in terms of education interest groups, politicians, the Department of Education, the Board of Education, School Boards Association, the Superintendents Association, or the VEA, there was not a lot of time to have an impact on proposals that were in JLARC-1 such as the linear estimator, which was a part of the overall group of recommendations that they made which substantially changed the methods for determining the costs for funding the Standards of Quality.

Childs: Now, up until 1986 there was no statutory procedural method to estimate SOQ costs. It was simply that the DOE used methodology that was reported out of Task Force Two in 1973.

Shotwell: That's correct. And they provided estimates. Those estimates were based on the average costs in the Commonwealth.

Childs: The General Assembly looked at those estimates, but then legislated a per-pupil SOQ figure...

Shotwell: That's right.

Childs: So there was no connection necessarily between those estimates and what the General Assembly determined was going to be the SOQ figure. They kind of came up with their best judgement after seeing those estimates.

Shotwell: That's true. And almost inevitably the per-pupil cost that the General Assembly would come up with would be substantially lower than the calculated costs which were developed by the Department of Education to put into the Board of Education budget. There were a lot of reasons for that, and again we've got documentation on what we called the underfunding of the Standards of Quality. And all of the groups that were involved in this process were speaking with one voice. We had different ideas about costing methods and what the underestimation was, but everybody agreed that the Standards of Quality were underfunded because of what you said. The Department would develop this budget based upon averages for instructional costs and support costs in the state, following pretty much what the Task Force had outlined in its report when they implemented the education article in the revised state constitution in 1973.

Childs: What groups were working together in the education interest groups in addition to the VEA?

Shotwell: The Superintendents Association, School Boards Association, I think even the Secondary School Principals and the Elementary School Principals. All those groups had an interest in achieving full funding of the Standards of Quality. Even the PTA, the Virginia Association of Counties, the Virginia Municipal League, all those groups had a strong interest in getting the state to increase its share for the SOQ.

Childs: OK. Now the way I read what happened after JLARC-2 in terms of the estimation of the SOQ figures, is that JLARC-2 actually legislated by definition the linear estimator methodology as the method that would determine the SOQ figures. So after that happened, the General Assembly did not have to set a per-pupil figure because it was set by the estimates in statute. Is that correct?

Shotwell: I think that's generally true. And basically, from that point forward, once Governor Robb agreed, I think he said he agreed "in concept" with the JLARC methodology, and then it was really implemented, I guess, in totality during the Baliles administration, as I recall it. It was put into statute and whenever we talk now about the Board of Education budget request, funding K-12 education and the Standards of Quality, all the staff reports, the people on the money committees, talk about full funding the Standards of Quality according to the JLARC methodology. And of course the VEA's position is that we don't agree with the JLARC methodology.

Childs: The time line that you were trying to recollect there was Baliles was elected in November, 1985, JLARC-1 was release in late-November/December '85, Robb's (I guess) State of the Commonwealth speech was in early January '86, and then Baliles was inaugurated in mid-January '86. So Robb was almost completely out of the loop if he hadn't given that speech. It would have all fallen to Baliles to make the policy.

Shotwell: That is true.

Childs: When did the impact of the L-estimator become apparent to the VEA?

Shotwell: Immediately. Dick Salmon has served as finance consultant to the VEA for, I guess, over 20 years. We knew the study was being done, and when the report was released, we immediately prepared a paper pointing out the flaws in the methodology, specifically referencing the linear estimator. I remember there was a public hearing on the budget during that period of time. The VEA spoke at that hearing, and I believe Dick Salmon, as consultant to the VEA, delivered a technical position paper on our problems with the JLARC funding methodology. It was our position that the methodology was seriously flawed, primarily because of the use of the linear estimator.

Childs: Well, Dick had pointed out that in elementary statistics, you use a statistic manipulator when you've got a problem with outliers in a sample. But we're not dealing with a sample; we're dealing with an entire population. Therefore, any manipulation of means would be inappropriate.

Shotwell: He made exactly that point at this public hearing. It was a matter of recognizing in the beginning, from our perspective, the flaws in using the linear estimator, and we pointed these out. And we also knew the use of this methodology would have a major impact on bringing down the overall costs of the SOQ.

Childs: When was it apparent that they were using the L-estimator to calculate positions, the non-quantified positions in the SOQ?

Shotwell: The prevailing number of positions. I think that was a part of our analysis when the report was first released also. There are other things that have come along as the methodology has been refined. We call it using a band aid approach each time the General Assembly sees a problem in the funding. It's interesting that in many instances these refinements in methodology have resulted in the reduced state share of funding. I think we were aware of that from the outset, and of course part of the process as far as instructional positions is concerned is they were shifting from a per-pupil cost and basing the cost on averages in instructional personnel on a statewide basis down to the local school divisions as a unit of measure. When they calculated instructional positions, they actually went through each division school-by-school to come up with the number of instructional personnel. Those numbers were based upon, as I understand it, requirements in statute, requirements from the accreditation standards, any other statutory provisions, legislative requirements that dealt with positions. Those were used then to go into the division to calculate school-by-school how many personnel were actually needed. So they felt that they were doing a costing methodology which was based upon statute, and that that was the proper way to proceed. We felt that because they had never recognized in statute the required number of instructional positions to implement the Standards of Quality, that we were still missing the mark as far as the true cost of the Standards was concerned.

Childs: When they did that, they called it the least-cost analysis, I believe, school-by-school the state in the Standards allowed the use of instructional aides in kindergarten and special education positions...

Shotwell: There were some six funded Special Ed/Voc Ed positions that I believe they used in there in addition to the other instructional positions to come up with the state-funded positions which I think was around 58 per 1000...

Childs: Did you raise any protest or point out any problem with the fact that JLARC was using instructional aides in lieu of teachers to get the least cost, because they did that on some issues?

Shotwell: I don't know that we raised a specific concern on that particular point. There were so many shifts and changes in this whole process, and we did go through and analyze

the methodology almost point-by-point, and raised opposition where ever we thought the methodology was not sound.

Childs: The funding methodology is found nowhere in a stand-alone statute. It is found in the side bar definitions within the Appropriations Act. Do you recall whether any of JLARC-1 was actually legislated? We know JLARC-2 was legislated because it's everywhere through the Appropriations Act in 1988. What I'm trying to determine is was there any formal reference in the statutes to JLARC-1? Robb said he endorsed the methodology, but I don't see what else happened.

Shotwell: I don't recall specific legislation being enacted, but I believe that the way the JLARC methodology was put into place was to write it into the Appropriations bill itself so that the JLARC-1 methodology was referenced in the Budget bill when it was introduced, and then adopted into law. That's how I think the implementation of JLARC-1 was accomplished.

Childs: Jack Davis was the Superintendent of Public Instruction for both Robb and Baliles?

Shotwell: Yes.

Childs: Donald Finley came in with Baliles as Secretary of Education?

Shotwell: Correct.

Childs: Was there a time when Dr. Davis made a public statement that the SOQ were being underfunded?

Shotwell: I'm sure there was. You see, what had happened, in my opinion, is that all of the significant education groups in the state in terms of their lobbying clout had worked with the Department of Education, had worked with Jack Davis, had worked with the Board of Education, in documenting the underfunding of the Standards of Quality so that the Board of Education had moved to a position where they were finally developing their budget for K-12 education based upon need. When they did that, their last budget request before the JLARC-1 report, I believe called for an increase in funding for K-12 education probably in the \$700-800 million range. I think that that had an impact on the politicians generally, particularly on legislators who served on the money committees and

had to deal with this state budget. I think that was very much a part of the political process, and aroused their sensitivity in looking at a budget where the Board of Education was calling for an increase of \$700-800 million, and they felt they had to get this process under control.

Childs: The State Board of Education passed a resolution, and it's in the JLARC-1 report, opposing any changes in methodology until they established another blue ribbon commission to look at the funding system, but that apparently was ignored, I guess, because they went forward anyway.

Shotwell: I think it was ignored. I remember the Board of Education resolution, and I believe there was also a paper or response from the Board to the report that may be a part of JLARC-1.

Childs: I'm going down to Marion on Friday to interview Bill Lemmon. He was President of the State Board in '88.

Shotwell: Bill was on the First Task Force when they were drawing up the funding for the implementation for the new education articles. He was the person in the House of Delegates who fully understood the funding formula. He was very sensitive, I think, to changes, and the way those changes would have an impact on local school divisions because the way the formula was constructed, it was very, very sensitive to minor changes. You could make minor changes in the formula and have a major impact on the amount of state revenue local school divisions would receive. Bill was very, very conscious of the need to do something about the funding disparity problem in the state.

Childs: Do you recall coming out of JLARC-2 that they suggested three alternate methods of equalization. One of them was revenue capacity. I don't remember what the others were.

Shotwell: The revenue capacity measure I believe came from the Commission on Local Government, and that report is still prepared each year. They still look at the fiscal stress of the localities. I remember that was one alternative.

Childs: I was speaking with Ford Quillen, and he wrote me back that particularly the rural counties in the General Assembly did not want the Composite Index touched. They felt comfortable with the Composite Index. I think certainly the studies that have come out between '88 and today, and Dick has directed several of those out of Tech including

some doctoral dissertations that are very quantitative, have indicated that there are some problems with the Composite Index, not necessarily the concept, but the elements of it as it's being put together. You're not getting pure figures, you're getting polluted or diluted figures, in terms of leaching from one jurisdiction to another in trying to isolate this data. I was wondering if the VEA had a position on a particular equalization method.

Shotwell: No, we don't. we recognize that there are elements in calculating the components of the Composite Index that are flawed, for example, I know someone's working on a dissertation right now dealing with the Zip Codes. Also, now you use adjusted gross income in the Composite Index as a proxy for the determination of other revenues that are collected by the localities. In some instances that understates revenue for a given locality; in others it may overstate it. That is a problem. But in the VEA's approach, we prepared a comprehensive report over two years ago where we documented what we believe were the major flaws in the funding system for K-12 education. Those documented flaws come back and pick up problems that we see with the JLARC funding methodology. But because of the fine tuning that can be done, even from just dealing with minor elements in this Composite Index, you can shift the state share of funding in a major way among jurisdictions in the state. When we looked at all of this, we decided that the Robin Hood approach was not the most appropriate way to deal with the funding problems in the state of Virginia. For example, you can deal with the sales tax revenue within the funding formula itself, and you can shift millions of dollars from the higher capacity districts to the lower capacity districts. But when you get to a final resolution of dealing with the funding problems in the state, the higher capacity districts are the districts that eventually are going to have to provide the additional revenue to help solve the funding disparity problems in the state. So we think the solution is to increase the size of the financial pie and to deal with the funding problems that way and to not deal with the same size financial pie and deal with changes, even though it may be legitimate. It would simply shift dollars from one school district to another without dealing with the larger problem of increasing the state share of funding for K-12 education for the Commonwealth of Virginia. So when we did our report, we did not address the distribution system.

Childs: If you have an extra copy of that, I'd like to have one.

Shotwell: Yes. I've got a whole set of material that we have prepared. We have sent that out to all the school divisions, and we're working to get localities to endorse the VEA funding proposal. At this juncture, we have 18 localities that have endorsed the VEA proposal.

Childs: The problem that I see with entire SOQ concept right now is that, according to *Scott v. Commonwealth*, the state of Virginia is not obliged to provide a high quality education. It is required to provide a free public education at a minimal foundation level. Since it's not a fundamental right, whatever the state says is adequate, is adequate. As a result, the state can still sit back, regardless of whether they employ JLARC-2, the L-estimator, or anything else, and say we're still funding 55% of that foundation program. But you look at the disparity of the raw ratios of the lowest to the highest in the state, and you're still looking at about a 2.3 to 1 expenditure difference from the highest to the lowest. And that goes to the core of the entire disparity issue. One of the perspectives that I have had given to me in a telephone conversation about JLARC and what it is, what it does, and how it does it, is that they are a very highly professional group of staff people over there. They have a lot of things that they are called on to do, and they do them in a very thoughtful and studious manner. The other thing is that JLARC is a legislative arm only, not for use by the Governor or anybody else. This was an interesting perspective, and I'll have you react to it: someone said to me that the value of JLARC is that it can handle hot-button political issues, put out these studies, and in effect take the heat off the political process by doing that. You couldn't have gotten a study out of the General Assembly on equity in funding without creating a massive amount of political ill feeling in the General Assembly or between the branches of government, so that what JLARC does is to perform the duty of being an effective lightning rod. And yet it is so well respected by the legislature that the legislature can latch on to those studies and basically go forward with them, and it defuses the political explosiveness of these issues. How do you react to that?

Shotwell: You've covered a lot of points there. In general I agree with that observation. The JLARC staff is a group of, and I've seen many of the reports they've done over the years, and they approach their work in a very objective and professional way. I think it is true that they can take issues which are, the way you characterized it, hot political button issues, and by doing an objective report, defuse the political pressure that's out there. My observation as far as the staff work on JLARC-1 and JLARC-2 is again they did a very professional job. My concern would be, and I listened to presentations by various members of the JLARC staff who worked on different pieces of both JLARC-1 and 2, and my impression is that there were technicians with very good skills working on individual pieces of this, but there no people knowledgeable about the entire system of funding public K-12 education similar to the Task Force that developed the funding system under the new education article in the state constitution. You had a Forbis Jordan, who was recognized and held in high regard as a national expert on school finance. You had the gentleman from what's now the Center for Public Service at the University of Virginia,

John Knapp, in addition to the politicians who served on this Task Force. So you had a level of expertise there as far as looking at the entire workings of the funding formula. I think that was lacking for both JLARC studies.

Childs: Gerald Bracey was on one of them. He was with the DOE for a while. That was a point that somebody had mentioned to me, that Gary Henry was a good statistician and number cruncher. In fact, when I did some e-mail with Gary a couple of months ago, he pointed out to me that he had done graduate work on robust statistics and estimators of means and what-have-you, which is from which the L-estimator came. But I had heard stated that there were really no experts in education finance providing information to JLARC or to the JLARC staff, which probably explains why the State Board of Education wanted to delay the entire thing until they had a chance to look at it.

Shotwell: I think that's a very important point, and that would be my objective criticism of the two reports that came out. They did need the expertise, the insight, of an expert on school finance, an expert on funding formulas to look at what they had done because I think different staff people, experts like Gary Henry and his work on statistics, needed somebody to pull all of that together and to take a comprehensive look at it. I think that's where we had a major flaw as far as the methodology was concerned.

Childs: Do you know of any coordination between the Governor's Office and the JLARC staff during JLARC-1 or 2? On one hand, I have somebody who tells me that JLARC did what it did for the legislature and really didn't disclose it's information outside of that. Yet, on the other hand I have a report that was issued in November '87 which was fully incorporated into the Governor's budgetary recommendations less than a month later. If there's no interaction going on betwixt the two, how did it happen? That's a question out there that I haven't been able to get a clear answer on.

Shotwell: I don't know that I can provide a direct answer. I would say that obviously considering the time frame that you just mentioned, that there had to be communication. I don't know to what extent there was any high level of coordination. The budget in the way that it's put together in the political process over the years has always been one where key leaders of the General Assembly, be they Democrat or Republican, have worked with whatever Governor was in office, be he Democrat or Republican, to look at the budget needs of the Commonwealth overall and to make an effort to bring those needs within the constraints of the available revenues for each biennium. In many instances, it's my understanding, that this communication is accomplished, as far as the leaders of the money committees are concerned, and this may well have been the case as the JLARC studies

were developed, that there were retreats where key leaders of the money committees, and maybe sometimes a majority of the members of the money committees, met to discuss the funding needs of the Commonwealth. Staff people would be brought in to discuss with these policy makers what should be done and what could be done in terms of the available revenue. It's my impression, and I mentioned earlier in talking about the Board of Education coming up with what I thought was a very brave move on their parts that they actually put forward a K-12 education budget for the Commonwealth which was based upon need. In the political process it tends to work the other way around. You look at how much money you have and the revenues that are going to be available based upon your taxes and how the economy is moving, and then you divide those revenues up based upon the priorities rather than looking at the need and saying we don't have enough revenues to address those needs, therefore we've got to look at the tax situation.

Childs: The same person who suggested to me that JLARC acted as a legislature-only body also indicated that one of the facts of life that you dealt with was that JLARC consisted of all the top leadership, and simply because of who they were, if they endorsed the study coming out of JLARC, it was going to have a leg up getting through the Assembly because of who they were. And the other thing that he pointed out was the financial thing. Since the money leaders are on JLARC, both in the House and the Senate, any time that they're dealing with money issues, it would make sense that would be an inevitable by-product.

Shotwell: I think that's true. Any report coming out of JLARC, simply because of the legislative leadership, the makeup, the composition of the Commission itself, is immediately going to have a lot of momentum behind it.

Childs: In another area completely, you read a lot about national salaries and state average salaries, and one of the things Baliles said when he was running for Governor was that he wanted to get Virginia's teachers salaries at or above the national average. We've already seen with the L-estimator that you can have all kinds of averages. How do they calculate the average salaries? How does the VEA calculate the average teacher salary in Virginia?

Shotwell: We don't do the actual calculation. We use the data from the Department of Education, and of course they get aggregate data in the annual financial reports from the local school divisions. Your average salary is determined by the total dollars spent on salaries for elementary and secondary teachers divided by the number of FTE positions. Now one interesting thing that did happen in this whole process when we were looking at

full funding of the Standards of Quality, was that the salary component was a key component of it because the instructional personnel makes up the biggest part of the costs. That's your instructional component and then you cost out your support component. One of the things that was done in looking at the average salary and the goal of moving to the national average salary was the way that they chose the salary goal for the Commonwealth. They took the average salary of the median state. Now I'm not aware of any statistical animal that's called the "median average." But that was used. Of course that meant that the salary gap for teachers was much smaller than it actually was. Once that problem was overcome, and they did move to the pursuit of reaching what was the true national average salary, considerable progress was made in the decade of the '80's in improving teacher salaries. That was true both during the Robb and Baliles administrations. By the end of the '80's, we had come to within about \$450 of achieving that goal. Then during the Wilder administration, we hit the recession. The state of Virginia ended up with one of the worst budget problems in the nation: they had a biennial gap of over \$2 billion that they had to deal with. From that point forward, we have continued to lose ground, so that Virginia teachers are now about \$3300 below the national average.

Childs: Any additional suggestions for other key actors?

Shotwell: Ask Bob Rotz if there are other people in JLARC who you need to talk to. Also, Kathy Kitchen at DOE. You might want to talk to Andy Miller to see if how JLARC referenced his opinions was what he meant about prevailing costs.

End of interview.

**Transcript of Interview With
Willard (Bill) L. Lemmon
Friday, November 29, 1996**

Prior to beginning the recorded portion of the interview, Mr. Lemmon provided an overview of background to his involvement in the evolution of educational funding in Virginia after 1970. He pointed out that the first Standards of Quality that came from the Department of Education were so weak, containing modifiers like "should," that he as a novice Delegate put in one bill to mandate just one standard. That action, at the encouragement of the Chairman of the House Education Committee, led to Mr. Lemmon's being appointed as a delegate to the Education Commission of the States and being sent by Governor Holton to a national meeting around 1973 on state responses to the Serrano decision. He was thereafter appointed by Senator Willey to head a special group to prepare Virginia's response to a Serrano-type case. In subsequent years, he was put on the House Appropriations Committee, and it became his job to look at school funding issues for the Committee. The interview took place in Del. Lemmon's office in Marion, VA.

Mr. Lemmon pointed out that poorer rural localities were upset with the Composite Index at first because it required a certain level of local effort. However, they became quite comfortable with the index over the years, and it worked well until two factors emerged to diminish the equalizing effect under the index: (1) too many funds were slipped into categorical areas over the years, and (2) rich localities got richer, pulling away from the poorer ones, so that inequity became greater.

Mr. Lemmon said that JLARC tried to address the equity issue because Sec. of Education Don Finley wanted it addressed. After JLARC-2 was published, poorer schools were again upset at first.

The taped interview then began. Note that underlined items in the transcript were included for emphasis by Mr. Lemmon during editing.

Childs: I've talked to Dickie Cranwell, Ford Quillen, Dick Salmon, Bayes Wilson, and Ralph Shotwell. Every one of them has this universal opinion about you that no one has done more for public education in Virginia than you.

Lemmon: I should interrupt you there and point out by way of our earlier background

comments that I just ended up in some very lucky spots by way of some very unusual circumstances. It wasn't me; it just happened that way.

Childs: You talked a bit about Andy Miller being involved in *Scott v. Commonwealth* in '94, and he wrote an Attorney General's opinion in 1973 that had something to say about what he thought the Constitutional Commission meant by the Standards of Quality. What do you think his assessment was? Obviously the Court in later years didn't agree with it.

Lemmon: I had just gone on the Appropriations Committee, and we were working on the new funding formula to meet the *Serrano*-type problems, and I remember Andrew's letter very well indeed. It was his opinion as Attorney General in answer to a question by the Chair of the Appropriations Committee that it was required of the General Assembly that the Standards of Quality be set, it was required of the General Assembly that they be funded on a realistic basis, not just some guess, and it was his finding that no school division should fail to meet the Standards of Quality because of inadequacy of their own funding ability. Now this is '96, that was '73, but it was years ago and I don't have the letter in front of me. But if I remember, those were the three findings that he had. And it was why, back when I thought we needed to sue, when Richmond was suing trying to get a bigger slice of the pie even though their Composite Index was high, and I thought the poor divisions might have to come into that suit, I felt and recommended to the school divisions out here that Andrew be employed because I knew he had that background and his findings. It turned out that he used very little of that letter on that finding in his case, in his pleadings.

Childs: The *Scott v. Commonwealth* decision is interesting because what the Supreme Court did was to dismiss the case, but they decided the case by dismissing it. They went forward and said that the Constitution of Virginia only mandates a minimal foundational program, and that the statement about a high quality of education was advisory in another section of the Constitution.

Lemmon: I disagreed with the Supreme Court, I might say. But I'm not a lawyer. I felt that the Constitution said that the General Assembly shall provide for a system of free public education throughout the Commonwealth, and in arguments on the floor of the House, I found a definition of system in the dictionary as "a grouping of substances that is in, or tends toward, equilibrium." I used to try to read the Constitution on the floor in floor debates as saying, "The General Assembly shall provide for" a grouping of school divisions that are in, or tend toward equilibrium throughout the Commonwealth. Andrew

didn't use that argument in his debate. I don't know. That was my non-lawyer interpretation.

Childs: When JLARC-1 was put out, this statistical creature called the linear estimator was introduced. Do you remember the linear estimator and its impact?

Lemmon: I really don't very much. I think I remember JLARC-2 much better than JLARC-1. You would probably have to remind me about JLARC-1.

Childs: JLARC-1 just asked, "Are the Standards of Quality being funded adequately under the present Code?" It didn't get into equalization at all. What JLARC-1 did was impose a means of calculating average salaries in Virginia which reduced the significance of those districts at the top and those at the bottom and increased the significance of those in the middle, such that the average salary that was then used to calculate the SOQ budget expenses to be appropriated by the General Assembly was about, I think, \$2,000 to \$3,000 less per person than under the method used by the Department of Education from Task Force 2 recommendations in 1973. Those recommendations were that a true average would be used. Dr. Gary Henry, as a JLARC staff member, introduced the linear estimator in JLARC-1, and it was written into statute in JLARC-2, by definitions in the Appropriations Act. I think that the flareup that came out of JLARC-2 was the linear estimator that was embedded in JLARC-1.

Lemmon: I can see how the linear estimator as defined by you to me would have a great deal to do with whether the Standards of Quality were funded adequately. And that would have a great deal to do with if you raised the level of the whole sea, all boats are going to rise. On the other hand, the part of JLARC-2 that I thought you would be discussing, and which had more to do with the question of equity between the divisions, than raising the entire level was this business of putting more things into the formula and taking them out of categorical. That had to do with equity between the school divisions. Now, I guess what I'm saying is that I probably wasn't totally happy with Gary Henry's linear estimator — in fact, I remember now that you've raised it, I wasn't — but I couldn't argue terribly about that — well, I guess I could in that if we had the money to use the average salary, we could have raised the level and all boats would rise — but I guess I was more concerned in trying to work with the formula in trying to get the equity issue to solve some problems.

Childs: I think prior to 1988 a little less than half the money going to the divisions was not equalized...

Lemmon: That's exactly right. The original idea was 50/50, and JLARC-2, Don Finley, and Jerry Baliles were attempting, if I remember right, to get that to at least 60% equalized and 40% categorical, which would definitely help the poor school divisions, although they had a tough time ever accepting it.

Childs: What has been expressed to me by the critics of the JLARC methodology has to do with the weakness in the L-estimator, and that equalizing more categorical funds through that formula was actually hurting. It wasn't an argument that more money needed to be equalized. The argument was that the method that was determining the prevailing costs, the L-estimator, was the weak component, the poison pill, and I think that's where the furor erupted. Do you remember the Wytheville meeting?

Lemmon: I remember. Dick Kelley from Roanoke City and I were supposed to debate on television, and he didn't show up. I went all the way up and spent the night, and he wasn't there.

Childs: I understand that he made some rather strident statements in that meeting. Bayes Wilson told me about that meeting. That meeting happened, with a lot of opposition to JLARC-2, yet a week later the Southwest Virginia contingent met again and voted to endorse the new plan. Do you recall any of the politics behind that?

Lemmon: Yes, I do, but this is going to be from a dim memory. But you have to go back to this and maybe Kelley and some of the others could fault me here. I maybe felt a little more practical. I felt that there was a finite sum of money. There was no way, at that point, given the people in the General Assembly, and everyone else, that we were going to raise the kind of money that the average salary might have recommended. I didn't think there was any possibility because when you look at it, it was a tremendous, tremendous sum of money. So I was looking at the fact that there was a finite sum of money that's going to be available, and both Robb and Baliles had put considerably more money into the budget than had been in there before, and that we weren't going to get enough money to fund the average salary, that therefore the best thing we could do was to take every penny we could get. That speaks to the adequacy of the funding for everybody. There are two different subjects here: the Roanoke people were interested in the adequacy; they wanted more money period. I don't know where they're going to get it; they wanted more, period, to be put in there. I felt that the amount of money the General Assembly was going to put into education, which had increased tremendously at that time, was what we had: therefore, let's speak to the equity of trying to get the poorest school divisions in to the point that they had a fairly decent chance, compared to the wealthy school divisions.

I remember this fellow Kelley made some statements that were just absolutely incorrect. And he wanted everyone to go in from the two planning districts, the two areas, and I don't know whether he wanted them to sue or not — I can't remember — He really was hot, and I got hot and got up and challenged him and what he was saying. As a result of that, afterwards, our people out here got together, and I said, "Look here, we are coming out, given the fact that there's a finite sum of money, a whole lot better than we were." It's the people like Roanoke, with a higher Composite Index and yet a poor area in a lot of ways, and the area of Northern Virginia, and an area like Salem to a certain extent, and Roanoke County, that aren't getting what they want because of the adequacy argument. But given the fact that there's a finite sum of money, we're in a whole lot better shape than we were. True enough, you're going to have to pay some extra for it, because you're taking over things you didn't take over before, out of JLARC-2 things like retirement for teachers, and all these things, you're taking them over. But, any time you move something from categorical to equity, you are helping the poorer school divisions. Not necessarily the school boards and boards of supervisors, but the voters and the taxpayers who pay to the state of Virginia. For instance, a lot of people used to say that we ought to let the state of Virginia take over the entire teacher's salaries. Some said that would really solve the problems of the poor. And school boards and boards of supervisors down here would say that. It would take away their problems, because they wouldn't have to go to the Board of Supervisors requesting their share, even though Smyth's is only 30%. But any time you're paying all teachers, you're paying the Northern Virginia area, you're paying 80% of their teacher costs. Down here you're only paying 30%. A person here with a given income is sending just as much in taxes as a person with a similar income in Northern Virginia. So while it may help a School Board a little, it is hurting badly the people who would have to take over the increased tax burden and send it to Richmond. Am I explaining it clearly?

Childs: It's almost like a reverse Robin Hood. You're taking more per capita from the poor areas and sending it to the wealthy areas.

Lemmon: Absolutely. But it's the toughest thing to explain to people. The people up in Roanoke were talking adequacy. Well, we got our area turned around pretty quick. When we met, they began to realize what the story was. Obviously, we've never had adequate funding. The people of Virginia have not been willing to tax themselves enough to provide adequate funding. What we had, the finite sum that was there, those of us in the poor divisions, and incidentally the second Commission on Disparity did a better job really than our first group did. We considered other things than just what the first group did. We began to realize that while a city like Richmond or Petersburg might have a fairly

high Composite Index, their poverty level is such that you can't just consider the Composite Index or you should add a poverty figure to the Composite Index. That's why I think if this group out here hadn't sued, we would have ended up winning in the General Assembly because not only would have it been the rural poor, it would have been the Petersburg's, the Hampton's, the Roanoke's, the Norfolk's, all of them for the first time combined in a common effort. And I think we'd have won that.

Childs: You'd have formed a new coalition. The situation with Baliles and the recommendations he made to the General Assembly in 1988, basically all of JLARC-2, the linear estimator from JLARC-1 was included in that, virtually all of his Commission of Excellence in Education proposals...

Lemmon: The one that I chaired.

Childs: ...be legislated. Do you recall whether there was any coordination in talking about the projected pie between the Administration and the General Assembly? Did everybody have a sense of, "We've only got this amount of money," or was Baliles working on one track, JLARC on another, and the Appropriations Committee on another, so that it just came together?

Lemmon: I think we had several groups. Ralph Shotwell and the Virginia Education Association and to some extent, Dick Salmon, were obviously interested in the level of funding, the lifting of the entire level of the sea. Dick had to be that way. He couldn't come out and recommend something that would hurt Northern Virginia. Although we in our Disparity Commission recommended that there would be a save harmless time. Anyway, his whole idea with the teachers would obviously be to raise the entire level, to raise the wealthy as well as the poor. And if we could ever do that, it would be wonderful. But I had the figures at one time, and if I'm not mistaken, it would have taken — I hate to even mention a figure now because I don't remember— \$2 billion to increase the funding to meet the full funding?

Childs: Ralph Shotwell told me Tuesday that they were talking about \$700-\$800 million, and that may have been annually; I don't know...

Lemmon: Somewhere in the back of my mind I remember it would have taken \$2 billion, a tremendous increase, and the whole atmosphere in Virginia at that time was that we weren't going to do that. And that's probably why maybe Salmon got reprimanded a little bit. Lord knows, I would have been for it, but I guess I was maybe too practical, and

being on the Appropriations Committee — and serving as Chairman of the K-12 Subcommittee of the Appropriations Committee — and having seen that every single biennium we had increased education out of proportion to every other thing. Education kept saying that they used to get 50% of the pie, and now they got 30%. What they forget is — and they're right on the face — there was no Medicare or Medicaid. And it was Medicare and Medicaid, coming in as new programs, that reduced their percentage. The fact of the matter is that education got more of a percentage increase every biennium from Robb than any other group. So I guess I was practical to the point of recognizing that we were never going to pass Dick's program, which would have been great if we could have. I just didn't see any possibility. So I was after trying to get the equity.

Childs: Someone pointed out to me that had the equity suit succeeded, what would have likely been the result would have been that Northern Virginia and the rich areas would have simply changed the state Code, reduced the state level of participation, thereby reduced the taxes, so everybody would have had less.

Lemmon: That's what I was arguing to the people in Blacksburg about the suit. I mean that they had the votes to do that exact thing. There is nothing in the Constitution that said that Virginia had to pick up 50% of the total cost. They could pick up 25%, or 75%. This is the thing I was scared to death of.

Childs: The philosophic issue is whether you're going to share the wealth or share the poverty. I recall reading an editorial from one of the Northern Virginia weeklies, Pittsylvania County after JLARC-2 had been passed, was apparently a winner in JLARC-2, and what they did was cut their local taxes by the amount of increase they got from the state. All hell broke loose in Northern Virginia because they said, "See this is all they want to do. They want to take our money down there to reduce the local tax burden on the people down there." They had some rather unkind things to say about this.

Lemmon: That happened down here, too. One of our localities did that. The Disparity Commission recommendation was that that would not be allowed to happen. They could not do it.

Childs: There's another broad area of my dissertation that I'm looking at. It has to do with policymaking in general, and the way that JLARC works in particular. One of the things that Ford Quillen mentioned to me on the phone was that he was not sure what the members of the General Assembly felt about how JLARC has evolved in terms of how it's

almost become an independent legislature. I'm not talking about the Commission; I'm talking about JLARC staff.

Lemmon: The only argument I ever had with Jerry Baliles was when he was on the Appropriations Committee over that very thing you just said. The guy who really came up with the idea of JLARC was Roy Smith from Petersburg. He liked Herb Bateman, even though they were different parties, and Herb had future aspirations. If I remember correctly, he gave his thoughts about JLARC to Herb, and Herb was the one who actually got it passed. JLARC was conceived as — and I talked to Smith and others about this, because I felt very strongly about just what you had to say — as an audit commission. The idea was to let them determine whether the agencies and everyone else were carrying out the intent of the General Assembly. It never, never was conceived as a study commission. We used to have a study group that divided up; I forget what we called it. JLARC was never, ever, conceived as that. Jerry had a bill one time that he put in that would have asked JLARC to study something and come forward with recommendations, and I hit the ceiling. I got so mad I just trembled. This was in the Appropriations Committee, and I said what I thought, which was basically that the minute they started proposing legislation, how could they possibly audit from then on. Jerry backed off and changed the wording of his bill. They'd study to determine whether the intent was done and not make recommendations. I don't think there's any question at all, and the JLARC people know I felt this way — Who was the fellow that headed it before Phil Leone? He was the one who took JLARC into this stage, and the legislature let him get away with it. And, gosh, Roy Smith was discouraged with it. I was disgusted with it. I thought it served a marvelous purpose as an audit commission, and thought it served a terrible function and never should have been allowed to make legislative policy recommendations.

Childs: That's exactly what happened in JLARC-1. They said they were not going to discuss what was an adequate level of funding; that was up to the General Assembly. And they put off equity until JLARC-2. But the minute they put in the L-estimator, they created a judgement. The issue of JLARC's mission is one of the things Ford Quillen mentioned to me. He said that it had gotten past its original intent. It's almost a quasi-legislative body.

Lemmon: The old method was for the old standing group to divide up into subcommittees. On major issues, there were the special study commissions, the blue ribbon commissions. And JLARC just did away with that first group. JLARC just took over.

Childs: The other thing in terms of policy that was an issue, particularly around JLARC-1 and 2 according to Ralph Shotwell and Dick Salmon, is that the way JLARC operates, it is a closed body. It operates, I'll use the term, in secrecy. It studies things and then recommends its findings to the Commission, which then, without comment, if it decides the report is good, just sends it to the General Assembly. But because it operates in secrecy, or in a closed loop, JLARC-1 and 2 did not have access to the Forbis Jordan's, and Dick Salmon's, and Kern Alexander's, and David Alexander's, who were experts in funding formulae and the whole picture of educational finance, because to have let them in to that process might have tipped their hand as to what they were proposing to begin with.

Lemmon: Who is Kern Alexander?

Childs: It's David Alexander's brother.

Lemmon: Is he from Kentucky? If so, he's the guy that fouled things up if he's the one from Kentucky who came to Tech as a distinguished professor and then went back to Kentucky. He's the one who swore we couldn't lose the suit. Excuse me about the interruption. You're exactly right; JLARC did not look outside.

Childs: Jack Davis and Don Finley. Do you recall any of the politics between them?

Lemmon: Don Finley was well versed in both higher and K-12 education. It took Don a while, but he became a supporter of equity. He also realized that there was, on the practical side like me, a certain amount of money that the General Assembly was going to give us. The best way was to decide how we were going to spend that. Try to get as much as we can, fight for it, but once it's been decided, then go from there. I think that because of Casteen's higher education background, that Jack did have a lot more authority during his first term. That's also partly because of Baliles. Baliles was such a hands-on guy. He looked into his appointments carefully, and he took a long time to reappoint Jack. I do think Jack Davis did a lot of good things while he was there. He had fought me on the funding formula when he was Superintendent of Fairfax. But he was representing his constituency. He came around very much to the question of equity, and really helped in a lot of ways once the amount was established as to how much we had, into a more equitable distribution. I don't think that answers what you asked. I think it's true that Jack probably had more influence under Robb than Baliles.

Childs: In hindsight, how do you think JLARC-2 has played out?

Lemmon: On the level of equity? I think it had to help the equity. It did not solve the problem. Any time you take a categorical item and move it into the formula, you are creating greater equity because the formula is the only place there is any equity. Incidentally, we got one or two categorical items that were then put through the formula, so for the first time a couple of categorical grants got done that way. Any time you make a categorical grant where every school division gets exactly equal treatment, then you're anti-equity. And any time you put something under the formula that, at least, moves in the direction of equity, then you're helping the poorer school divisions. It was a long time getting these people down here to understand that. It did mean they had to come up with more money themselves. But they did come to understand that.

Childs: As Ford Quillen said to me, that the one thing the rural areas did not want to mess with was the Composite Index, because they had become very comfortable with it, even with the inherent problems in the formula.

Lemmon: When it comes to the level of funding, I think it helped some. I think you had two Governors who were going to put as much more money into education as they could possibly drive into it.

Childs: Do you know of any other key actors beyond my original list?

Lemmon: Kathy Kitchen at the Department of Education. Kathy Clark at DOE; she was chief of staff for the Disparity Commission. She was very helpful to me in getting me to see that we had to change the Composite Index to include poverty. I mean just because a place like Richmond had a lot of good property to tax, they also had the down side of poverty. Probably some of the key actors, like Ed Willey, are dead. In terms of background before JLARC was the fellow who I believe is now the President of Elon College.

Childs: I think that pretty much covers it. I thank you for giving me this opportunity to talk with you.

End of interview.

**Transcript of Interview With
Dr. S. John (Jack) Davis
and
Mr. Myron E. (Mike) Cale
Tuesday, December 17, 1996**

Note: the following record was transcribed from the interview. However, audio quality of the tape varied greatly due to the location of the taping at Ruby Tuesday's Restaurant in the Cloverleaf Mall Shopping Center in Chesterfield County. Therefore, these remarks represent the discernable content of the tape of the conversation, supplemented by notes taken by Louis Millhouse, who served as a scribe for the interview.

Childs: The L-estimator came out in JLARC-1 in late '85. What was your reaction to it?

Davis: Very negative. My reason was that it eliminated the outliers. When you eliminated those, you eliminated Fairfax with 10,000 teachers. You were eliminating on the top side, thousands of teachers, and on the bottom side, a couple of hundred. That just didn't seem fair.

Childs: When the JLARC-1 report was printed, your response was included. Who wrote that?

Davis: We had a team that wrote that. Mr. Cale and others spent a weekend writing it.

Cale: We spent a Christmas holiday writing it.

Childs: One of the things that you pointed out in there was when you eliminated the top end, you eliminated 40-some percent of...

Cale: 45-48%, both in dollars and in staffing.

Childs: What was your reaction to the manner in which JLARC reacted to your response by including editorial notes within the content of your response?

Davis: Their purpose was to reduce the state share of the SOQ, and they did it.

Cale: The editorial notes were self-serving.

Davis: Just to give you an idea, I read a report recently on the testing in the state by the Superintendent in Southhampton. The concern was that to find the state average, they were using Fairfax County, which has 12% of the students in the state, and so on, thereby bringing the test scores up. Some of the less affluent school divisions weren't testing very well compared to that statewide average. I jokingly said that we should apply the L-estimator to the testing program. If it's fair for the financial aspects, it's fair for the testing.

Childs: Was the L-estimator legislated out of JLARC-1? I know it was in 2.

Davis: I think JLARC-1 was just a study mandated by the General Assembly.

Childs: Did you in DOE use the L-estimator after JLARC-1?

Cale: No, not in '86-'88. We didn't use it until they came out with JLARC-2 with funding for the Standards of Quality costs. It's my recollection that those numbers were already cranked into Governor Baliles' budget submissions in the fall of '87 for the '88-'90 biennium.

Childs: The reason I asked that was because there is no statutory reference to the L-estimator before '88.

Davis and Cale: That's exactly right. That's when they legislated it. Gary Henry and Don Finley. Legislators on JLARC at the time included Ed Wiley, Hunter Andrews, and Ford Quillen.

Childs: I have been wondering about how Governor Baliles was able to incorporate the JLARC-2 legislative study so quickly into his budget recommendations since the report was released in November, '87, and his budget was introduced in January, '88. Were these estimates ever coordinated between JLARC and the Administration?

Cale: You're looking at two people who were instrumental in getting all that put together in the Fall of '87 even before the report was released: Don Finley, Secretary of Education, and Gary Henry, who in JLARC-1 was on the JLARC staff as a statistician and the Fall of '87 he was already Deputy State Secretary of Education. He, under Don's direction, put that whole thing together. The objective was achieved.

Childs: Do you think JLARC had been given budgetary parameters by the General Assembly? This is the size pie we've got to work with; make it work.

Cale: You're close. That's my view. I don't know Jack's view.

Davis: I think that's the direction.

Cale: They were told, I am convinced, in private as a part of the charge that they were going to have to find a way to reduce the cost to the state of the state share of the Standards of Quality. It's bankrupting us. We can no longer continue the increases, at the rate of 10-15% annually, if the ADM continues to surge. The major push, beginning with Governor Robb, to get the teachers to the national average, brought us from 48 down to 26. If they had stayed with the previous method of calculating costs, we would have been above the national average. But then they came out with JLARC-2 and bumped the base rate back. Then they gave the 10% increase based on that lower figure. Then the statement was released that, under our current standards (the new L-estimator methodology), we're meeting the 10% increases in the legislation.

Childs: How did the role of State Superintendent change between Robb and Baliles?

Davis: With Don Finley? Don was very involved in both higher education and K-12. Don and I worked well together. He respected my advice, and he respected my stands on issues. Even though he was involved, he wasn't an expert on elementary-secondary education. I think the other factor that entered was the strength that I had statewide and the credibility because I spent a lot of time in the state involved, for example, when we put the first Standards of Learning together, we involved some 4,000 teachers. For the first time ever, we invited teachers, administrators, and university people to summer programs where they lived on campus, and we paid \$50 a day for a week or two weeks, whatever it took, to work on the Standards. I think that was recognized as a part of the support that was there, not only in the state but in the General Assembly. It was a credibility thing. This is another thing that Mike had done was with credibility. When he was asked a question, Mike has always been the kind of person who gives you an answer. You've got to be careful when you ask him what time it is because he'll tell you how the watch works, too. Don respected that, and he understood that.

Childs: Did you ever candidly state as State Superintendent that the General Assembly was underfunding the Standards of Quality?

Davis: Yes. From the time I got there (in 1980). There were a number of mandates that were coming out that we weren't funding.

Brief discussion about the national tone in the 1980's.

Davis: I feel quite strongly that disparity is a major concern, and it should be, in Virginia. I think it's just unfair when I walk into a school in this state and see teacher salaries, the quality, the equipment, that they have in one part of the state and I don't see that at all in another part of the state.

Cale: But you go back and you look at the many instances why it's that way, and in too many instances you find out it's a local political issue. The Governor, the General Assembly, provide additional funding to the locality, but the funding formula doesn't mandate that the locality maintain its level of support. The locality cuts its contribution. Even if the locality doesn't have the capacity of a Fairfax, you still have major problems politically with the local level.

Davis: I can remember that Virginia was called the Best of the Worst when you looked at Southern states. I'm very appreciative not only of the staff I had, but of the support we had from the General Assembly, and with the Governors with whom we worked. They were extremely supportive.

Cale: That goal to raise teacher's salaries was a consistent goal of the General Assembly over the years. They stayed with it.

Childs: What needs to be done to achieve equity in Virginia?

Cale: If you read the discussion of the Composite Index in the JLARC-2 report, you'll find that much of that discussion is accurate. The Composite Index needs to be adjusted. But every time you attack the Composite Index, or attack the issue of using local sales taxes, you end up with a major problem of winners and losers. It is political. You need some way to get at it without the politics, and I don't know how you do it.

Davis: The reason we put the Standards of Learning together back in '82 was that we needed to have a roadmap of what was expected, and so forth. And the next step that I had taken was that we needed accountability. I'm not at all impressed with what's happening now. When we went down to Richmond, we had the 11th Grade exam, which was far too late. That's when we put the Literacy Passport in at the 6th Grade. We're going to identify these kids. As a matter of fact, we had a contract with Gary Henry to help us put together an accountability program.

Childs: What about funding of capital outlay? Does that need to be run through an equalization mechanism?

Cale: In my judgement, yes. It would need to be equalized. It would need to be recognized as a cost of the Standards of Quality. Not the capital outlay, but the debt service part. It's the debt service we're looking at.

Davis: I think there should be grants. While Mike and I were down there, we changed the Literary Fund to a disparity index from 2% to 6%. It was a flat 6%. I think that Elementary-Secondary should receive a portion of the Lottery funds, and it should be made as grants to some school systems with a Composite Index of less than .25 or something like that.

Cale: We need to go back to the Literary Fund and make that whole again. Just last week, Gillmore and Beyer both were addressing that very sensitive issue. They need to quit raiding it for other expenses.

Childs: Hasn't one of the problems over the years been that almost half of the state funds to public education has been categorical rather than equalized?

Cale: Yes. It's been about 50/50.

Childs: Wasn't that what they tried to address in JLARC-2 by running more funds through the Composite Index, but at the same time they so lowered the funding base with the L-estimator that...

Cale: And the prevailing costs...

Davis: They ran into a lot of flak with that. Now you're looking at Fairfax, Arlington, Alexandria, Falls Church, Virginia Beach, and some others, giving a lot of opposition to that move.

Childs: You alluded to the need to avoid the political issues. When JLARC-2 was proposed, you go from November, '87, until mid-February, '88, before they had the big meeting in Wytheville...

Cale: You had that big meeting in the Monroe Building, on the first floor. The Superintendents came in long before Wytheville. And it was a mob action. A very

difficult meeting... Finley was there and chaired it. I think they called the meeting, and the Superintendents were up in arms. (**Davis concurs.**) It was obvious then, it was obvious to everyone what was happening. They were finding a mechanism to reduce the costs of the Standards of Quality and the state share.

Childs: Once JLARC-2 was legislated, how did it affect the Department of Education?

Cale: The first thing we had to do, and it took us a year or two, was to validate the computer database we established to accurately fund JLARC in an honest way in accordance with the way JLARC had recommended it in JLARC-2 and the way the General Assembly ultimately by approving the Appropriations Act, whether they agreed or didn't, that we in fact, now being state officials, were honor bound to find a way to accurately measure the costs through the JLARC methodology. To do that, it took us two years. When you talk to Rotz, he was our lead man. He was the one who helped us the first year as a JLARC staff member as to how to get inside their brain. This was their brain and not ours. We didn't understand in the beginning anyway where they had come upon the L-estimator. This was a major effort, too. We ultimately did come up with a mechanism to accurately cost in accordance with their directions, their standards, their criteria, and to their satisfaction to my knowledge. I never heard a complaint. Not only did we have to change our way of doing business, we had to do it in a way that would be understandable out in the community, to laypeople, school people, business people out in the community, so that they could understand and cost it out themselves. In the end, they double checked the Department.

Childs: I asked Rotz why JLARC-2 was released so late in '87. I was trying to see if he would imply that it was by design to manage the time for reaction before the General Assembly received the recommendations in the '88 session. He surprised me by saying that it was supposed to come out in August or September, but it was delayed because it took them so long to write the computer programs to run the numbers.

Cale: That's an honest statement. We had drafts of that report in August of '87, but the numbers weren't complete at that point. Bob Rotz is a good man.

Childs: Did the Salmon and Versteegen studies have any impact on the process?

Davis and Cale: They were peripheral. They didn't have any impact.

Davis and Cale Interview

Childs: When you had people like Hunter Andrews, Ford Quillen, Al Smith, and people of that...

Davis: Tough competition...

Childs: The skids were greased...

Cale: That's a good phrase. Yes, the skids were greased.

Childs: Other key actors you could recommend?

Cale: John Bennett, Staff Director of the Senate Finance Committee.

Davis: Bob Schultz, with House Appropriations.

End of interview.

**Transcript of Interview With
Robert B. Rotz
Friday, January 31, 1997**

Mr. Rotz is a Division Director for the Joint Legislative Audit and Review Commission (JLARC) who was the Project Team Leader for both JLARC-1 and JLARC-2. The interview took place in Mr. Rotz's office at JLARC in Richmond, VA.

Mr. Rotz was provided a brief overview of the dissertation, its background, and the procedures. The formal interview then began.

Childs: How long have you been with JLARC?

Rotz: I've been a staff member since May, 1982.

Childs: You were on the group that worked with both JLARC-1 and -2?

Rotz: Right. We do our work during the year in project teams. I was the team leader for both JLARC-1 and -2 projects.

Childs: You made the public presentation for at least JLARC-2?

Rotz: For both of them.

Childs: JLARC-1 was put in the Senate Journal in February, '86, but it was released in '85, and I don't have a date as to when it was released.

Rotz: The minutes would show it. December 9, 1985.

Childs: That was when the L-estimator, and all that it entailed, was introduced. The reason I was checking on that was because Governor Robb, when he went out of office in January, '86, said, "I endorse the new methodology" the week before Baliles was sworn in. Even though Robb had very little to do with it from the Executive side, with that report being issued and coming over to the General Assembly, in his State of the Commonwealth Address he made a one sentence notation, "While I endorse the new methodology, we can do more." Was JLARC-1 ever legislated? Did anything change in

statute as a result of JLARC-1? DOE wasn't mandated to do anything different in terms of the budget was it?

Rotz: As a result of JLARC-1, the linear weighted average approach was used in the budget that came out of the 1986 session.

Childs: What does JLARC do?

Rotz: We do research projects for the General Assembly. JLARC provides an oversight of the programs and operations of the Executive Branch. So we get asked to do a wide range of research projects for them that range from looking at funding issues and how things should be distributed, to the effectiveness and efficiency of programs, to how well state agencies are organized and managed. So we get a wide range of studies and they span whatever topics related to state government the General Assembly is interested in. We've done a lot of studies in the corrections area, transportation, and education. Our job is to perform the research and to provide the information to them that they requested through these studies.

Childs: Bill Lemmon told me that the original notion when JLARC was legislated that it was to be an audit commission only. Obviously, as some of these reports come out, particularly when you're talking about transportation and education, you're talking about funding formulae, so that the mere analysis of options of those formulae suggest policy recommendations. Bill's comments were that JLARC was never conceived as a study commission, that the individual who led JLARC into the study commission era was the director before Phil Leone (Ray Pethel), and "I thought it served a marvelous purpose as an audit commission and thought it served a terrible function, and never should have been allowed to make, legislative policy recommendations." I've read both reports, and it appears to me that a great deal of effort went into laying out the pros and cons for the various options. Was there a conscientious decision to lay the choices out as carefully as possible and put it in the legislature's hands to decide whether A or B was going to happen?

Rotz: I think on the SOQ study there definitely was. In terms of that, we set up this computer program that calculated the impact of various assumptions so that we could look at hundreds of different choices. And the choices that were put into the program were, by and large, defined by Don Finley and Gary Henry on behalf of the Governor and the Executive Branch and John Bennett and Becky Covey from the money committee staffs on behalf of the money committees. What this was all designed for was to, they

decided what the options were that they were interested in, then it got plugged into the computer programming that we'd developed, and that was able to give them what the outcome of that option would be statewide and by individual localities. But the idea was that we would prepare a report that indicated some of the things that we thought were consistent with the Standards of Quality and the Standards of Quality framework, and express some thoughts about that and our analysis of that. But what the state would actually do in terms of funding, the notion was to set this framework up and they made the choices.

Childs: I was trying to figure out why the JLARC-2 report came out in November, the Governor's budget came out in December, the budget was introduced formally in January, and enacted by March. I was trying to figure out whether there was any coordination amongst all those things. Everybody I've talked to has indicated that there was no such coordination. You mentioned to me that the original report was supposed to come out in August or September, but you had to run over a hundred different computer runs...

Rotz: For planning purposes back in 1986 when we outlined our work plan, we put down September, but that was a guesstimate as to when it would be done. It turned out to be extremely difficult. We also lost a team member to another job during the course of the study, and it turned out that we were not in a position to brief it on the September date. The time we did brief it was as soon as we could pull everything together and have it ready. I'm not exactly sure when the requests to run some of the options started, but some of the requests probably started in advance of the briefing. I just don't remember. The tools were ready to run the options around that time, so we probably got some of those requests beforehand. But in terms of the December date and putting it all together, we were really pushing it as it was. We put in a lot of overtime.

Childs: How critical was Gary Henry? He moved from JLARC to the Administration during the time between the two studies. How did he rate as understanding what was going on? To me he was the statistician behind JLARC-1, and he understood that thing inside and out.

Rotz: Right. He understood the linear weighted average extremely well. He wrote the technical paper that I sent you. He's an excellent evaluator, methodologist, and statistician. He was very important to that in the first phase of the study.

Childs: Did his loss to the Administration in any way slow you down in JLARC-2?

Rotz: Towards the very end of JLARC-1, we hired a new person who was from the RAND Corporation who had a Ph.D. He applied for the methodologist position when Gary left, I think. He also is excellent from a research methods standpoint, so for that reason we were in pretty good shape for JLARC-2.

Childs: Mike Cale said that Gary Henry was critical from the Administration's standpoint in JLARC-2 in preparing the Baliles' budget requests because apparently that year, and I don't know if this has changed since, was the first year that the Secretary of Education prepared the K-12 education budget recommendations. Prior to that, DOE had done it through the State Superintendent's office. Mike said that they didn't have the background material with the data to do the projections when he saw the JLARC-2 draft in the Fall of '87. They could not at that point do a budget, so the budget was done over on the Administration's side. And of course Gary Henry would have been critical in that because he understood where those numbers were coming from.

Rotz: The main way that we worked with him and realized that he was critical to what they were doing is because he was the one on behalf of the executive branch who brought us the requests for computer runs. He'd have a batch of about thirty things that he'd like to see the impact of, and he'd want to see them almost immediately (chuckle). He was defining a lot of what types of options they were looking at.

Childs: One of the statements I used in describing how JLARC-2 got to be enacted by the legislature so quickly was that it appeared someone greased the skids. From a political perspective, that's kind of an understandable thing. But Ford Quillen pointed out something to me that's fairly important, too, and that is that if you look at the legislative membership of JLARC, from the money committees and leadership, that if they tacitly agree with a report that's coming out, it's got a leg up in the legislature. It's not a question of someone doing homework; it's if you've got the Chair of the House Appropriations and Senate Finance committees who endorse that report...

Rotz: That's correct, but one thing I would add to that is that our commission votes on these reports, but they are votes to allow the publication of the report as a legislative document. The vote itself does not connote that they agree with the contents of the report. What that means is to the extent that an individual endorsed a report, it was outside of that vote process. It was in terms of their discussions with other legislators, and things like that. That's been important in terms of keeping the reports themselves from becoming politicized. It's not a matter of negotiating, "I don't like this part," so we

take that out, and this sort of thing. They are staff reports, and they decide what they really want to support legislatively from there.

Childs: And that echoes what Ford Quillen says. He felt that it was only a commission like JLARC that could get around the politics of the questions of the funding formula and that sort of thing. I thought that was a real astute observation that I had not considered. There is one question that has cropped up from time-to-time as I've talked to people about JLARC-1 and -2, particularly the L-estimator and the impact that it had on the overall funding scheme, and that is that JLARC operates in a closed loop. You are a legislative study group, work for the legislature, and in order to keep things from becoming politicized, you have to operate behind closed doors. That differed significantly in terms of who you consulted with in JLARC-1 and -2 as opposed to the Task Force that operated in 1973 with the Composite Index in the first place in that there were no experts on educational finance that were consulted on JLARC-1 and -2, whereas in the original Task Force they had someone like Forbis Jordan, who was actually a member of the Task Force. Do you have any reaction to that, or do you think it's just a reality that we have to live with?

Rotz: In terms of the way the study was done, early on we did a literature review on what the educational experts in the field were saying about funding issues. In addition to that, we had early on in the project a workshop phase where we went to eight different parts of the state, visited schools, and heard from various individuals interested in education funding issues. As part of that process there were some folks like Dick Salmon and Ralph Shotwell who spoke and gave their thoughts on the funding formula. So I think that through the process we used, we got some information as to what some of the experts in public education finance were thinking. But I don't view the report as something that we have to live with. I think that it's an excellent product that addressed Virginia's Standards of Quality.

Childs: Why the L-estimator? JLARC-1 laid out the statistical reasons. But was it a device to carve up a given sized pie? Was JLARC given directions, either by the Commission or by individual members, as to fiscal parameters that it had to meet?

Rotz: No. There was absolutely nothing said about the amount of money we had. There were a lot of components that went into quantifying the SOQ, we were in great, great doubt ourselves throughout much of the analysis as to where the ultimate cost was going to be until we ran all the numbers on this thing. We were not given any limit. For those

who think we were, and that we used the linear weighted estimator to get a lower cost, there were easier ways to do it. For example, for most distributions, the simple median indicated a lower cost than the linear weighted average, and it is better known and more commonly referred to. What we did is exactly what we described in the document: we took fifteen different measures of central tendency, we had a performance test to use to determine which one we were going with, and the linear weighted average was the best. That was the reason for the choice.

Childs: I'm asking Gary Henry about the statistical academic criticism of the linear weighted average, and that is it is used in sample statistics with outliers as opposed to population data. I'm interested in how he'll reflect on that.

Rotz: I think that you should talk to him to obtain his perspective about the academic criticism. I would like to give you my perspective as the project leader of the study. The folks who feel that we know what the population is and what the population costs are, and therefore we should just use that, are misunderstanding what it is that we were trying to do. We're trying to calculate the costs for the Standards of Quality. Where there were actual quantified standards, we used this. For the support costs, though, in general there weren't quantified measures of what the cost was. What we needed for the calculation was a cost that was prevailing, the typical per-unit school division cost. That meant looking at what is the central tendency of the data distribution. We were not looking at the amount spent for all educational purposes. We were looking at what portion of that could reasonably be attributed to the SOQ as a minimal foundational program. Whether the data are for the population or a sample, when the data are skewed, a simple average or mean does not accurately reflect the typical values within the distribution. A single sufficiently extreme observation can render the average meaningless for this purpose. A practical example would be if you were doing research for a magazine with a small circulation of subscribers, and you were asked to answer the question, "What is the typical salary of our subscribers?" You go out and do a survey, and you're able to do the entire population of subscribers, and you get that data back, but it happens that Bill Gates is one of your subscribers. The folks who say that the average is the only usable statistic because you have the entire population, I just don't see where that's practical, reasonable, or accurate. If you are asked, "What is the typical or prevailing salary of the subscribers?", and you could say it's \$10 million based on a simple average, but an average in this case would not be typical of the salary of most subscribers, just as in most cases the statewide per-pupil expenditure average is a very inaccurate measure of the typical per-pupil cost among the school divisions.

(Brief unrelated conversation about the philosophy and politics of constitutional perspectives of educational funding.)

Rotz: What we were looking at is what these Standards of Quality cost. Is it enough to bring the quality that we want? One perspective is that if it doesn't, let's figure out what's going on, what can some of the schools afford that they're spending their money on that's not part of our standards. Should those types of things be part of our standards? Our perspective has been that the funding for the SOQ should follow what the Standards say. If there's a concern that we're not getting enough with what the standards say now, one approach would be to increase what the standards require. Another approach is to say that we're not going to make the choice to change the standards but there's some additional funding we'd like to provide for education. That's fine, but what we were saying was, "This is what the costs of the Standards are." Of course, the option is available to spend more money, but we would have a problem with calling it more money to meet the costs attached with the Standards of Quality, because it is not. It is a cost attached to going beyond the existing standards.

Childs: In JLARC-2, you looked at three measures of local effort: the Composite Index, revenue capacity, and equalized effort. The wording of the report led me to believe that there was a sense on the part of the staff that there was a problem with the Composite Index, and there was something better out there. Is that accurate?

Rotz: Yes, I think there was a sense that the weighting scheme was a bit arbitrary and there might be some opportunities to do some things with revenue capacity that might represent an improvement. Ultimately though, it seemed like the bigger issue was how much of this is going to be distributed based on ability to pay as opposed to the particular measure of ability to pay. In other words, it has a huge impact if you decide to continue to fund some major categorical accounts on the basis of 50% state, 50% local, regardless of local ability. That is the fundamental thing. After that, there are some shades of variation between the Composite Index, revenue capacity, and some of these other measures, but you're basically not going to change the fact that a locality like Lee County across most of these measures is going to look like it's relatively poor while a locality like Fairfax is going to be relatively better off, and there's going to be some variation as to exactly how high or low they are rated in terms of ability to pay. How much to equalize was even more important. With regard to what happened, obviously the Composite Index didn't get changed, but they did end up equalizing more accounts.

End of interview.

**Transcript of Interview With
Hunter B. Andrews
Friday, March 14, 1997**

Former State Senator Hunter B. Andrews was Chairman of JLARC during 1987, Chair of the Senate Finance Committee, and became Majority Leader of the Senate after the retirement of Sen. Willey. He left office following an election loss in 1995. The interview took place at his legal office in Hampton, VA.

Childs: You were Chair during JLARC-2. When JLARC-1 came out, it included responses from Jack Davis and a resolution by the State Board of Education, both appended at the back of JLARC-1, and basically both responses called for a study commission. They were saying not to do anything to the funding formula until it was looked at more thoroughly. That was in 1986, and not much happened thereafter...

Andrews: Let me back up a little bit because you've really got to go back beyond JLARC-1. You've got to go back into the '70's, where we had to revise the formula. I was on that commission. The only way you could ever revise the formula is to have an infusion of money, and at that time we had an infusion of money from the Nixon revenue sharing. So that enabled us to come up with a formula where no one was hurt, and that was implemented. Of course, it was implemented for the Standards of Quality for the new Constitution of 1971. At that time we did not tie the standards to money. Well, the change in the formula was for the first time people understood what the formula was. Prior to that only school superintendents knew the formula. I was on the Hampton School Board and a man named J. T. Blunt was at the State Department, and if anybody ever understood the formula, he'd change it. So as things went along, the hue and cry came forward that things were not fully funded. Well, that's a matter of definition. But you couldn't tie the standards to the money at that time, and I had said all along that you've got to tie them together. You could pick up the standards, and for the Board of Education to ask the Governor for a budget, you've got to relate the two. Well, that was a little hard to get through. As we did, and still do, substantive studies are better done in something like JLARC. So they did that. The systems under JLARC, what makes them so great, is that they are professionals, they do the work, and they present it. And the members don't interfere while they do the work. They come up with their professional judgement, and you either accept it or not. The politics of their results are done by the legislature. That gives them a lot of respect, and I hope it doesn't change. So they came up with JLARC-1, and we didn't have any money to do anything. So what do you do when you don't have anything? You stall. And people started raising hell. It wasn't any

study resolution for JLARC-2; we just did it. Then the budget started getting more money, and that's the background for the change. But even during all these changes when they were raising hell about the formula, and we had some legislative discussions on the matter, it wasn't that the formula was wrong; it was that we weren't getting enough money. Because I know from hearing some things from the rural areas in Southwest Virginia, and they always scream. That's their job to scream, "Give us more money!" And I would say, "How do you justify Carroll County having eight elementary schools, some with fewer than 50 students, and their cost factors that were a part of the concern. Of course it's a concern. They were screaming about the money, but they weren't, in my judgement, organizing the system in an efficient manner. That may still be prevalent; I don't know whether it is or not. Then they wanted more to continue doing as they did. And of course they had Ford Quillen and Bill Lemmon as their spokespersons who would tell you privately that it was wrong but they weren't going to back down. But they didn't have the votes necessary. So when JLARC-2 came up, with the linear estimator that you understand, and we found money. And then of course someone always screams, "More, more, more. We're getting screwed." Well, when a stuck pig hollers, you look to see what the problem is. And Southwest Virginia, with Ford Quillen behind it more than Bill Lemmon, can raise hell, call out the troops, and scream about getting screwed. There were many ways we could have screwed them, such as telling them they were going to have to consolidate their schools, but we didn't. So we came up with the study, and didn't basically change the formula. It hasn't been changed yet. But we found a way to apply the standards to the money. In substance that's my recollection of what we did. And it's still a good system. We ran into the principle, and it used to always irritate me in my part of Virginia, you had 58 instructional personnel per 1,000 students. That's the way it was based for allocations. I always thought that should be changed for more personnel. Owen Pickett, who's now a Congressman, fought that like hell when he was a member of the House of Delegates until I looked into Virginia Beach and found that's all the staff they had over there. All other divisions had additional instructional personnel to do jobs. But he's screaming because we're going to make Virginia Beach hire more teachers. You would never think that Virginia Beach would do that. So we were advocating that plus more money for Special Ed and some other things. We were not into at-risk at that time; that's a current thing. But we raised that figure to 60 or so. And that's what should be raised, if you really want to help. But that doesn't help Southwest Virginia either. I'm just using Southwest Virginia as an example; Southside is the same thing.

Childs: You've already covered a number of the issues I had wanted to address. But let me be clear: when the budget was passed in 1988, that was the first establishment is

statute of a procedure to calculate the Standards of Quality.

Andrews: That's right. That was the first time.

Childs: At the November, '87, JLARC-2 release briefing, you were quoted in the paper as immediately saying that there would be a no-loss provision.

Andrews: Yes I did.

Childs: Did you on the appropriations side, or did the Administration, have any sense that the money was going to be available?

Andrews: The Administration was not involved at that point. But from the budget side of the legislature, every time you change something, that's the way you protect yourself. You say, "No-loss." Then at least they're not losing anything; they may not be gaining anything either. But if you have no-loss, that quiets down the fires. We did that deliberately. It would never have gotten through if we hadn't done that. That's happened before many times.

Childs: When JLARC-2 came out, and the seven options were published, within the body of the study itself, the staff had already incorporated the recommendations out of the Governor's Commission on Excellence in Education to increase the Standards of Quality, they had already incorporated their recommended 5.8% teacher pay increase, and they'd already incorporated the 12.5% cost-of-living increase for Northern Virginia. When divisions looked at those seven proposals, all the monies were up. They didn't know how that compared with the previous system because they were looking at dollars that were already increased.

Andrews: But they got more money, and that dampened the fire.

Childs: Ford Quillen said immediately, and he had some problems as a member of JLARC with the report as it was coming out,...

Andrews: He wanted to know how it affected Gate City.

Childs: That's right. He was afraid of the Composite Index being changed. But he basically said that nothing's going to happen unless the Governor gets behind it.

Andrews: Well, that's true.

Childs: The Governor had not had any dealings with the recommendations at that point.

Andrews: Well his people were observing.

Childs: Gary Henry moved from JLARC to Deputy Secretary under Don Finley.

Andrews: And they observed the JLARC study very closely. Baliles played his cards close to his chest, as he should as a Governor.

Childs: That was another point I wanted to ask you about. There was an article that said there were some legislators who were irked at Baliles' secrecy. My impression of Jerry Baliles was that he did his homework as well as anyone I've ever met.

Andrews: More than most of them.

Childs: From my observation, those people that were complaining were outside the loop anyway. Did Jerry consult with the key legislators as he was devising his budget?

Andrews: Yes and no. He may have asked questions, but never let on what's he was talking about. I think Jerry was a great Governor. He played his cards close, and he was lucky as a governor that the revenues were increased. Our economy was ahead of the nation; the revenues were flowing in. That all came to a halt in 1990, and this is 1997 and we're still not back to the level we were in the 1980's. So he was very fortunate at that time.

(Brief unrelated conversation about Robb, Baliles, and taxes. Senator Andrews noted that the 1986 tax increases for Baliles' transportation initiative was the last state tax increase seen in Virginia.)

Childs: Did you have any personal feelings about the options that were laid out under the JLARC study?

Andrews: No, because that was JLARC's usual style. One of the reasons they've been so successful is they'll give you a whole menu and you spread it out in the public and see which one the people gravitate to. I'm not saying that they're so sophisticated that they could tell you which one, but by having the choices it becomes in the public domain.

Rather than come up with one proposal, with anything controversial JLARC always has a whole smorgasbord, which is fine.

Childs: I talked to Bob Rotz about that, and I told Bob that when I read JLARC-2, I detected by the way it was written that they, as a staff, would have preferred something a little different than the Composite Index.

Andrews: I'm quite sure that they would. They are truly professionals. They're not supposed to apply politics. They're human beings, and they read and listen to what people say. They are professionals. Phil Leone doesn't like controversy.

Childs: It depends on who you talk to in terms of what they think came out of JLARC. I've talked to some people who believe in their heart-of-hearts that the JLARC staff was told, "We've got x amount of dollars; you figure out a way to make it work."

Andrews: Oh, no. I was Chairman of JLARC at that time. They were not told any such thing.

Childs: That's what both Ford and Bob Rotz have said. They were just told to study this problem.

Andrews: Exactly. That's the way JLARC operates, and that's its strength. I'm getting back to what I said earlier. Now I'm not saying that some members would have tried to suggest something, but the minute you try to tell them what to do, you destroy the complete system.

Childs: I would say that there was probably a consensus among the legislature that, "This is the tax base we're dealing with."

Andrews: We had a growing economy. You've got to remember that JLARC has people all over government that started in JLARC. John Bennett, most of the members of the Senate Finance staff, are JLARC-ers. Planning and budget people. House Appropriations staff. So that network in the government, and they all interrelate. I think that's healthy.

Childs: The one nerve I struck with Ford Quillen was when I suggested that JLARC might be political as opposed to professional...

Andrews: I'm saying the same thing that Ford said. I've always said that it has to be that way. And the minute it becomes political, it loses its effectiveness.

Childs: Ford said that. He said that the only way you could have gotten any consideration for the funding formula at that time was to have it come through an agency like JLARC. And he also argued that had there been any study commission, a blue ribbon commission, that that would have been too politicized.

Andrews: That's the reason we sent it over to JLARC. It has the reputation and respect. This is where this Governor (Allen) fought with the courts on environmental issues. JLARC came in with a scathing report, and they (the Administration) tried to undercut it. He (Allen) lost on that, I think because of the reputation of JLARC. JLARC would not be politicized. The Chairman of JLARC, and I was Chairman for two times, would work with the Director and a couple of staff, but rarely would members get in contact with staff.

Childs: That's the impression I got from talking to Ford Quillen and Bill Lemmon, for example.

Andrews: Bill Lemmon and I are friends. He was Chairman of the House Education Committee and I was Chairman of the Senate Education Committee. When the new constitution came into being, it stated that the Board of Education shall prescribe the Standards of Quality, subject to the General Assembly. So Bill wondered who would write it the first year. Bill said, "Why don't we write it?" I said I didn't want to get into that thing. Bill said we were going to write it, and I said okay. The legislature was going to write it, and I said I'd go along with it this time. We did it one time, and Lemmon said never again.

Childs: As the legislative process was continuing, do you remember the Wytheville meeting in '88?

Andrews: You refreshed me with the newspaper articles. But I really don't remember it. I'm sure it was a big event out there.

Childs: Well, it was interesting because Bill Lemmon was a very strong supporter of the Governor's proposals. His logic was that if the pie's only so big, if you equalize more of it, the poorer school divisions are going to get more in relative comparison to the others. One week after the Wytheville Rebellion, that entire district from Marion...

Andrews: ...flipped over because they found out they were going to get more money. Bill Lemmon was one of the finest gentlemen and legislators I've ever seen. His vision was beyond Wytheville, and that makes a difference.

Childs: When Bill and I were talking, I cited an example of how Pittsylvania, after JLARC-2 was legislated, got more money, so they cut their local money by the same amount of the state increase.

Andrews: And we came on and changed that, too.

Childs: Bill said that one of the counties near Wytheville did the same thing. And he said that it got some people hotter than a hornet.

Andrews: Again for background purposes, originally when the Sales Tax was put on the books, it said that one penny of the sales tax shall be distributed to the localities on the basis of school aged population. That was school aged population rather than ADM because of massive resistance problems at the time. Many of the counties in Southside took that money, reduced appropriations to the schools, and cut their real estate taxes. So when we got into the conventions on the Constitution in '69 and '70, we wrote into it that they can't do that any more. I think sometimes for their own good you have to make localities do what's right by spending the proper amount of money. And we've done that in some instances. We did it in raising the teacher's pay at different times. If they don't do it, if they cut money, we can withhold appropriations from other programs. That all came out of that stuff in the 1960's. Those localities will basically tell you that they're glad we made them do it because they couldn't do it on their own.

Childs: That they didn't have the local citizen's support to do it...

Andrews: ...or didn't know how to build that support.

Childs: That's an issue that the VEA and Dick Salmon have looked at, the concept of local effort. That's a vague issue: how do you measure local effort?

Andrews: Well, our Composite Index is unique. Most states don't have any such thing. It probably does need revising, but how to revise it is a problem.

Childs: Bill Lemmon said that he'd been convinced that something had to be done to address the issue of local poverty.

Andrews: What we're doing to attack this is to deal with at-risk children. I had a little something to do with this, and I'm very proud of it. Because of computers, we're able to identify the individual schools in each division with a high incidence of poverty as defined by the Free Lunch Program. The Free Lunch Program is the accepted standard to determine poverty, and it's audited by the Federal government. So we found schools that had 95% on free lunch. And I live in a core city. So we were able to institute the program of at-risk children, reduce the pupil-teacher ratio to 18 in grades K-3, and then we spread it to the 4-year-olds to complement the Federal program. Now you need to go to the 3-year-olds in my opinion. This was a tremendous change. Of course, you've got to stay the course. All you people in education, and you probably know it better than I, you come up with all these changes and you expect a miracle overnight. You've got to stay the course. My contention was, and I hope I'm right, if you get down in the beginning grades, those children should be better students. If you follow them through, your dropout rate should be less, if you stay the course. This was the first time that money was appropriated to school divisions based upon schools. That's the way we're getting to the poverty issue rather than changing the formula.

Childs: The budget process in '88, the whole issue, the impression I've gotten is that the funding formula was changed through a series of smoke and mirrors because it was involved in the budget process. Did the legislature have to manage any brush fires in that process over the funding formula?

Andrews: Not really.

Childs: So that one wasn't really all that controversial in the legislature. Dickie Cranwell and Thomas from Roanoke were able to get a bit more money in for, I think, enrollment declines...

Andrews: ...or something. But we took care of everybody in that. You see, you had a decreasing school population in the state.

Childs: Do you think that there's anything more that needs to be addressed in changing the funding formula that we haven't touched on?

Andrews: You still have the decreasing population, and I'm quite sure that they probably have some more no-loss money in the budget this year. It takes a strong group to say no longer, but you have to compensate them in other ways. And you can through at-risk

children, dropouts like the dropout program which is voluntary by school division. You know, some of them don't even participate and this is wrong.

Childs: Jim Roberts, Director of Finance over in Chesapeake did a micro-analysis of the effects of JLARC-2 down here. Does something need to be done to address the issue of municipal overburden?

Andrews: Yes, but how are you going to do it if you don't have the votes? We're doing it a bit through at-risk but that affects the rural areas, too. Even to my utter amazement, it affects Fairfax County. We found some schools up there with a high percentage of poverty. I could not believe it. Northern Virginia has a problem with English as a Second Language.

Childs: The other things I'm interested in from your perspective is how the system operates.

Andrews: We haven't gotten into where the Conference Committee would change things. Technically, you can only take up matters in conference where there is a difference between the two sides. Of course that's a matter of interpretation. Obviously, we technically always found differences, by definition. We would normally do that by unanimous agreement of the conferees. This is just a better deal. And it's done all the time now. They used to debate the issue that you had no authority to do that. But if you come up with a better deal, nobody complains.

Childs: Just from a political reality standpoint, you were Finance Chair, Earl Dickinson was Appropriations Chair, and if you look at the conferees in the budget, you've got six of the most influential members in the General Assembly.

Andrews: That's the way it works.

Childs: And if those six people agree that there's something that needs to be done...

Andrews: ...we did it.

Childs: And there's not anybody from the floor who can change that.

Andrews: In all my years up there, I never saw them change a Conference Report. Why? Because it's one of the last things you do, and everybody wants to go home.

You've got to bear this in mind about a budget: a budget is only good for two years. It's not like a statute.

Childs: Do you recall, and I mentioned at the beginning of this about Dick Salmon and his consultation with the VEA...

Andrews: ...Oh, he's a hired gun, and he does a good job. When he comes in, it's the VEA's expert against ours. He's not exactly impartial.

Childs: Do you remember anything about the Salmon and Versteegen papers?

Andrews: Vaguely.

Childs: Did they have any impact in the process?

Andrews: No.

Childs: I talked to somebody who said that Jerry sent Gary Henry to Wytheville when they had that meeting.

Andrews: Jerry would do that, yes. That's typical of Jerry.

(Unrelated conversation about personalities and relationships.)

Andrews: Chuck Robb ran for Governor to raise the teacher's salaries to the national median. Jerry Baliles ran to raise it to the national mean. That makes a lot of difference.

Childs: That's what some of the argument is over the L-estimator. On one side people say that the statutory authority says you've got to look at it from a perspective of the number of divisions. On the other side people say you've got to look at the number of employees.

Andrews: Well I tried in my mental processes to say that we should move to the national average in every school division. But you just can't do that. But it's a nice goal.

Childs: And it's an expensive goal. That about covers everything I had to ask you. I appreciate your time and your candid responses.

End of interview.

**Transcript of Interview With
Gerald L. Baliles
Friday, June 27, 1997**

Note: the following record was transcribed from a telephone interview. Due to Governor Baliles' hectic schedule, it was not possible to meet personally with him. Repeated telephone attempts by each of us to connect were successful at 9:55 p.m. on the date above when the Governor called me at home. The audio quality of the tape was poor due to technical problems with the recorder. As such, the transcript below was as accurate as possible, supplemented by notes taken during the conversation.

Childs: *A substantial introductory background was given prior to beginning the questions.* What is your reaction to the idea that your recommendation to change the funding methodology was coordinated among top state officials in order to reduce the mandated cost of the SOQ?

Baliles: This is a recollection based on events of almost ten years ago. The budget considerations had many more elements than just education. Perhaps some perspective first. It was clear to me, long before the campaign itself, that education was a matter of concern.

One of my first goals in the area of higher education was to put Virginia's faculty salaries in the top ten in the nation and first in the Southeast. This was needed to attract and maintain the national leaders in faculty and to attract additional "bright lights" in speciality fields of knowledge which would help us attract the types of high tech companies to Virginia whose impact might not be felt for five or ten years. That required up-front public investments.

Similarly, attention was needed to K-12 education. That would require three things: new programs, new money, and a change in the funding formula.

In my first year in office, I created the Governor's Commission on Excellence in Education, and that title was designed for a specific reason. It was to focus potential legislative attention on matters of excellence, to pursue the kinds of goals to improve education rather than "flip the coin" and give focus to the negatives.

The Commission permitted us to begin asking questions and gathering data, establishing options and making recommendations. That would provide us with the basis

for arguing for new money. At the same time, as I recall, JLARC was looking at the funding formula. It seemed to me that, in transportation and a couple of other areas, battles over funding formulas were always fought separately from new program proposals. That was true especially in transportation, the year before I was elected Governor. In education, it seemed to be possible to combine the two conflicts, depending on the Commission on Excellence's recommendations, the price tag and what JLARC had to say about the funding formula.

So that was the canvas upon which we had to paint the details. As I recall not all the numbers were immediately available. We had the Commission's recommendations for smaller class sizes, higher salary increases for teachers, computers and technological advances, and the like. So those were the programs, and given the competing budget alternatives, the question about money was the amount. The JLARC recommendations, as I recall, came out after the 1985 elections, and as I also recall, JLARC itself received the staff recommendations as an exposure draft. The Commission itself (JLARC), as I remember it, did not take a position on the report. But a lot of the recommendations and criticisms of the JLARC reports were critical analyses, and I didn't view them as negatives or criticisms. I saw them as an opportunity and talked with the usual staff people, Don Finley, the Secretary of Education, Superintendent Jack Davis, and others. Some of the contemporary press accounts seemed to suggest that because of the numbers arrived late, Jack Davis was not a player. I viewed all of those people as a team, and Davis, Gary Henry, Don Finley, Andy Fogarty, and others were very instrumental in putting together the program. I understood it, discussed it, supported it and followed closely the implementation of the strategy earlier discussed and adopted. That's an overview of how this came about.

Childs: Do you recall the procedures you used in making specific education budget recommendations in 1988?

Baliles: I don't recall all of the details. I do remember, as in the year before with transportation, I was committed to making some forward progress in the area of education. The JLARC recommendations were compelling and persuasive, and it seemed to me that we could review those, select details and recommendations that would help us advance the Commission on Excellence in Education's goals and to put it together in a package that the General Assembly would adopt. As with most of these programs, controversial as they were, it is unlikely that the proposals that are advanced are the proposals that are actually adopted, but they provide you with a working framework. That's what I saw in the JLARC recommendations.

Inertia being what it is, I didn't think that the program I proposed would be the program that would be ultimately approved. I recall there was only about \$1/2 billion worth of new money that was available. If one simply advanced new education money without advancing the reforms, the thought was that new money alone, given the climate about education, would not have been as easy to promote as money for reform in educational programs and changes in the funding formula.

We all recognized that the course would not be easy, that it was not altogether clear that we would get what we desired. The legislative climate is always so fluid and changing. We had to maintain a certain measure of flexibility, and because the numbers were not altogether there initially, and there was some early confusion about the proposals among local governments, our program really required a great deal of effort by Gary and the whole team.

Childs: The thing that I picked up from newspaper clippings and talking with the people I've talked to was once you put forth the proposals in your budget that the General Assembly members sat rather silent, it seemed like for quite a while, to see whether or not you as Governor were going to be able to manage your own proposals. There wasn't a groundswell of people getting on board behind the changes, that it came in increments. Gary Henry and Don Finley said that staff people went door-to-door with individual legislators, talking to them privately and winning them over. It seemed to me that the General Assembly was very cautious, that individual legislators were very cautious, particularly in the K-12 funding.

Baliles: That's understandable. For legislators, any time there's a proposed funding formula change, whether in transportation or education, there is a complexity capable of being construed to the public as winners or losers. And that affected how we dealt with our legislators. I expected caution on their part.

To me that's one of the challenges of the office: how power can be employed to advance something that will serve the Commonwealth for decades. Of course, formulas should not be static. They should represent the demographics of the Commonwealth and be changed occasionally because demographics are fluid. As I recall, that was the case in Virginia in 1988. The formula had not been changed for about 15 years. No one liked the formula, but no one could reach agreement on how it should be changed. To me that represented a challenge. The JLARC proposals offered us an opportunity to address some of the concerns that we'd been hearing about. We had the opportunity to advance new money, tying it to programs that would advance excellence in education, and create some needed changes in the formula.

Childs: One of the problems I see as the result of my studies is that the Virginia funding formula is literally a series of definitions within the Appropriations Act that must be reauthorized every two years. The funding formula is not a stand-alone statute. The potential is that the entire underpinning of education in Virginia could be removed if the wrong group took control of the General Assembly. What do you think of that?

Baliles: Either process requires legislative approval. If you have the votes to change the current approach, you would also have the votes to change the statute.

Childs: How do you think that Virginia's education has fared in the years since the 1988 changes?

Baliles: My grandfather used to have a saying: "One never steps in the same river twice because the water's always changing." That's how I look at the educational system. As I recall, and I was one who was always keeping score, I think the Commission on Excellence made 36 recommendations. Don Finley told me that when we left office, 34 of the 36 were implemented or being implemented. But it is difficult to quantify the impact of a teacher, a program, or a system because people tend to look for a snapshot analysis, and some of these can be quantified, given time. There's an old saying that a poor surgeon only hurts one person at a time, but a poor teacher can hurt 130 at a time. Clearly, the impact of the educational system is the subject of a lot of discussion today. Marcus Aurelius said, "Change is the only constant." The difference today is the acceleration of the change, which imposes upon us the responsibility for greater responsiveness of building a better educational system. So one cannot make advances in education and declare victory. There must be a sustained commitment in time and resources. And that kind of sustained commitment requires advances across the years and across administrations.

Childs: I guess one of the realities is that regardless of what changes had been made in '88, when the recession hit in '90-'91, it would have had an impact.

Baliles: It had an impact in all areas, including higher education, K-12, and transportation. Lottery revenues that were designated, for example, for capital improvements were used instead to balance the budget.

Childs: I believe you've covered all of the areas. Thanks for your time and help.

End of interview.

Appendix B

State Constitution Sections and the Miller Opinion

Article I, Section 15. Qualities necessary to preservation of free government.¹

That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue; by frequent recurrence to fundamental principles; and by the recognition by all citizens that they have duties as well as rights, and that such rights cannot be enjoyed save in a society where law is respected and due process is observed.

That free government rests, as does all progress, upon the broadest possible diffusion of knowledge, and that the Commonwealth should avail itself of those talents which nature has sown so liberally among its people by assuring the opportunity for their fullest development by an effective system of education throughout the Commonwealth.

¹*Constitution of Virginia.*

Article VIII.¹

Section 1. 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 ensure that an educational program of high quality is established and continually maintained.

Section 2. Standards of quality; State and local support of public schools.

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 General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds.

¹*Constitution of Virginia.*

REPORT OF THE ATTORNEY GENERAL¹

SCHOOLS - Standards of Quality--Constitutional requirements.

February 7, 1973

The Honorable W. Roy Smith
Member, House of Delegates

This is in reply to your inquiry of February 6, 1973, concerning the funding of the Standards of Quality. Specifically, you ask if the distribution of a supplemental appropriation for public elementary and secondary schools under the present Basic School Aid Formula comports with Section 2 of Article VIII of the Constitution of Virginia. In order to adequately respond to your inquiry, I think it necessary to examine the requirements of the Constitution as they relate to the Standards of Quality.

The tenor of the Education Article (Article VIII) of our Constitution is set forth in Section 1 of Article VIII in which the General Assembly is enjoined to "seek to ensure that an educational program of high quality is established and continually maintained." As stated in the Report of the Commission on Constitutional Revision, p. 258, this section "states the fundamental principles which govern the Education Article as a whole."

Section 2 of Article VIII sets forth the manner in which the General Assembly shall seek to ensure a high quality educational program and provides as follows:

"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 General Assembly shall determine the manner in which funds are to be provided for the cost of maintaining an educational program meeting the prescribed standards of quality, and shall provide for

¹Miller, A. (1973, February 7). Attorney General's Opinion cited in Sandidge, J. (1982). A Study of the Evolution of the Present Virginia Basic State Aid Formula.

the apportionment of the cost of such program between the Commonwealth and the local units of government comprising such school divisions. Each unit of local government shall provide its portion of such cost by local taxes or from other available funds."

The above-quoted language contains certain express requirements and procedures for the establishment and funding of the Standards of Quality. First, the Board of Education is required to determine the Standards. Second, these Standards, as they may be revised by the General Assembly, become applicable to the several school divisions. Third, the General Assembly must apportion the cost of establishing and maintaining the Standards of Quality between the Commonwealth and its local units of government. In order to fulfill this last requirement, the General Assembly must take three steps: (1) It must establish the cost of the Standards of Quality; (2) It must establish the fair or equitable share of this cost to be borne by the localities; and (3) It must appropriate from State funds the difference between the share to be borne by the localities and the cost of the Standards. See Report of the Commission on Constitutional Revision, pp. 261-263.

Although what items shall comprise the Standards is a matter for the exercise of sound judgment by the Board of Education, subject only to revision by the General Assembly, the 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. Finally, in apportioning the cost of the Standards between the Commonwealth and the several school divisions, the General Assembly must take into account the local ability to pay. "The constitutional standard is that the division be equitable." Report of the Commission on Constitutional Revision. p. 261.

For the 1972-74 biennium, the General Assembly utilized the Basic School Aid Formula for establishing and apportioning the cost of the Standards of Quality. The Basic School Aid Formula uses a minimum teacher salary scale and a fixed pupil-teacher ratio in order to establish the amount of State aid. Statistics provided this office by the State Department of Education show that every school division in the Commonwealth exceeds the minimum teacher salary scale and that last year all but one of the school divisions had a lower pupil-teacher ratio than that adopted in the Basic School Aid Formula. It is clear from

these statistics that the teacher salary scale and pupil-teacher ratio contained in the Basic School Aid Formula do not reflect current educational practices in the Commonwealth and, therefore, utilization of the Basic School Aid Formula by the General Assembly in funding the Standards of Quality does not comport with Section 2 of Article VIII of the Constitution. For this reason, the teacher salary scale and the pupil-teacher ratio should not be used by the General Assembly in establishing the cost of the Standards of Quality prescribed by the State Board of Education and revised by the General Assembly for the 1972-74 biennium. Rather, the General Assembly should take into account the actual salaries being expended by the local school divisions and the actual pupil-teacher ratio existing within the school divisions in estimating the cost of the Standards of Quality.

As you know, because of the time factors involved in the almost simultaneous development of the Standards of Quality and the 1972-74 biennial budget, the exact cost of the Standards of Quality had not been determined when the General Assembly was called on to apportion that cost. Furthermore, the Basic School Aid Formula does not provide a means for establishing an exact cost for implementing the Standards of Quality, nor does it ensure that each locality has the necessary funds to meet the cost of the Standards. Finally, the Formula does not provide adequately for differences among school divisions in ability to pay for the Standards in light of the existing six-to-one discrepancy in wealth among Virginia's cities and counties.

You have called to my attention the formula developed by the Governor's Task Force on Financing the Standards of Quality for Virginia Public Schools. Under that formula, the Standards would be costed out in light of current educational practices. Furthermore, every locality would be required to make a realistic and equitable effort to finance the Standards of Quality. Those school divisions which could not raise a sufficient amount of money by exerting such uniform effort would receive the necessary additional funds required to meet the Standards from the State. The Task Force formula appears to be what was envisioned by the Commission on Constitutional Revision:

"School divisions in some poorer localities, especially those where per capita education costs are high, will be left with inadequate funds to maintain state standards of quality even after receiving the 60% state aid for teachers' salaries and the full percentage of local revenues under (2) above. This is parti-

cularly likely to occur in certain rural counties where taxable resources are low and per capita costs high because of small school population and the higher salaries required to lure qualified teachers out of urban areas. The proposed Education article contemplates that this situation will be met in two ways. First, unless it elevates the maximum level of local participation under (b) above, or lowers the state standards of quality, the General Assembly must appropriate sufficient extra funds to the school division to enable it to meet the state standards of quality.¹

Report of the Commission on Constitutional Revision, pp. 262-63.

In summary, the Basic School Aid Formula fails to take into account the current educational practices in the Commonwealth as required by Section 2 of Article VIII of the Constitution. Use of the Basic School Aid Formula to distribute a supplementary appropriation would be subject to the same infirmities. Now that the Standards have been costed out, the General Assembly, if it is to comply with the mandate of the Constitution, should take into account these actual costs and should apportion the costs on an equitable basis. This approach will ensure that those localities lacking sufficient resources to enable them to meet the costs of the Standards will receive such supplements from the State as are necessary to offer educational programs of the prescribed quality.

Appendix C

Summaries of the 7 JLARC-2 Options¹

¹Joint Legislative Audit and Review Commission. (1988). *Funding the Standards of Quality, Part 2: SOQ Costs and Distribution*. Richmond, VA. 73, 77, 81, 85, 89, 93, 97.

Summary of Option 1

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- COMPOSITE INDEX: POPULATION WEIGHTED 1/3, ADM 2/3
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 50 PERCENT
- CAP ON LOCAL SHARES AT 80 PERCENT
- NO INCOME ADJUSTMENT IN LOCAL SHARE CALCULATION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 2

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- COMPOSITE INDEX: POPULATION WEIGHTED 1/3, ADM 2/3
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 52 PERCENT¹ IN FY 1990
- INSTRUCTIONAL FRINGE BENEFITS EQUALIZED WITH STATE SHARE OF 90 PERCENT IN FY 1990
- CAP ON LOCAL SHARES AT 80 PERCENT
- NO INCOME ADJUSTMENT IN LOCAL SHARE CALCULATION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 3

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- LOCAL REVENUE INDEX: POPULATION WEIGHTED 1/3, ADM 2/3
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 50 PERCENT
- CAP ON LOCAL SHARES AT 80 PERCENT
- NO INCOME ADJUSTMENT IN LOCAL SHARE CALCULATION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 4

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- LOCAL REVENUE INDEX: POPULATION WEIGHTED 1/3, ADM 2/3
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 52 PERCENT IN FY 1990
- INSTRUCTIONAL FRINGE BENEFITS EQUALIZED WITH STATE SHARE OF 90 PERCENT IN FY 1990
- CAP ON LOCAL SHARES AT 80 PERCENT
- NO INCOME ADJUSTMENT IN LOCAL SHARE CALCULATION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 5

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- LOCAL REVENUE INDEX: POPULATION WEIGHTED 1/3, ADM 2/3
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 50 PERCENT
- CAP ON LOCAL SHARES AT 80 PERCENT
- INCOME ADJUSTMENT USED IN LOCAL SHARE CALCULATION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 6

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- EQUALIZED EFFORT INDEX
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 50 PERCENT
- CAP ON LOCAL SHARES AT 80 PERCENT
- NO INCOME ADJUSTMENT IN CALCULATION OF LOCAL CONTRIBUTION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Summary of Option 7

- 51 BASIC, 57 TOTAL INSTRUCTIONAL POSITIONS AS A FLOOR, RECOGNIZE REQUIRED POSITIONS ABOVE 57 PER 1000 ADM
- PREVAILING SALARY INCREASED BY 5.8% IN EACH YEAR TO MAINTAIN POSITION ABOVE MEDIAN STATE
- COST OF COMPETING ADJUSTMENT BASED ON RECOGNITION OF SALARY DIFFERENTIALS FOR STATE EMPLOYEES
- NEW PUPIL TRANSPORTATION COST METHOD
- INCLUDE COSTS OF PROPOSED BOARD OF EDUCATION STANDARDS
- EQUALIZED EFFORT INDEX
- BASIC AID, GIFTED AND TALENTED, SPECIAL EDUCATION, VOCATIONAL EDUCATION, REMEDIAL EDUCATION, AND PUPIL TRANSPORTATION EQUALIZED WITH STATE SHARE OF 50 PERCENT
- CAP ON LOCAL SHARES AT 80 PERCENT
- INCOME ADJUSTMENT USED IN CALCULATION OF LOCAL CONTRIBUTION
- DISTRIBUTION OF SALES TAX ON THE BASIS OF SCHOOL-AGE POPULATION

Appendix D

Sample Appropriations Act Materials

(1) 1986 Composite Index Definition.¹ Note the location of the definition within the Appropriations Act without any corresponding line item expenditures.

(2) 1988 Education appropriations section of the Appropriations Act.² Note the manner in which the definitions are incorporated within the line item expenditures and the cross references to JLARC-2 found throughout this section.

¹Commonwealth of Virginia. (1986.) *Acts of the General Assembly of the Commonwealth of Virginia, 1986 Session*. Richmond, VA. 1669-1670.

²Commonwealth of Virginia. (1988.) *Acts of the General Assembly of the Commonwealth of Virginia, Vol. II, 1988 Regular Session*. Richmond, VA. 1343-1358.

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
Occupational-Vocational Education Payments (1750900): §§ 22.1-228 through 22.1-236, Code of Virginia; Chapter 667, Acts of Assembly, 1980.				
Special Education Payments (1750100): §§ 22.1-213 through 22.1-222, Code of Virginia.				
Remedial Education Payments (1751400): Article VIII, Section 2, Constitution of Virginia, and Chapter 667, Acts of Assembly, 1980.				
A. Definitions				
1. "Average Daily Membership," or "ADM" - The average daily membership for grades K-12 including handicapped students ages 5-21, for the first seven (7) months (or equivalent period) of the school year in which state funds are distributed from this appropriation. Pre-school and post-graduate students shall not be included in ADM.				
Except as otherwise provided herein, by statute, or by precedent, all subprograms throughout the appropriation to the Department of Education shall be calculated using ADM unadjusted for half-day kindergarten programs, estimated at 965,622 the first year and 969,380 the second year.				
Entitlements for Basic Aid, Retirement, Social Security, and Group Life Insurance shall be calculated using ADM adjusted for half-day kindergarten at 85% of ADM, estimated at 961,210 the first year and 964,832 the second year.				
2. "Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.				
3. "Basic Operation Cost" - The statewide cost per pupil as established in Paragraph B1 of this Item, including provision for personnel at a ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, duty free lunch which shall remain discretionary at the State and local level, general administration, Division Superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, increased costs due to new accreditation standards, fixed charges and other costs in programs not funded by other state and/or federal aid.				
4. "Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 1/3 of the index of wealth per pupil in ADM (unadjusted for half-day kindergarten programs) reported for the first seven (7) months of the 1983-84 school year and 1/6 of the index of wealth per capita (population estimates for 1983 as determined by the Tavisce Murphy Institute of the University of Virginia); the state average in the composite index is .50. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by				

Item

Item Details		Appropriations	
First Year	Second Year	First Year	Second Year

the State Department of Taxation for the calendar year 1983 - 50 percent; (2) individual income level for the calendar year 1983 as determined by the Taylor Murphy Institute of the University of Virginia - 40 percent; (3) the sales for the calendar year 1983 which are subject to the state general sales and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per ADM, or per capita, expressed as a percentage of the state average per ADM, or per capita, for the same element. A locality whose composite index exceeds 8000 shall be considered as having an index of 8000 for purposes of distributing basic aid payments. Each constituent index element for a locality used to determine the composite index of local ability to pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than December 31, 1985.

In the event that two or more school divisions become one school division, such resulting division shall be paid Basic Aid for all pupils in the combined division on the basis of a composite index determined by the Board of Education, which shall not be less than the lowest nor higher than the highest composite index of any of the individual school divisions involved in such consolidation. The Governor shall approve the composite index determined by the Board of Education prior to disbursement of funds under such index. The Department shall annually report to the Chairmen of the House Appropriations and Senate Finance Committees the composite indices approved by the Governor and the Board under this provision.

When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.

5. "Required Local Expenditure" - The locality's composite index times the excess of its basic operation cost over its estimated revenues from the State sales and use tax returned (on the basis of school age population) in the fiscal year in which the school year begins.

B. General Conditions

1. Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.

2.

a. In the event the statewide number of pupils in ADM exceeds the number estimated as the basis for this appropriation, the locality's state share of the Basic Operation Cost and the required local share shall be reduced proportionately so that this appropriation will not be exceeded.

b. In the event the statewide number of pupils in ADM is less than the number estimated as the basis for this appropriation, the resulting reduction in the net state payments to localities shall not be expended for any other purpose.

Item	Item Details(\$)		Appropriation(\$)	
	First Year	Second Year	First Year	Second Year
Total for Department of Education - Central Office			\$31,274,600	\$32,558,830
Maximum Employment Level	431.00	431.00		
Fund Sources: General	\$21,064,790	\$21,638,930		
Special	\$728,900	\$728,900		
Commonwealth Transportation	\$135,000	\$135,000		
Federal Trust	\$9,446,000	\$10,056,000		

Direct Aid to Public Education (187)

134. Financial Assistance for Public Education (Categorical) (1710000)			\$209,123,325	\$223,152,295
Financial Assistance for Instruction (1710100)	\$84,900,000	\$92,880,000		
Financial Assistance for Special Education Instruction (1710200)	\$61,468,190	\$66,936,535		
Financial Assistance for Vocational Education Instruction (1710300)	\$30,170,020	\$31,070,020		
Financial Assistance for Adult Education Instruction (1710400)	\$1,461,900	\$1,655,800		
Financial Assistance for General Education Instruction (1710500)	\$7,682,310	\$6,989,020		
Financial Assistance for Cultural Transition (1710600)	\$1,326,800	\$1,524,800		
Financial Assistance for Research and Testing (1710700)	\$430,850	\$230,850		
Financial Assistance for Pupil Transportation (1710800)	\$17,859,305	\$18,153,695		
Financial Assistance for Textbook Rentals (1710900)	\$922,500	\$0		
Financial Assistance for Educational Telecommunications (1711000)	\$2,201,050	\$2,911,575		
Financial Assistance from Federal Land Use (1711300)	\$700,000	\$800,000		
Fund Sources: General	\$63,671,550	\$62,784,600		
Special	\$716,775	\$2,758,695		
Federal Trust	\$144,735,000	\$157,609,000		

Authority: Financial Assistance for Instruction (1710100): Discretionary Inclusion; P.L. 97-35, P.L. 95-561 and P.L. 99-313, Federal Code.

Financial Assistance for Special Education (1710200): §§ 22.1-213 through 22.1-222, Chapter 667, Acts of Assembly, 1980; P.L. 94-142 and P.L. 95-561, Federal Code.

Financial Assistance for Vocational Education (1710300): §§ 22.1-227, Code of Virginia; P.L. 98-524, Federal Code.

Financial Assistance for Adult Education (1710400): §§ 22.1-223 through 22.1-226, Code of Virginia; P.L. 95-561, Federal Code.

Financial Assistance for General Education (1710500): Discretionary Inclusion; and P.L. 99-570, Federal Code.

Financial Assistance for Cultural Transition (1710600): Immigration and Naturalization Act as amended by the Refugee Act of 1980, P.L. 96-212, Federal Code; Treaty of 1677 between Virginia and the Indians; Discretionary Inclusion, and the Emergency Immigrant Act, Title VI of the Education Act of 1984, P.L. 99-511.

Financial Assistance for Research and Testing (1710700): Discretionary Inclusion.

Financial Assistance for Pupil Transportation (1710800): § 22.1-186, Code of Virginia.

Text Rental Payments (1710900): §§ 22.1-251 through 22.1-253, Code of Virginia.

Item	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
Financial Assistance for Educational Telecommunications (1711100): Discretionary Inclusion.				
Financial Assistance from Federal Land Use (1711300): § 22.1-108, Code of Virginia; P.L. 94-588, Federal Code.				
1. Instruction Payments				
Aid to localities provided by the Federal Block Grant for Education is appropriated in this subprogram.				
This appropriation includes \$300,000 in each year for Migrant Education.				
2. Special Education Instruction Payments				
The Department of Education shall establish rates for all elements in this subprogram except tuition rates for private and certain public regional day school programs, which rates shall be established consistent with §§ 22.1-213 through 22.1-222, Code of Virginia.				
Out of the amounts for special education payments, the Department of Education shall make available, subject to implementation by the Superintendent of Public Instruction, not more than \$12,936,354 during the first year of the biennium and not more than \$13,966,959 for the second year of the biennium for the purpose of the State's share of the tuition rates (at 60 percent) for approved public school regional and private school education programs. These funds are exclusive of the interagency assistance fund described below.				
This appropriation also provides for funding levels of \$2,900,000 in the first year and \$3,200,000 in the second year to support the direct instructional cost of handicapped children who have been placed in special education facilities, residential or day schools, by public agencies authorized to do so if there is no less restrictive appropriate program available for this purpose in the public schools. This funding constitutes the tuition portion of an interagency assistance fund for non-educational placements of such children, as provided by §§ 2.1-701, 2.1-702 and 22.1-101.C., Code of Virginia, provision is authorized to the extent these funds are not adequate to cover the full costs specified therein. Funding of the costs of related services and custodial care for these placements is provided in the appropriations for the Departments of Corrections and Social Services.				
3. Vocational Education Instruction Payments				
Out of the amounts for Financial Assistance for Vocational Education the Board of Education shall make available, subject to implementation by the Superintendent of Public Instruction, not more than \$30,000 each year for community cannery support.				
It is the intention of the General Assembly that any expenditures out of appropriations to the Department of Education for the purpose of vocational education offered in secondary schools shall not unreasonably duplicate post-high school programs offered at the institutions in the Virginia Community College System.				

Item	Item Detail(s)		Appropriation(s)	
	First Year	Second Year	First Year	Second Year
4. Adult Education Payments				
<p>State funds shall be used to reimburse general adult education programs on a fixed cost per pupil or cost per class basis. No state funds shall be used to support avocational non-credit courses.</p>				
5. General Education Payments				
<p>Out of the amounts for Financial Assistance for General Education shall be paid \$768,000 in the first year and \$602,325 in the second year for Project Discovery. These funds are to fund one-half of the cost of the program in Abingdon, Charlottesville, Alexandria, Newport News, the City of Richmond, the City of Roanoke, Norfolk, Cumberland, Tazewell and two additional Project Discovery sites.</p>				
<p>Out of the amounts for Financial Assistance for General Education, the Board of Education shall provide \$158,000 in each year to support the Reading to Learn Project.</p>				
<p>Out of the amounts for Financial Assistance for General Education, the Board of Education shall provide \$25,000 in the first year and \$15,000 in the second year as scholarships to Virginia students who attend the summer academic program in math and sciences conducted by the Rickover Foundation.</p>				
<p>The Board of Education shall provide a sum of \$290,065 in the first year and \$2,359,795 in the second year from the Literary Fund to subsidize an equipment financing program for local school divisions through the Virginia Public School Authority for technological equipment required by the Board's Five-Year Plan for Educational Technology. Pursuant to Chapter 723, Acts of Assembly, 1987, from the Literary Fund there is hereby appropriated \$287,220 as an additional interest rate subsidy for any school division which meets the following conditions: (1) project was on the Recommended Deferral of Initial Release/Commitment of Literary Funds list and was due to have funds released in March or April, 1987; (2) project was moved to the Third Priority Waiting List pursuant to Chapter 723 and Board of Education regulations; (3) project was under construction in March 1987 and being funded from local school division operating funds, not temporary loans. The additional appropriation is for the difference between the present value of the indebtedness from the Virginia Public School Authority loan at an interest rate of 6.25 percent (the cap on the interest subsidy specified in Chapter 723) and the actual interest rate to be paid by the school division, 7.51 percent.</p>				
<p>Out of the amounts for Financial Assistance for General Education, the Board of Education shall provide \$3,443,292 in the first year and \$1,341,447 in the second year to support the Family Life Education program. Local school divisions shall receive full payments out of these amounts if they implement the Standards of Learning for the Family Life Education Program promulgated by the Board of Education, or, if they implement a family life education program consistent with the guidelines developed by the Board of Education in December 1987 and as revised by the Board of Education anytime thereafter. The guidelines for locally developed programs require age appropriate instruction but do not require sexually explicit material to be taught in the elementary grades. It is further provided that no school division with a qualifying program as determined by the Department of Education shall receive less than \$3,500 in the first year of the biennium and \$1,500 in the second year of the biennium.</p>				

Item	Item Details(1)		Appropriations(3)	
	First Year	Second Year	First Year	Second Year
6 Pilot Studies Payments				
<p>The Board of Education shall make available, subject to implementation by the Superintendent of Public Instruction, amounts not exceeding \$125,000 for the first year and \$125,000 for the second year of the biennium for pilot studies.</p> <p>Also out of the amounts for Financial Assistance for Research and Testing the Board of Education shall make available \$305,850 in the first year and \$105,850 in the second year for the support of Principal Assessment Centers at George Mason University, Virginia Polytechnic Institute and State University, Old Dominion University, and the Center operated jointly by Virginia Commonwealth University and Virginia State University, based on mutually agreeable contractual arrangements between the institutions and the Department of Education. The Principal Assessment Centers shall develop a revised certification plan for principals by July 1, 1990 as recommended by the Governor's Commission on Excellence in Education. In addition the School of Education at each institution will match state funds for the salary of the Director of each Center.</p>				
7. Pupil Transportation Payments				
<p>The amounts for Financial Assistance for Pupil Transportation shall be distributed based on the prevailing cost for mainstream, special arrangement and exclusive schedule pupil transportation programs and a bus replacement schedule (based on Board of Education bus safety regulations) as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. The amount of Financial Assistance for Pupil Transportation is the state share of the categorical pupil transportation account to be distributed to localities on the basis of the prevailing cost per pupil transported and the composite index. The remaining amount is distributed through Basic Aid in the same manner. Also, if the funds appropriated for this purpose are insufficient, the payments out of the appropriation shall be prorated among the localities entitled thereto.</p>				
8. Textbook Payments				
<p>Out of the appropriation for Financial Assistance for Textbook Rentals, a one-time payment during the biennium of \$3.00 per pupil shall be made to school divisions which operate a free textbook system. This payment shall be made in support of centrally operated free textbook systems at contiguous grade levels. Prior school year data shall be used to calculate the actual disbursements to individual localities which shall be made by September 30, 1988.</p>				
9. Educational Telecommunications Payments				
<p>Out of the amounts for Financial Assistance for Educational Telecommunications, the Board of Education shall provide assistance for the electronic classrooms and the Communications/Automation Transition System.</p> <p>The local share of costs associated with operation of electronic classrooms shall be computed using the local composite index.</p>				
135	Financial Assistance for Public School Employee Benefits (1720000)		\$297,603,070	\$283,829,722

Item	Item Details\$)		Appropriations\$)	
	First Year	Second Year	First Year	Second Year
Financial Assistance for School Employee Retirement Contributions (1720100)	\$170,248,410	\$167,678,477		
Financial Assistance for School Employee Social Security Contributions (1720200)	\$122,616,280	\$121,537,820		
Financial Assistance for School Employee Insurance Contributions (1720300)	\$4,738,380	\$4,613,425		
Fund Sources: General	\$287,603,070	\$278,829,722		
Special	\$10,000,000	\$15,000,000		

Authority: Title 51, Chapters 3.1 and 3.2, Code of Virginia.

The Board of Education shall administer a program to provide interest rate subsidies for school construction and renovation from the Literary Fund. Objectives of the program will be to maximize the use of the Literary Fund and the Virginia Public School Authority to provide low interest loans for school construction and renovation and to keep the Literary Fund loan waiting period to one year or less. The Board of Education is hereby authorized to expend a sum estimated at \$18,800,000 each year in interest subsidies from the Literary Fund. Interest rate subsidies will provide school divisions with the present value of the difference in debt service between a Literary Fund loan and a loan from the Virginia Public School Authority. To qualify for an interest rate subsidy, the school division's project must be eligible for a Literary Fund loan and shall be subject to the same restrictions. The subsidy shall be used to provide approximately \$84 million in Literary Fund projects to be financed through the Virginia Public School Authority.

The Superintendent of Public Instruction shall develop a plan, to be approved by the Secretary of Education, to implement the program by September 1, 1988. The Department of Education shall develop and administer the program from such funds as may be available, in conjunction with the Department of the Treasury and the Virginia Public School Authority.

Payments out of the above amounts shall be subject to the following conditions:

1. General Conditions

- a. The Standards of Quality cost for each of the three subprograms shall be limited for instructional staff members to the employer's cost for a number not exceeding the number of instructional positions required by the Standards of Quality for each school division as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ costs and Distribution, and for their salaries at the statewide prevailing salary levels:

Instructional Position	First Year Salary	Second Year Salary
Elementary Teachers	\$25,727	\$27,785
Elementary Assistant Principals	\$34,605	\$37,374
Elementary Principals	\$41,076	\$44,362
Secondary Teachers	\$27,538	\$29,742
Secondary Assistant Principals	\$37,441	\$40,437
Secondary Principals	\$44,522	\$48,064
Aides	\$ 8,887	\$ 9,538

Item	Item Details(\$)		Appropriation(\$)	
	First Year	Second Year	First Year	Second Year
b.	The fringe benefit amount for localities in Planning District Eight shall include an additional amount based on fringe benefit costs for the 12.53 percent increase over the base statewide prevailing salary in 1987-88. Planning District Eight shall remain as defined in Item 136.			
c.	The Standards of Quality cost for noninstructional personnel shall be limited to the prevailing number of personnel and the statewide prevailing salary levels as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution.			
d.	Payment by the state to a local school division shall be based on the state share of fringe benefit costs of 95 percent of the employer's cost in the first year and 85 percent of the employer's cost in the second year distributed on the basis of the composite index.			
	A locality whose composite index exceeds .8000 shall be considered as having an index of .8000 for purposes of distributing fringe benefit funds under this provision.			
	The State payment to each school division in the item for non-instructional staff members shall equal the state share of 95 percent in the first year and 85 percent in the second year of the division's entitlement for such staff members for the school year 1981-82. The recognized cost for noninstructional staff, above the 1981-82 entitlement, is included in and distributed through Basic Aid.			
e.	Payments to school divisions from these subprograms shall be calculated using Average Daily Membership adjusted for half-day kindergarten programs.			
f.	Payments for health insurance fringe benefits are included in and distributed through Basic Aid.			
g.	An adjustment for overpayments to localities in 1987-88 shall be made as provided in Paragraph 1.c. of Item 154, Chapter 723, Acts of Assembly (1987).			
2. School Employee Retirement Contributions				
	This subprogram provides funds to each local school board for the state share of the employer's retirement cost incurred by it, on behalf of instructional personnel, for subsequent transfer to the retirement allowance account as provided by Title 51, Chapter 3.2, Code of Virginia, from the general fund \$160,248,410 the first year, and \$152,678,447 the second year, and from other funds, derived from the principal of the Literary Fund \$10,000,000 the first year and \$15,000,000 the second year.			
3. School Employee Social Security Contributions				
	This subprogram includes a sum, estimated at \$122,616,280 the first year and \$121,527,820 the second year for payment to each local school board for the state share of the employer's Social Security cost incurred by it, on behalf of the instructional personnel for subsequent transfer to the Contribution Fund pursuant to Title 51, Chapter 3.1, Code of Virginia.			

Item	Item Details(1)		Appropriations(3)	
	First Year	Second Year	First Year	Second Year
4. School Employee Insurance Contributions				
<p>This subprogram includes a sum, estimated at \$4,738,380 the first year and \$4,613,425 the second year for payment to each local school board for the state share of the employer's Group Life Insurance cost incurred by it on behalf of instructional personnel who participate in group insurance under the provisions of Title 51, Chapter 3.2, Code of Virginia.</p>				
136.	Financial Assistance for Public Education (Standards of Quality) (1750000)		\$1,193,258,815	\$1,299,262,153
	Basic Aid Payments (1750200)	\$1,037,792,508	\$1,137,046,187	
	Foster Children Educational Payments (1750400)	\$3,760,000	\$4,020,000	
	Education of the Gifted Payments (1750500)	\$13,929,400	\$15,424,350	
	Minimum Gain/No Loss Provision Payments (1750800)	\$8,831,323	\$2,272,803	
	Occupational-Vocational Education Payments (1750900)	\$30,961,026	\$35,026,466	
	Special Education Payments (1751000)	\$66,430,465	\$76,140,405	
	Enrollment Loss Payments (1751300)	\$8,618,273	\$3,114,207	
	Remedial Education Payments (1751400)	\$22,935,315	\$25,217,735	
	Fund Sources: General	\$1,191,430,515	\$1,297,324,153	
	Commonwealth Transportation	\$1,823,000	\$1,438,000	

Authority: Basic Aid Payments (1750200): Article VIII, Section 2, Constitution of Virginia, and Chapter 667, Acts of Assembly, 1980, and § 22.1-97, Code of Virginia, §§ 22.1-205, 46.1-357 and 46.1-380, Code of Virginia.

Foster Children Education Payments (1750400): § 22.1-101, Code of Virginia.

Education of the Gifted (1750500): Chapter 667, Acts of Assembly, 1980.

Minimum Gain/No Loss Provision Payments (1750800): Discretionary Inclusion.

Occupational-Vocational Education Payments (1750900): §§ 22.1-228 through 22.1-236, Code of Virginia; Chapter 667, Acts of Assembly, 1980.

Special Education Payments (1751000): §§ 22.1-213 through 22.1-222, Code of Virginia.

Remedial Education Payments (1751400): Article VIII, Section 2, Constitution of Virginia, and Chapter 667, Acts of Assembly, 1980.

A. Definitions

1. "Average Daily Membership," or "ADM" - The average daily membership for grades K-12 including handicapped students ages 5-21, for the first seven (7) months (or equivalent period) of the school year in which state funds are distributed from this appropriation. Preschool and post-graduate students shall not be included in ADM.

Except as otherwise provided herein, by statute, or by precedent, all subprograms throughout the appropriation to the Department of Education shall be calculated using ADM unadjusted for half day kindergarten programs, estimated at 980,738 the first year and 990,538 the second year.

Entitlements for Basic Aid, Education of the Gifted, Retirement, Social Security, and Group Life Insurance shall be calculated using ADM adjusted for half-day kindergarten at 85% of ADM, estimated at 976,404 the first year and 986,029 the second year.

Item	Item Detail(s)		Appropriation(s)	
	First Year	Second Year	First Year	Second Year
2.	"Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.			
3.	"Basic Operation Cost" - The cost per pupil, including provision for the number of instructional personnel required by the Standards of Quality for each school division as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution with a minimum ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, duty free lunch, general administration, Division Superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), school nurses (as cited in the Joint Legislative Audit and Review Commission report Funding the Standards of Quality - Part II: SOQ Costs and Distribution, operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, increased costs due to new Standards of Quality and accreditation standards adopted by the Board of Education in 1987, fixed charges and other costs in programs not funded by other state and/or federal aid.			
4.	"Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 2/3 of the index of wealth per pupil in ADM (unadjusted for half-day kindergarten programs) reported for the first seven (7) months of the 1985-86 school year and 1/3 of the index of wealth per capita (population estimates for 1985 as determined by the Center for Public Service of the University of Virginia); times the local nominal share of the costs of the Standards of Quality of .49 in 1988-89 and 0.48 in 1989-90. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 1985 - 50 percent; (2) adjusted gross income for the calendar year 1985 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 1985 which are subject to the state general sales and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per ADM, or per capita, expressed as a percentage of the state average per ADM, or per capita, for the same element. A locality whose composite index exceeds 2000 shall be considered as having an index of 2000 for purposes of distributing all payments based on the composite index. Each constituent index element for a locality used to determine the composite index of local ability to pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than December 15, 1987.			

In the event that two or more school divisions become one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be paid Basic Aid for all pupils in the combined division on the basis of a composite index

Item	Item Detail(s)		Appropriation(s)	
	First Year	Second Year	First Year	Second Year
	<p>determined by the Board of Education, which shall not be less than the lowest nor higher than the highest composite index of any of the individual school divisions involved in such consolidation. In the event of a consolidation of local governments, this index shall remain in effect for a period of five years, unless a lower composite index is calculated through the process for computing an index figure for each locality as set forth above. The Governor shall approve the composite index determined by the Board of Education prior to disbursement of funds under such index. The Department shall annually report to the Chairmen of the House Appropriations and Senate Finance Committees the composite indices approved by the Governor and the Board under this provision.</p> <p>When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year through the Minimum Gain/No Loss Provision Payments. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.</p>			
5.	<p>"Required Local Expenditure for the Standards of Quality" - The locality's share based on the composite index of the cost required by all the Standards of Quality as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution minus its estimated revenues from the State sales and use tax returned (on the basis of school age population) in the fiscal year in which the school year begins.</p>			
6.	<p>"Required Local Expenditure for Basic Operations Cost" - The locality's composite index times the excess of its basic operation cost over its estimated revenues from the State sales and use tax returned (on the basis of school age population) in the fiscal year in which the school year begins.</p>			
7.	<p>"Teacher Salary Incentive Payment" - Payment included in Basic Aid Payment of \$28,326,800 which is based on the 3 percent increase in teachers salaries and fringe benefits in 1989-90. The amount will vary by locality. The average State Teacher Salary Incentive payment is \$92 per pupil.</p>			
8.	<p>"Planning District Eight" - The nine localities which comprise Planning District Eight are Arlington County, Fairfax County, Loudoun County, Prince William County, City of Alexandria, Fairfax City, Falls Church City, Manassas City and Manassas Park City.</p>			
9.	<p>"State Share for the Standards of Quality" - The state share for a locality shall be equal to the cost for that locality less the locality's share of the cost based on the composite index and the locality's estimated revenues from the state sales and use tax returned (on the basis of school age population) in the fiscal year in which the school year begins and less the required local expenditure.</p>			
	<p>B. General Conditions</p>			
1.	<p>Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.</p>			

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2.	In the event the statewide number of pupils in ADM exceeds the number estimated as the basis for this appropriation, the locality's state share of the Basic Operation Cost and the required local share shall be reduced proportionately so that this appropriation will not be exceeded.			
3.	In the event the statewide number of pupils in ADM is less than the number estimated as the basis for this appropriation, the resulting reduction in the net state payments to localities shall not be expended for any other purpose.			
4.	The Department of Education shall make equitable adjustments in the computation of indices of wealth and in other state-funded accounts for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. However, only the indices of wealth and other state-funded accounts of localities party to the annexation will be adjusted.			
5.	In the event that the actual revenues from the state sales and use tax returned (on the basis of school age population) for sales in the fiscal year in which the school year begins are different from the number estimated as the basis for this appropriation, the estimated revenues shall not be adjusted.			
6.	This appropriation shall be apportioned to the public schools with guidelines established by the Department of Education consistent with legislative intent as expressed in this Act.			
7.	Appropriations of state funds in this item include for each subprogram the number of positions required by the Standards of Quality as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. This item includes for such subprograms as Basic Aid Payments, a minimum of 51 professional instructional positions and aide positions (C.1.); Education of the Gifted, 1.0 professional instructional position (C.2.); Occupational-Vocational Education Payments and Special Education Payments; a minimum of 6.0 professional instructional positions and aide positions (C.4. and C.5.) for each 1,000 pupils in ADM each year in support of the current Standards of Quality as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. Funding in support of an additional 9.0 professional instructional positions per 1,000 pupils who score in the lowest quartile of the Virginia State Assessment Program tests or who fail the State's Literacy tests is included in Remedial Education Payments.			
8.	To determine if a school division has met its required local expenditure for the Standards of Quality for fiscal year 1988-89, the calculation required for Basic Aid in paragraph C.1.b of this item will be made. To determine if a school division has met its required local expenditure for the Standards of Quality for fiscal year 1989-90, the calculation required for Basic Aid in paragraph C.1.b of this item will be made with the state share for the Standards of Quality substituted for the state share of the Basic Operation Cost. The local share required for fiscal year 1989-90 shall be 90 percent of the required local expenditure required in A.5.			

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9. Any sum which a locality, as of the end of a school year, has not expended out of the state share and the required local expenditure for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.

C. Apportionment

Subject to the conditions stated in this paragraph and in Paragraph B of this item, each locality shall receive sums as listed above for subprograms within this program for the basic operation cost and payments in addition to that cost. The apportionment herein directed shall be inclusive of, and without further payment by reason of, state funds for library and other teaching materials.

The intent of the General Assembly is that the average classroom teacher salary be improved throughout the state by at least 7.3 percent each year of the biennium. Sufficient funds are appropriated in this Act to finance, on a statewide basis, the state share of an 8.0 percent salary improvement for each year for the number of instructional positions required by the Standards of Quality for each school division as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. Each governing body, school board, and division superintendent shall appropriate increased local funds to meet their locality's share of the cost and shall provide at least an annual average increase of 7.3 percent in the average classroom teacher salary over the two year period of the biennium. Such increase shall be in addition to the actual 1987-88 salary average certified to and verified by the Board of Education by the division superintendent. If such annual average of 7.3 percent is not provided, the state shall withhold payment of the Teacher Salary Incentive Payment included in the second year of the Basic Aid Payment. Receipt of the state Teacher Salary Incentive Payment of a statewide average of \$92 per pupil in the second year of the biennium is conditioned upon a local school division improving for the two-year period of the biennium the average classroom teacher salary by an annual average of 7.3 percent over the 1987-88 actual average. The payment of a sufficient 1989-90 salary average to satisfy this condition must be certified to the Board of Education no later than March 1, 1990. The Board of Education shall grant an exception to the 7.3 percent salary increase requirement and authorize receipt of the state share of the Teacher Salary Incentive Payment in the second year if a local school division's 1988-89 average classroom teacher salary equals or exceeds \$33,433 in the nine localities in Planning District Eight and \$29,710 in all other localities in 1988-89 and its certified salary exceeds \$35,439 in the nine localities in Planning District Eight and \$31,493 in all other localities in 1989-90. The aforementioned exception shall allow a local school division to include the dollar equivalent of payments it makes for the teachers' (employee's) share of the Virginia Supplemental Retirement System (VSRS) retirement contributions in its 1988-89 average classroom teacher salary to meet the \$33,433 or \$29,710 threshold respectively for 1988-89, and \$35,439 or \$31,493 threshold respectively for 1989-90. Further, the Governor, after receiving the recommendation of the State Superintendent of Public Instruction, may grant an exception to this requirement

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when, in his judgment, a locality has taken the necessary budget action to improve teacher salaries by an annual average of 7.3% for the two-year period of the biennium but circumstances beyond its control keep it from meeting the salary objective and/or when unavoidable circumstances warrant such an exception. The State Superintendent of Public Instruction shall provide a report on salary improvement to the Governor and the General Assembly by December 1 of each year of the biennium. Said report also shall include the average salary increase granted by each locality for principals and assistant principals.

1. Basic Aid Payments

- a. A state share of the Basic Operation Cost, which cost per pupil in ADM is established individually for each local school division based on the number of instructional personnel required by the Standards of Quality, the statewide prevailing salary levels (adjusted in Planning District Eight for the cost of competing, cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II, SOQ Costs and Distribution, for an estimated ADM (adjusted for half-day kindergarten programs).

The calculation of the statewide costs of the aggregate personnel standard does not include that portion of the costs from Supplemental Retirement, Social Security and Group Insurance programs paid from state funds appropriated by other items of this Act. The total of these other items provide state funds for fringe benefit costs which approximate an additional \$297,603,970 in the first year, based on adjusted ADM, and \$293,829,722 in the second year, based on adjusted ADM.

- b. The state share for a locality shall be equal to the Basic Operation Cost for that locality less the locality's share of the cost based on the composite index and the locality's estimated revenues from the state sales and use tax returned (on the basis of school age population) in the fiscal year in which the school year begins and less the required local expenditure.

To determine if a school division has met its required local expenditure for Basic Aid, the following calculations will be made:

- (1) The total cost of operation less all capital outlays, debt service expenditures and refunds of revenue (prior periods), will be calculated; then
- (2) From this amount calculated in Paragraph (1) will be deducted receipts from state categorical aids (other than for capital outlays), receipts from federal categorical aids other than P.L. 95-561 (formerly P.L. 81-874 and P.L. 81-815) and for capital outlays, receipts for gasoline tax refunds, tuition from another county or city, other payments from another county or city, and payments from other State agencies and others, all as stipulated by the Superintendent of Public Instruction; then
- (3) From this amount calculated in Paragraph (2) will be deducted the State share of the Basic Operation Cost and the estimated revenues from the state

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	<p>sales and use tax returned (on the basis of school age population) for sales in the fiscal year in which the school year begins.</p>			
	<p>(4) The amount calculated in Paragraph C.1.b.(3) must be equal to or greater than the required local expenditure defined in Paragraph A.(5).</p>			
	<p>(5) A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures as defined in paragraph A.5 and C.1.b., unless it first complies with all of the Standards of Quality.</p>			
	<p>c. For the purpose of this paragraph, the Department of Taxation's fiscal year 1988-89 sales and use tax estimate used was \$429,700,000; the fiscal year 1989-90 estimate, was \$464,200,000.</p>			
	<p>d. In accordance with the provisions of §§ 22.1-281 and 37.1-96, Code of Virginia, the Department of Education shall deduct the locality's share for the education of handicapped pupils residing in institutions within the Department of Mental Health, Mental Retardation and Substance Abuse Services from the locality's Basic Aid appropriation.</p> <p>The amounts deducted from Basic Aid for the education of mentally retarded persons shall be transferred to the Department of Mental Health, Mental Retardation and Substance Abuse Services in support of the cost of educating such persons; the amount deducted from Basic Aid for the education of emotionally disturbed persons shall be transferred to the Division of Special Education for extraordinary expenses incurred in the education of such persons. The Department of Education shall establish guidelines to implement these provisions and shall provide for the periodic transfer of sums due from each local school division to the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Division of Special Education. The amount of the actual transfers will be based on data accumulated during the prior school year.</p>			
	<p>e. The apportionment to localities of all driver education revenues received during the school year shall be made as an undesignated component of the state share of the basic operation cost in accordance with the provisions of this item. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of state funds appropriated for driver education. The Department of Education will deduct a designated amount per pupil from a school division's Basic Aid payment when the school division is not in compliance with § 22.1-205.c of the Code of Virginia. Such amount will be computed by dividing the current appropriation for the Driver Education Fund by actual March 31 ADM.</p>			
	<p>f. School divisions may not charge supplemental fees for the behind-the-wheel phase of Driver Education except with prior approval of the Board of Education. Such fees shall not be cause for a pro rata reduction in Basic Aid payments to school divisions.</p>			
	<p>g. The one-cent state sales and use tax earmarked for</p>			

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education and distributed to localities on the basis of school age population shall be reflected in each locality's annual budget for educational purposes as a separate revenue source for the then current fiscal year.

2. Foster Children Education Payments

An additional state payment for the prior year's local operations costs, as determined by the Department of Education, for each pupil not a resident of the school division providing his education (i) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (ii) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (iii) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home.

This appropriation also provides for funding levels of \$2,131,180 in the first year and \$2,391,180 in the second year to support handicapped children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines. This funding constitutes the educational costs of operating an interagency assistance fund for noneducational placements of children, as provided by §§ 21-701, 21-702 and subdivision B of § 22.1-101.1. Proration is authorized to the extent these funds are not adequate to cover the full costs specified therein.

3. Education of the Gifted Payments.

A state share of Education of the Gifted Payments, which cost per pupil in ADM is established for the school year 1988-89 as an average of \$27 and for the school year 1989-90 as an average of \$30 for an estimated ADM (adjusted for half-day kindergarten programs), to be paid in accordance with each locality's composite index of local ability-to-pay in the same manner as Basic Aid Payments are made to each locality.

Local school divisions are required to spend, in addition to the amount required for Basic Aid the established per pupil cost established in the Joint Legislative and Audit Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution (state and local share) on approved programs for the gifted.

4. Occupational-Vocational Education Payments

An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Vocational Education instructors required by the Standards of Quality as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. These funds shall be disbursed on the same basis as the payment is calculated.

An amount of \$27,117,000 included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.

An additional state payment shall be disbursed to regional vocational centers which received Occupational-Vocational

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Education payments under authority of Chapter 723, 1987 Acts of Assembly. The payment in the first year shall be equal to 7.3% more than each center's actual FY 1987-88 state payments under the program. Each center's payment in the second year of the biennium shall be equal to its state payment in the first year of the biennium. It is the intent of the General Assembly that this special payment not continue beyond the 1988-90 biennium.

5. Special Education Payments

An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Special Education instructors required by the Standards of Quality as cited in the Joint Legislative Audit and Review Commission's report Funding the Standards of Quality - Part II: SOQ Costs and Distribution. These funds shall be disbursed on the same basis as the payment is calculated.

6. Remedial Education Payments

An additional state payment shall be disbursed by the Department of Education to the local school divisions to support the state share of nine professional instructional positions per 1,000 students who score in the bottom national quartile on Virginia State Assessment Program Tests or who fail the State's Literacy tests.

7. Enrollment Loss Payments

An additional state payment per pupil, equal to the state share per pupil of Basic Aid for each locality, for 80% of the enrollment loss in the first year over the prior year, and 40% of the enrollment loss in the second year over the prior year. For any locality involved in an annexation which became effective after December 31, 1987, the prior year March 31 Average Daily Membership used as a base for this provision will be adjusted for such annexation prior to determining the enrollment loss provision.

8. Minimum Gain/No Loss Provision Payments

An appropriation of \$8,831,823 in the first year and \$2,272,803 in the second year is made to implement the Minimum Gain/No Loss Provisions. In the first year of the biennium each locality shall receive a minimum percentage increase in State Appropriations from Basic Aid, Education of the Gifted, Special Education (SOQ), Vocational Education (SOQ), Remedial Education, Summer School Remedial Education, Public School Employee Benefits (Retirement, Social Security, Group Life Insurance), Sales Tax, Duty Free Lunch, Pupil Transportation, Special Education Preschool, Homebound Instruction and Vocational Education Occupational Preparation/Technology for the Standards of Quality. This minimum increase shall be an amount above 1987-88 actual payments and shall be determined by each locality's composite index (calculated at 50%), as listed below:

<u>Composite Index</u> <u>Increase</u>	<u>Minimum Percentage</u>
.2 - .2999	4.0%
.3 - .3999	3.5%
.4 - .4999	3.0%
.5 - .5999	2.5%
.6 or more	2.0%

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<p>In the second year of the biennium, no locality shall receive less than its 1988-89 actual payment from the accounts listed above, unless such locality fails to meet the terms of the teacher salary incentive requirements defined in paragraph C of this Item.</p> <p>Two or more school divisions operating as a single division by a combined school board shall be considered as a single school division for purposes of this calculation.</p> <p>For any locality involved in an annexation which became effective after December 31, 1987, the prior year payments used as a base for this provision will be adjusted for such annexation prior to determining the Minimum Gain/No Loss entitlements.</p> <p>An adjustment is made to limit to .04 the composite index increase resulting from the substitution of adjusted gross income for personal income in the distribution formula. This adjustment does not apply to any locality whose first year funding increase exceeds the statewide average.</p>				
137.	Financial Assistance for Special State Revenue Sharing (Sales Tax) (1770000) a sum sufficient, estimated at		\$429,700,000	\$464,200,000
	Fund Sources: General	\$429,700,000	\$464,200,000	
<p>Authority: § 58.1-638, Code of Virginia.</p> <p>For distribution to counties, cities and towns of a portion of net revenue from the state sales and use tax, in support of the Standards of Quality (Title 22.1, Chapter 13.1, Code of Virginia) (See the Attorney General's opinion of August 3, 1982).</p> <p>The estimates of state sales and use tax revenue distributed to individual localities, based upon the total revenue estimates prepared by the Department of Taxation, shall be furnished to the localities by the Department of Education not later than April 1 in the year the school year begins.</p> <p>Certification of payments and distribution of this appropriation shall be made by the State Comptroller.</p>				
138.	Adult Literacy Services (1920000)		\$4,105,000	\$4,770,000
	Financial Assistance for Adult Literacy Services (1920200)		\$4,105,000	\$4,770,000
	Fund Sources: General	\$1,945,000	\$2,430,000	
	Federal Trust	\$2,160,000	\$2,340,000	
<p>Authority: Discretionary Inclusion: P.L. 95-561, Federal Code.</p> <p>This appropriation includes \$125,000 in each year for the ongoing literacy programs conducted by Mountain Empire Community College, and \$125,000 in the second year for a workplace literacy program to support the Communities for Opportunity initiative in the Department of Housing and Community Development. This amount for Communities for Opportunity shall be matched in at least an equal amount from other sources.</p>				
139.	Instruction (1970000)		\$2,367,848	\$2,144,540
	Governor's School Payments (1970500)		\$2,367,848	\$2,144,540

Vita

William Parker Childs was born in Richmond, Virginia, on October 24, 1948, and has been a lifelong resident of Virginia. He was raised on the family farm in Spotsylvania County and was a 1967 graduate of Spotsylvania High School. He earned a Bachelor of Arts in History from the University of Richmond in 1971 and immediately began his career in public school education, teaching Social Studies in Culpeper High School in Culpeper County for eight and one-half years. Mr. Childs earned a Master of Education in Social Studies Instruction from the University of Virginia in 1975. He returned to his native Spotsylvania in January, 1980, as an assistant principal at Spotsylvania High School. He has been an assistant principal in the county since then, holding that position at several schools. He is currently working at Thornburg Middle School. Mr. Childs completed his studies at Virginia Polytechnic Institute and State University in 1997, where he earned a Doctorate in Educational Leadership.

Mr. Childs holds memberships in Kappa Delta Pi education honor society, the Education Law Association (formerly NOLPE), and the Association for Supervision and Curriculum Development. He served as President of the University of Richmond's chapter of Kappa Delta Pi during his Senior year. He also held membership in the National Association of Secondary School Principals while at the high school level and was regional President for one year.

William P. Childs