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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD No. 76-1640

SCHOOL BOARD OF CHESTERFIELD COUNTY
Appellant,

v.

SCHOOL BOARD OF THE CITY OF RICHMOND
STATE BOARD OF EDUCATION, W. E. CAMPBELL, INDIVIDUALLY AND AS SUPERINTENDENT OF PUBLIC INSTRUCTION AND AS SECRETARY, STATE BOARD OF EDUCATION AND CHARLES B. WALKER, COMPTROLLER OF THE COMMONWEALTH OF VIRGINIA,
Appellees.

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VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND, DIVISION I

SCHOOL BOARD OF THE CITY OF RICHMOND	Complainant
v.	
STATE BOARD OF EDUCATION, W. E. Campbell, Individually and as Superintendent of Public Instruction and as Secretary, State Board of Education, and Charles B. Walker, Comptroller of the Commonwealth of Virginia	Case No. D-9612 Respondents
STATE BOARD OF EDUCATION, W. E. Campbell, Individually and as Superintendent of Public Instruction and as Secretary, State Board of Education, and CHARLES B. WALKER, Comptroller of the Commonwealth of Virginia	Third-Party Cross-Complainants
v.	
SCHOOL BOARD OF CHESTERFIELD COUNTY	Third-Party Respondents

NOTICE OF APPEAL
AND
ASSIGNMENTS OF ERROR

NOTICE OF APPEAL

The Third-Party Respondent, School Board of Chesterfield County, gives this, its Notice of Appeal of the final judgment entered herein on August 23, 1976.

STATEMENT AS TO TRANSCRIPT

A portion of the transcript of testimony has been heretofore filed in the office of the Clerk all remaining portions will be hereafter filed as promptly as they become available.

ASSIGNMENTS OF ERROR

1. The judgment of the Court is contrary to law.

2. The Court erred in ruling that the term ADM (Average Daily Membership) as it appears in the 1974 Acts of Assembly, Chapter 681, Item 573, Page 1353, Section (a), subsection 4 refers to the 1971 ADM rather than the average daily membership for the school year in which State funds are distributed from the appropriation made in the Act.

3. The Court erred in ruling that the term ADM or Average Daily Membership is ambiguous.

4. The Court erred in hearing evidence as to the meaning of the term which is defined in the Act itself.

5. The Court erred in hearing evidence of legislative intent.

6. The Court erred in holding that the State Board of Education is authorized to change the ADM's reported to it by the localities involved without the consent of each locality involved.

7. The Court erred in giving retroactive effect to any change in ADM required by its interpretation of the Act.

8. The Court erred in ordering "that the State Board of Education shall pay unto the School Board of the City of Richmond the sum of $1,035,378."

9. The Court erred in ordering "that the State Board of Education recover from the School Board of Chesterfield the amount of $1,309,663."

10. The Court erred in failing to require the State Board of Education to pay to the School Board of Chesterfield County an additional sum for the school year 1974-75 and an additional sum for the school year 1975-76 to compensate said School Board for funds lost by it by the use of the wrong year's ADM by the State Board.

Filed Sept 20, 1976

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND, DIVISION I

SCHOOL BOARD OF THE CITY OF RICHMOND, Complainant, vs. STATE BOARD OF EDUCATION, W. E. CAMPBELL, Individually and as Superintendent of Public Instruction and as Secretary, State Board of Education, and CHARLES B. WALKER, Comptroller of the Commonwealth of Virginia, Respondents.	Case No. D-1012 BILL OF COMPLAINT

* * *

Comes now the complainant, the School Board of the City of Richmond, and, by counsel, says as follows:

1. That the State Board of Education is charged by law with the duty of apportioning the sums appropriated by the General Assembly as, and comprising the basic school aid fund among school districts of the Commonwealth in the manner provided by law.

2. That W. E. Campbell, Superintendent of Public Instruction and hereinafter referred to as the Superintendent, is the chief administrative officer of the Virginia Department of Education and in accordance with the provisions of § 22-140, Code of Virginia (1950), as amended, the State Board of Education passes upon proposals prepared by the Superintendent for apportioning money appropriated for public school purposes and, when approved, the Superintendent certifies the apportionment to the Comptroller of the Commonwealth for payment.

3. That for the 1974-1976 biennium the General Assembly appropriated a sum of money as the basic school aid fund, being Item 573, Chapter 681, 1974 Acts of Assembly, to be apportioned by the State Board of Education, giving effect to all of the provisions contained in Item 573, above cited. That, further, these said provisions constitute a formula for apportionment of the basic school aid fund, the application of which depends upon data originating in each school division.

4. That erroneous data relevant to the school population in the City of Richmond was employed for the purpose of determining the share of the basic school aid fund to which the complainant is entitled by law with the consequent result that the complainant has and will receive One Million Seventy-one Thousand Three Hundred Ninety-one Dollars ($1,071,391.00) less than the sum to which it is lawfully entitled over the period of the current biennium, being the sum of $522,169.00 for the year 1974-75 and $549,222.00 for the year 1975-76. See complainant's Exhibit I attached hereto and incorporated herein by reference.

5. That as early as January 1976, the Superintendent was advised of the fact of this said error and remedy was demanded, but although the Superintendent does not challenge the validity of the complainant's true entitlement, he has wholly failed to honor it even though it is the policy of the State Board of Education to correct errors in the distribution of State school funds. See complainant's Exhibits II and III attached hereto and incorporated herein by reference. Moreover, the Superintendent has failed in the duty imposed upon him by §2.1-223.3 of

the Code of Virginia (1950), as amended, to forward the complainant's claim to the Comptroller for resolution.

6. That there presently exists unexpended basic school aid funds sufficient to pay the complainant its lawful entitlement, which funds will be expended to other localities for school purposes or in pursuance of law revert to the general fund of the Commonwealth if not so expended by the close of the biennium ending June 30, 1976, with the result that this money will be lost to the educational effort in the City of Richmond, and, in consequence thereof, the complainant is without an adequate remedy at law and will suffer irreparable harm if the relief sought is not granted.

WHEREFORE, in consideration of the above, the complainant prays that the respondents be temporarily enjoined from disbursing from the basic school aid fund a sum sufficient to protect the interest of the complainant and, thereafter, that the respondents be ordered to recompute the complainant's entitlement to basic school aid funds for the current biennium and disburse the said fund accordingly, all prior to the end of the last day of June, 1976.

Respectfully submitted,

Filed June 14, 1976

SCHOOL BOARD OF THE CITY OF RICHMOND

SCHOOL BOARD OF THE CITY OF RICHMOND,

Complainant,

v.

STATE BOARD OF EDUCATION,
W. E. CAMPBELL, Individually and as
Superintendent of Public Instruction
and as Secretary, State Board of Education,
and CHARLES B. WALKER, Comptroller of the
Commonwealth of Virginia,

Respondents,

STATE BOARD OF EDUCATION,
W. E. CAMPBELL, Individually and as
Superintendent of Public Instruction
and as Secretary, State Board of Education,
and CHARLES B. WALKER, Comptroller of the
Commonwealth of Virginia,

Third-Party Cross-Complainants,

v.

SCHOOL BOARD OF CHESTERFIELD COUNTY,

Third-Party Respondents.

* * *

THIRD PARTY CROSS-BILL

TO: THE HONORABLE JUDGES OF SAID COURT:

Come now the Third-Party Cross-Complainants, by leave of court first obtained, and for their Third-Party Cross-Bill state as follows:

1. The Third-Party Cross-Complainants are Respondents in an action by the School Board of the City of Richmond to recover monies paid by mistake to the School Board of Chesterfield County.

2. Said monies are not owed to the School Board of the City of Richmond but are owed by the School Board of Chesterfield County to the School Board of the City of Richmond.

3. If the State Board of Education is obligated to the School Board of the City of Richmond for any or all of the monies claimed, then the State Board of Education is entitled to recover the sum of One Million Three Hundred Nine Thousand, Six Hundred Sixty-Three Dollars ($1,309,663) from the School Board of Chesterfield County, such sum representing the amount mistakenly paid to Chesterfield in the 1974-1975 and 1975-1976 fiscal years.

Filed June 15, 1976

ANSWER TO BILL OF COMPLAINT AND
THIRD PARTY CROSS BILL AND
CROSS BILL OF THE SCHOOL BOARD OF THE
COUNTY OF CHESTERFIELD

Comes now the School Board of the County of Chesterfield, and, by its counsel says as follows:

1. The Bill of Complaint filed herein by the School Board of the City of Richmond, together with the exhibits thereto, lead to the inescapable result that if the School Board of the City of Richmond is correct in its assertion that it should have received credit in school years 1974-75 and 1975-76 for 2765 (net) students attending school in Chesterfield County in the 1970-71 school year, then the School Board of Chesterfield County should not have received credit for said children.

2. While the School Board of the City of Richmond makes no claims against the School Board of the County of Chesterfield, the School Board of the County of Chesterfield is directly involved in any relief which could be ordered herein and is a necessary party thereto.

3. The School Board of the County of Chesterfield admits the allegations of paragraphs 1, 2, and 3 of the Bill of Complaint.

4. The School Board of the County of Chesterfield admits that, as alleged in paragraph 4 of the Bill of Complaint, erroneous data was employed for the purpose of calculating the share of the basic school aid fund to which the School Board of the City of Richmond was entitled by law but denies that such error resulted in said school board receiving less than it should have received. On the contrary, the School Board of the County of Chesterfield alleges that in determining the share of

the basic school aid fund to which the School Boards of the several counties and cities of Virginia are entitled, the State Board of Education employed an improper factor in the formula with the result that the School Board of the City of Richmond's entitlement was computed as $8,041,415.00 for school year 1974-75 and $8,458,020 for school year 1975-76 whereas such entitlement should have been $5,848,301 for the school year 1974-75 and $5,711,910 for the school year 1975-76 and the entitlement of the School Board of the County of Chesterfield for school year 1974-75 was computed as $8,215,684 and for 1975-76 as $9,252,960 whereas such entitlement should have been $8,614,504 for 1974-75 and $9,971,637 for 1975-76. In sum, the result of the application of an improper factor in the formula has been an overpayment to the School Board of the City of Richmond and an underpayment to the School Board of the County of Chesterfield.

5. The School Board of the County of Chesterfield neither admits or denies the allegations of paragraphs 5 and 6 of the Bill of Complaint.

6. For Answer to the Third Party Cross Bill, the School Board of the County of Chesterfield adopts and re-alleges its answers to the Bill of Complaint and denies that excess monies have been paid to it by mistake by the State Board of Education and denies that the State Board of Education is entitled to recover any sum from it or to withhold payment of any sums to it.

CROSS BILL

1. The School Board of the County of Chesterfield alleges that for the purposes of Item 573, Chapter 681, 1974 Acts of Assembly (the Appropriations Act--Basic School Aid Fund)

"Average daily membership" or "ADM" is defined as "the average daily membership for the first seven (7) months (or equivalent period) of the school year in which state funds are distributed from this appropriation.

2. In the distribution of Basic school aid funds a "composite index of local ability to pay" for each locality is computed employing as one of its factors ADM. The State Board of Education has used the ADM reported by local school boards for 1970-71 for the purpose of computing the composite index for the localities of Virginia in the school year 1974-75 and 1975-76 rather than " the average daily membership for the first seven (7) months <u>of the school year in which state funds are distributed from this appropriation</u>".

3. As a result of the use by the State Board of Education of a figure other than the 1974-75 ADM for the 1974-75 school year and other than the 1975-76 ADM for the 1975-76 school year, the School Board of the County of Chesterfield received credit for 24053 students in each of said years in determining its composite index whereas its ADM for 1974-75 was 26548 and for 1975-76 its ADM was 28330.

4. As a result of the aforesaid use of improper ADM figures, the School Board of the County of Chesterfield's share of Basic School Aid Fund has been underpaid $398,820 for the school year 1974-75 and undercalculated for the school year 1975-76 by $718,677. (See Exhibit A, B, C, and D)

5. In applying the 1970-71 figures for ADM, the State Board of Education used reports supplied by the local school boards of the County of Chesterfield and the City of Richmond for the ADM of said localities and if its interpretation of the Act is accurate and it was proper to apply 1970-

71 figures for ADM in the composite index, then the share of basic school aid funds of the City of Richmond and the County of Chesterfield has been determined on the reported ADM of each locality and is correct.

Wherefore, in consideration of the above, the School Board of the County of Chesterfield prays that the respondents be enjoined from disbursing from the basic school aid fund a sum sufficient to protect the interest of the ~~complainant or~~ S.B. of Chesterfield Cty so much thereof as remains in its control, and that the respondents be ordered to recompute the entitlement to basic school aid funds of the School Board of the County of Chesterfield and the School Board of the City of Richmond for the current biennium and disburse the said funds accordingly.

Filed June 25, 1976

COMPLAINANT'S REPLY TO ANSWER FILED
BY THIRD PARTY RESPONDENTS TO THE COMPLAINANT'S BILL
AND THIRD PARTY CROSS BILL, AND
COMPLAINANT'S ANSWER TO THIRD PARTY RESPONDENT'S
CROSS BILL

For the purpose of these pleadings, the Complainant, School Board of the City of Richmond, shall be referred to as "City Board"; The State Board of Education, Respondents, shall be referred to as "State Board"; and the Third-Party Respondents, School Board of Chesterfield County, shall be referred to as "County Board".

Comes now the City Board, by counsel, answering seriatim, viz:

1. The City Board has not found it necessary to verify the alleged 2,765 City students attending County schools as alleged in paragraph 1, but relies upon the number used in the calculations by the State Board in paragraph 2 of its Answer to the Bill of Complaint, and its admission therein that the City Board is due $522,169 for the fiscal year 1974-75 and $513,209 for the fiscal year 1975-76.

2. In response to paragraph 2, the City Board restates its position taken in its Bill of Complaint that its action is against the State Board to correct the mistake it admittedly made that resulted in an underpayment by the State Board as set forth in paragraph 1 above. The State Board, in its Third-Party Cross Bill admitted that it had "mistakenly paid to Chesterfield $1,309,663" for basic aid for 1974-75 and 1975-76. This your Complainant respectfully submits is a matter between the State Board and the County Board -- not the City Board.

3. The County Board admits paragraphs 1, 2, and 3 of the Bill of Complaint.

4. The City Board categorically denies that the State Board employed an improper factor in the formula for determining composite index. On the contrary, the City Board relies upon the Answer filed by the State Board on June 15, 1976 in this proceeding admitting that through error the City Board was under paid $1,035,378.

5. The County Board neither admits nor denies paragraphs 5 and 6 of the Bill of Complaint.

6. The City Board asserts that the allegation of paragraph 6 is a matter between the State Board and the County Board, as set forth in paragraph 2 above.

CROSS BILL

1. The City Board denies the erroneous interpretation placed by the County Board on Item 573, Chapter 681, 1974 Acts of the General Assembly.[1] The interpretation of Average Daily Membership (ADM) placed by the County Board applies only to the year in which the State Board makes its distribution of basic aid.

Your Complainant has been advised by those who prepared the formula for determining the amount of distribution that there must first be computed a "composite index of local ability to pay". The components to be used for this purpose should be related to the same period of time which was specified by the appropriation act to be 1971. This included Average Daily Membership (ADM) for 1971, and that the legislature was so advised and based its 1974-75 appropriation for State basic aid accordingly.

---

[1] "Composite index of local ability-to-pay" -- an index figure computed for each locality. The composite index is the sum of 1/3 the index of wealth per pupil in ADM and 1/6 the index of wealth per capita (Bureau of Census population estimates 1971); the State average in the composite index is 50. The indexes 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 year 1971 - 50 per cent; (2) individual income level for the calendar year 1971 as determined by Tayloe Murphy Institute at the University of Virginia - 40 per cent; (3) the sales for the calendar year 1971 which are subject to the State general sales and use tax - 10 per cent. 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.

2. That the City Board avers that the State Board was right in computing the composite index for basic aid by using 1971 Average Daily Membership (ADM) as shown in paragraph 1 above, and further in making proper adjustments when substantial errors are discovered.

3. The City Board neither admits nor denies the 1974-75 and the 1975-76 Average Daily Membership (ADM) in the Chesterfield County Schools. It relies upon the calculations of the State Board and its admissions made in this case. See paragraph 2 of the Reply of the City Board herein to the Answer filed by the County Board.

4. The City Board is not familiar with the calculations contained in paragraph 4, but notes that the State Board in its pleadings filed herein on June 15, 1976, admitted that it had "mistakenly paid to Chesterfield" $1,309,663. (Italics supplied)

5. The City Board denies the amount paid to the City for basic aid is correct. On the contrary, the State Board has admitted that an error had been made which resulted in an underpayment of $1,035,368. See paragraph 4 above and Answer filed herein by the State Board on June 15, 1976.

Filed June 28, 1976

ANSWER BY COMPLAINANT
SCHOOL BOARD OF THE CITY OF RICHMOND
TO THIRD-PARTY CROSS BILL FILED BY
STATE BOARD OF EDUCATION

Now comes the Complainant, School Board of the City of Richmond, and in answer to the State Board of Education's Third-Party Cross Bill, by counsel, says as follows:

1. In reply to paragraphs 1 and 2 of the above Cross Bill, the School Board of the City of Richmond avers that it has been advised and believes that it has no legal claim against the School Board of Chesterfield County, but that its claim as asserted in the initial Bill of Complaint is against the State Board of Education for underpayment to the School Board of the City of Richmond of basic school aid for the years 1974-75 and 1975-76.

2. As to the allegations contained in paragraph 3, your Complainant states that allegations contained therein are matters between the State Board of Education and the School Board of Chesterfield County.

Filed June 28, 1976

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND, DIVISION I
The 29th day of June, 1976

* * *

ORDER

The Court having heard evidence to the effect that funds being held in the possession of the State Department of Education pursuant to the Temporary Injunction entered June 14, 1976, may revert to the State Treasury on or before July 1, 1976, it is hereby ORDERED:

(1) All monies now being held by the Department of Education consisting of the basic school aid and incentive funds for the City of Richmond and Chesterfield County in the total amount of Two Million Four Hundred Fifty-Eight Thousand Five Hundred Seventy Dollars ($2,458,570.00) will be deposited forthwith, not later than the close of business on June 30, 1976, with the Clerk of this Court.

(2) A statement of account will be filed with this Order which shows the amounts of the fund designated by the Department of Education for the City of Richmond and Chesterfield County respectively.

(3) The Clerk is directed to deposit the check for the funds in a demand account at current interest rates at United Virginia Bank. Said deposit is to be to the credit of the Court in this cause.

(4) The funds are to be held in escrow pending the determination of the rights of the parties in this litigation and thereupon distributed in accord with the final order of the Court.

(5) In depositing the funds pursuant to this Order the Department of Education does not waive its right to any portion thereof to which it may be entitled and does not waive any right of appeal, review or original action to which it may be entitled to contest this Order. Objections and exceptions are noted.

(6) The objection and exceptions of the City of Richmond to the provisions of this Order requiring deposit of the City's basic school aid and incentive funds of the City of Richmond are noted.

(7) Interest earned on the deposit of the funds will be apportioned among the parties in relation to that portion of the funds the court deems them entitled to.

THE 30th DAY OF June 19 76

The Court having been informed that it is not possible to deposit the funds in this cause in an interest bearing demand account as stated in paragraph (3) of the order entered herein on the 29th day of June, 1976, but being of the opinion that it is proper to invest the said fund during the pendency of this cause, it is ordered that paragraph (3) of the said decree of June 29, 1976, be vacated and in lieu thereof that Edward G. Kidd, Clerk of this Court, who is appointed Special Commissioner for the purpose, shall, on behalf of the Court, enter into a Repurchase Agreement with the Central National Bank of Richmond for the investment of the sum of $2,400,000.00 in U. S. Treasury Notes ~~XXXXX due July 15, 1976~~ to be held by it in safe-keeping subject to the order of the Court or Clerk thereof, and that the remainder of the said fund of $58,570.00 shall be deposited in a checking account to the credit of the Court in this cause in the Central National Bank of Richmond until further order of the Court.

ORDER

This cause came on to be heard upon the Bill of Complaint filed by the Plaintiff against the State Board of Education; upon the Answer and Third Party Crossbill of the State Board of Education; upon the Answer and Crossclaim filed by the School Board of the County of Chesterfield; upon the evidence offered ore tenus, and was argued by counsel.

Upon Consideration Whereof, the Court is of the opinion, for reasons stated in its written memorandum filed herein, that the School Board of the City of Richmond has been underpaid by the State Board of Education for basic school aid for the years 1974-75 and 1975-76 in the amount of $1,035,378 and that the School Board of Chesterfield County has been overpaid in the amount of $1,309,663. Accordingly, the Court doth ADJUDGE, ORDER and DECREE that the State Board of Education shall pay unto the School Board of the City of Richmond the sum of $1,035,378, and that the State Board of Education recover from the School Board of Chesterfield the amount of $1,309,663.

And it further appears to the Court that the State Board of Education, pursuant to an order of this Court, has caused to be deposited on interest in the Central National Bank the sum of $2,458,570, to be held and distributed in accordance with the judgment of this Court. Said sum consists of $1,352,507 representing Richmond's final 1975-76 payment of State aid monies, and $1,090,423, representing Chesterfield's final 1975-76 payment of State aid monies, and $1[illegible],640 included by the Board of Education over and above the monies shown by final accounting to be due Richmond and Chesterfield. Accordingly the Court

doth ORDER that the Clerk of the Court draw upon the funds deposited as aforesaid in the sum of $2,387,885 payable to the School Board of the City of Richmond in full settlement of the underpayment for basic school aid for the 1974-75 and 1975-76 school years, and the last 1975-76 payment for basic school aid and incentive payments.

The Court doth further ORDER that $15,640, included by the Board of Education over and above the monies shown by final accounting to be due Richmond and Chesterfield, and $55,045, representing the balance of the funds deposited with the Court for Chesterfield County, be returned to the State Board of Education, and accordingly the Clerk of the Court is directed to draw upon said funds for such amount.

The Court doth further order that accrued interest earned on the money deposited with the Court will be awarded to the parties on a basis proportionate to the amount of their respective awards and the Clerk is directed to add said interest to the principle checks to the said parties.

And the School Board of Chesterfield County having signified its intention to petition the Supreme Court of Virginia for a review of the judgments herein it is further ORDERED that the execution of this order be suspended for a period of four months and thereafter during the pendancy of any application for review hereof by the Supreme Court provided, however, that should the School Board of Chesterfield County fail to file its Notice of Appeal or its petition for review within the time prescribed by law the suspension of execution of this order shall forthwith stand dissolved.

"Alex H. Sands, Jr. 8-23-76"

ENTER: August 23, 1976

Gentlemen:

Re: Case No. D-9612
School Board of the City of Richmond
v. State Board of Education

Evidence and argument of counsel having been completed, this case is now before the Court for decision.

BACKGROUND

Before defining and resolving the issues involved, a brief background would appear desirable. The genesis of the issues presently before the court is found in the 1970 annexation by the City of Richmond of some twenty-three square miles of Chesterfield County.[1]

At the time that annexation became effective there were some 3,352 pupils living in the annexed area but attending county schools in areas not annexed, and some 515 pupils living outside the annexed area attending schools located in the annexed area. Under these circumstances it was mutually agreed between the Richmond school board and the Chesterfield school board that each would pay tuition for its children attending schools of the other. These students, for which the Chesterfield County and the City of Richmond school boards were paying tuition to each other, were reported each year to the State Board of Education.

In 1972 the governor of Virginia appointed a task force charged with the duty of preparing a formula for a "composite index" for use in the distribution of state funds to localities upon the basis of which index could be determined the local ability of each locality to meet its individual educational needs.

The work of this task force was completed in 1973 and its recommendations were presented to the 1974 session of the General Assembly and hearings were had before the House Appropriations and the Senate Finance committees.

The General Assembly, at this session, adopted the recommended composite index as the basis of its appropriation for the operation of the basic school aid fund for the 1974-1975 and 1975-1976 biennium.

In early 1976 the City board allegedly discovered that in computing the distribution of state funds to the local school boards for the 1974-1975 and 1975-1976 biennium, the state had failed to give the City credit for 3,352 annexed pupils for which the City claimed responsibility and promptly brought the situation to the attention of the State Board. While admitting that due to an "apparent oversight" it had failed to give the Richmond board credit for its 3,352 pupils,

[1] It is urged by Chesterfield that since the validity of this annexation is being presently challenged in a proceeding in the federal courts a determination of the issues now before the Circuit Court of Richmond would be premature. The court does not agree.

the State Board found that there was no practical way in which it could rectify the mistake since it had no funds out of which to correct the error complained of by the Richmond board. The State Board further pointed out that if the claim of the Richmond Board of an underpayment were substantiated, it would necessarily result in an overpayment having been made to the Chesterfield Board which would have gotten credit for the 3,352 pupils (less, of course, the 515 pupils for which Chesterfield would have been entitled to credit.)

The above background precipitated the action of the Richmond School Board seeking to enjoin the distribution by the State Board of final calendar payments until it's (Richmond's) rights could be adjudicated. The Court refused to enjoin statewide distribution but ordered that all undesignated funds held by the State Board, including the final distribution due Richmond and Chesterfield, be paid into the registry of the Court in the instant proceeding until the issues before the Court could be resolved.

RESPECTIVE POSITIONS ASSUMED BY THE PARTIES

The positions of the three parties, as is evident from the pleadings, are as follows:

Richmond asserts that due to the State Board's error in having failed to give Richmond credit in the 1974-1975, 1975-1976 biennium for the 3,352 pupils to which it is entitled, the City Board has been underpaid by $1,035,378 and that the State Board is answerable to the City Board in this amount. Richmond further contends that its claim is not against Chesterfield County but solely against the State Board, since it grows out of the failure of the State Board to turn over to it funds to which it is admittedly entitled.

State Board says that while it admits that the Richmond Board has been underpaid in the amount claimed, the same error which resulted in an underpayment to Richmond resulted in an overpayment to Chesterfield and that, therefore, Richmond's claim should not be asserted against the State Board but against Chesterfield.

Chesterfield, on the other hand, takes the position that the State Board adopted the wrong formula in effecting its 1974-1975 and 1975-1976 distributions and that as a result Chesterfield Board has been underpaid and Richmond Board overpaid. In the alternative, argues Chesterfield, if it be found that the State Board in fact adopted the correct formula in making its disbursement, then both Richmond and Chesterfield have been properly paid and each should now receive that part of the fund held by the court which had been earmarked by the State Board as the final payment due the Richmond and the Chesterfield boards.

ISSUE

The single, or certainly the principal, issue upon which the solution of this case depends is whether the ADM (Average Daily Membership) as it appears in the 1974 Acts of Assembly, Chapter 681, Item 573, page 1353, Section (a), subsection 4, refers to the Average Daily Membership of the State schools reflecting such memberships in 1971, or whether it refers to the Average Daily Membership as defined in subsection 1 where the term ADM is defined.

Is the Language of the Act Ambiguous?

It is the contention of Richmond that the term ADM as used in subsection 4 of the act refers to the 1971 ADM and offers evidence to the effect that this was the intent of the General Assembly in enacting this legislation, and that this interpretation is further supported by the administrative practices of the State Board since the passage of the act.

Chesterfield, however, urges that subsection 1 of Section (a) of Item 573 clearly defines the term ADM as used in the act to mean the Average Daily Membership for the first seven months of the school year in which state funds are distributed from the appropriation therein made. Thus, argues Chesterfield, there is no room for evidence of intention since the language of the act is, upon its face, clear and unambiguous.

The threshold question is, therefore, presented for the court's determination as to whether the act (Item 573 of Chapter 681 of the 1974 Acts of Assembly) admits of any ambiguity *upon its face*. If it does not, then Chesterfield's objection to the introduction of *any* evidence bearing upon the question of legislative intent is supported by the unanimous case law of this state. *Portsmouth v. Chesapeake*, 205 Va. 259; *Carter v. City of Norfolk*, 206 Va. 872; *Almond v. Gilmer*, 188 Va. 1; *Carter v. Nelms*, 204 Va. 338.

The converse is, however, true that where ambiguity appears upon the face of an instrument, be it private contract or legislative expression, extrinsic evidence will be permitted to resolve such ambiguity; the term "ambiguity" being defined as language which is capable of more senses than one or which is open for various interpretations. *Ayres v. Harleysville Mutual Cas. Co.*, 172 Va. 383.

Turning then to the language of the act at hand, there is certainly no ambiguity in the language of Item 573(a)1 which undertakes to define, in general, the term "ADM." But Section (a) of Item 573 deals with *seven* definitions of which subsection 1 defining ADM is but one. Subsection 4, which undertakes to define "composite index of local ability to pay" is a separate and distinct definition and it is the term ADM as used in this definition which poses our problem. Chesterfield argues, and not without considerable weight, that "ADM" as used in this definition is the same "ADM" which is defined in subsection 1 and means the ADM for the first seven months of the year in which the distribution is being made; in the case at bar, the fiscal years 1974-1975 and 1975-1976. Richmond (and State) argue that the term ADM as used in subsection 4 refers to the ADM of 1971, the controlling year for all other components making up the definition of "composite index of local ability to pay."

The appropriation under Item 573 made by the General Assembly for the year 1974-1975 to fund the basic school aid for that year, however, was $377,030,125 and for the following year $403,647,635. *The unrebutted evidence in the case is that these figures could only have been arrived at by applying the 1971 ADM to the term as used in Item 573(a)4.*

Thus, it appears upon the face of the act itself that in fixing the amount of the basic school aid appropriation for these two years, the legislature did not apply the definition which they had assigned to ADM in Item 573(a), subsection 1, to the ADM which was used in compiling the "composite index" which was used in 1974-1975 and 1975-1976. This situation creates a built in ambiguity confronting anyone attempting to reconcile the provisions of Item 573(a)1 and (a)4. As a matter of fact, several of the witnesses who participated in the preparation of the formula upon which this section was based and who participated in its passage in the legislature admitted that, as written, the language should have been more specific. The court, accordingly, for these reasons permitted the introduction of extrinsic evidence for the purpose of resolving this ambiguity.

It having been established that ambiguity does exist in the legislative language used in Item 573(a)4, and that for this reason extrinsic evidence should be admitted, the next issue which arises is the determination of the proper type of evidence for this purpose.

Type of Evidence Admitted

Richmond was, for the above reason, permitted to introduce evidence of the practical construction of the act adopted by the State Board as reflected by the formula which it used in its 1974-1975 disbursement of the funds appropriated for basic school aid for the period in question to clarify the ambiguity which existed. That this type evidence was properly admitted is clear. *City of Richmond v. Drewry-Hughes Co.*, 122 Va. 178. Nor does the fact that this was the first time the State Board had been called upon to construe the act necessarily weaken the weight of this evidence. *Idem.* In this regard the Supreme Court has said in the *Drewry-Hughes* case:

> . . .One reason for the rule is that the officers charged with the duty of carrying new laws into effect are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the new law, and to have formed an independent, conscientious and competent expert opinion thereon. (Emphasis added.)
>
> At 193

This concept would be particularly applicable in the instant case since a representative of the State had been a member of the task force which formulated the composite index of local ability to pay.

In view of the patent ambiguity, it was, moreover, proper for the court to admit evidence of the legislative intent. *See George Vollin, Jr. v. Arlington County Electoral Board,* 216 Va. 674. Even where evidence of legislative intent is admissable, however, the character of the evidence by which this intent is sought to be established is subject to challenge. The individual interpretation placed upon legislation by one of the framers of the legislation is usually suspect for the reason that such would presumably reflect only the individual interpretation of that particular person rather than the intended interpretation of the legislature as a body.

The evidence of legislative intention offered in the case at bar, however, transcends this criticism because of the peculiar position which delegate William L. Lemmon, the City's chief witness on the issue, occupied. As a member of the Appropriations Committee and of the Education Committee of the House, he was appointed by the governor as a member of the governor's task force charged with the duty of formulating the "composite index for determining local ability to pay" and was the chairman of the subcommittee of the House Appro-

priations Committee dealing with the preparation of legislative language covering the basic school aid funds. In this capacity it was his responsibility to present to the House Appropriations Committee and to the Senate Finance Committee the intended purpose of the composite index, the component parts which went into its formularization, and the reasons why each component was used. Having secured the approval of the House Appropriations Committee of the composite index, it was he who was the spokesman for his committee when the package was presented upon the floor of the House for adoption, and it was he who explained the language and the intent thereof to the full House. It can, therefore, be truly said that the interpretation testified to by him was the interpretation which the legislature intended to be placed upon the language in question.

Delegate Lemmon's testimony was clear, convincing and completely in accord with the testimony of those members of the governor's task force who had previously testified, as well as with the administrative construction which had been placed upon the language of the index by the State officials charged with responsibility of administering the basic school aid plan.

He emphatically stated that the ADM employed as a component factor in Item 573(a)4 referred to the 1971 ADM and gave as the reason the absolute necessity that all component factors of the index be for the same period, absent which the formula would be thrown out of proportion and become of no practical value. The reason for the selection of the year 1971 rather than a subsequent year, he stated, was because at the time the formula was finally worked out (1973), the real estate values (one of the component factors) for the year 1971 were the latest figures then available.

If Mr. Lemmon articulated the method of preparation of the basic formula as forcibly before the legislative body as he did on the witness stand--and there is no reason to believe he did not--there can be but little doubt as to the legislative intent that the 1971 ADM was the ADM which was built into the composite index formula.

When pressed on cross-examination as to the possible conflict between the definition of ADM as contained in Item 573(a)1 and the interpretation of the term ADM as used in Item 573(a)4, Lemmon pointed out that there could be no conflict for the reason that the term ADM as used in the two

sections was used in *two entirely separate and distinct contexts.*[2] He stated that the use of the term in subsection 4 was solely for the purpose of arriving at a formula which was to be applied in *any* period in which a *distribution* was to be made; that therefore the term as used for purposes of the *formula* (for purposes of equalization) was constant and remained the same (until such time as the entire fomula should be recomputed based upon updated data as to *all* component factors) while the ADM as defined in subsection 1 was the ADM used for purposes of *distribution* in any particular period and could be variable depending upon the ADM for the particular period. Again, this distinction is in complete accord with the testimony of all other witnesses who participated in the task force work of creating the composite index formula.

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[2]It is believed that Chesterfield's refusal to recognize this concept is the basic reason for the difference of positions of Richmond and Chesterfield. Chesterfield has maintained throughout that there was but *one* ADM before the legislature, and that was the ADM defined in 573(a)1. The entire evidence in the case, however, is exactly contrary to Chesterfield's position on this point. Dr. Napp (June 26, 1976, transcript) at pages 9 and 10 clearly states that at all times the task force had two separate ADM's in mind and distinguishes them in this manner:

> There are two A.D.M.'s. One is the A.D.M. used in the local ability to pay composite index. Local ability to pay, and that is A.D.M. I have been referring to, and that is A.D.M. that you standardized for the year for which you have economic data for *all* the variables.
>
> * * *
>
> . . .The *other* A.D.M. that is used in the formula is once you have developed the composite index of local ability to pay, then that index is applied against a total dollar figure of the stated cost of providing a standard of quality education, minus local sales tax receipts allocated to the locality, and that total cost for the locality is derived by multiplying the derived standard of quality cost per pupil times the average daily membership in the current applicable year so that that second A.D.M. changes in each year. . . . (Emphasis added.)

It is a matter of interest and of some significance that no evidence was offered by Chesterfield to rebut Lemmon's testimony relating to legislative intent.

It is, accordingly *held* that from the evidence the legislative intent is clear that the term ADM as used in Item 573(a)4 refers to the 1971 ADM and that the 1971 ADM should be used in computing the composite index of local ability to pay.

SECOND ISSUE RAISED BY CHESTERFIELD

While, as stated at the outset, the above issue was the principal, if not the sole, one in the case, Chesterfield contends, as a second reason why Richmond's request for payment should not be granted, that the relief sought by the City involves an "adjustment" by the State Board of the 1971 ADM for the City of Richmond, and for Chesterfield County, to reflect pupil changes brought about by annexation, and that such "adjustment" is not authorized by Item 573, Section C, subsection 5.

This argument is tenuous for the simple reason that the City's claim is not based upon any "adjustment" in any sense of the work. At the time the annexation became effective on January 1, 1970, the responsibility for the education of 3,352 children in the annexed area who were attending schools located in that part of Chesterfield County which was not annexed at once devolved upon the City just as the responsibility for the education of the 515 pupils of resident Chesterfield families attending Richmond schools lay with Chesterfield.

As a matter of convenience, Richmond and Chesterfield worked out a mutual agreement[3] whereby such of these children who desired to do so would continue in the same schools for 1970-1971 and 1971-1972, and this arrangement was approved by the annexation court. Richmond and Chesterfield agreed to pay tuition for their children who went respectively to the schools under the other's jurisdiction. According to the uncontradicted testimony of Dr. James W. Tyler, the department superintendent of schools for Richmond, it was

[3]From the evidence it appears that this was upon an informal verbal basis.

agreed between Richmond and Chesterfield at the time that for purposes of determining ADM (then ADA),[4] the locality where the children *actually resided* would be the locality to report the pupils for purposes of ADM (then ADA). That this was the understanding between Richmond and Chesterfield is further apparent from the fact that tuition was actually paid and accepted by each upon this basis. While the record is not clear on the point, it would appear that this arrangement was continued until 1974 when the composite index concept was firstput into operation. With the advent of this concept came into being a completely new method of dispensing school aid and the new system was accompanied by some misunderstandings and mistakes.

The nature and the cause of Richmond's problem is clearly and graphically illustrated by plaintiff's exhibits numbers 6, 7 and 8.

Dr. Campbell, the state superintendent for public education, sums up the problem and its cause very succintly in his letter to the Superintendent of the Richmond City Public Schools under date of May 19, 1976 (Plaintiff's Exhibit 8) in this manner:

> Acknowledgment is made of your March 16, 1976 letter in which you request an adjustment in the composite index for Richmond City for the current biennium based on the claim that 3,352 pupils from the City of Richmond attended Chesterfield County schools under the order of a special annexation court, these pupils *not being claimed by the City of Richmond to establish its composite index but apparently were included in the Chesterfield County ADM.*

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[4]Chesterfield attempts to make the point that the agreement between Richmond and Chesterfield in 1970 and subsequent years under which each was to receive credit for children actually *living* in their respective areas and attending school in the other area was in relation to ADA only and had no bearing whatsoever upon ADM. (See Tyler dep., pg. 7.) Chesterfield argues that even conceding that Chesterfield and Richmond had an agreement that the School Division wherein the children *resided* would get credit and school aid from the state based upon ADA, that the agreement never was intended to apply to ADM!

Fn. 4 - continued

This argument is completely without merit for three reasons.

First: Chesterfield and Richmond actually paid and received tuition payments from one another upon the basis of this agreement long after ADM replaced ADA.

Secondly: While the *basis* of determination was different, the *purpose* of ADA and ADM was identical; i.e., to apprise the state of the total number of pupils in any given locality for purposes of computing the proportion in which aid would be dispensed to the various localities.

Thirdly: In arriving at the "Composite Index" for a given locality, the task force was interested in the total number of pupils for which that particular locality with the help of state aid was required to furnish quality education--irrespective of whether the figure was reached based upon ADA or ADM calculations.

> As a result, the Chesterfield composite index was lowered while that of Richmond was increased. Based upon the information we have, we have no reason to question the validity of this information. (Emphasis added.)

Having paid for the tuition for these children, Richmond obviously should have been given credit for them upon its 1970-1971 ADM when it was tabulated in 1974. In fact, the evidence is that Richmond *was* given credit for the children in its 1970-1971 ADA upon which state aid was based in 1970-1971. (See Plaintiff's Exhibit 6 and testimony of Dr. Tyler on this point.)

CONCLUSION

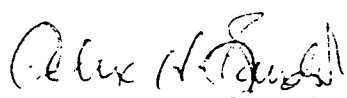
The principal issue in the case, the proper ADM to be applied in arriving at Richmond's composite index, involves construction of a legislative act. Chesterfield's second point at issue, above reviewed, does not, contrary to Chesterfield's argument, involve construction of the legislative act but only the factual issue of whether or not the 3,352 children in question were or were not actually being educated at Richmond's expense in 1970-1971. We are not really concerned with any "adjustment" at all (although this term is used in certain of the correspondence), but rather with the "correction" of a patently obvious mistake. The fact that Richmond's failure to claim the pupils to which it was entitled in establishing its 1970-1971 ADM was due to a bad blunder upon the part of the Richmond School Board or the fact that Chesterfield's claiming (and being allowed) pupils to which it was not entitled was due to an honest mistake upon the part of the Chesterfield School Board, has no bearing upon the merits of the case.

It is accordingly held (a) that the term ADM as used in Item 573, Section (a), subsection 4 of the Acts of Assembly of 1974 refers to ADM for the year 1971, and (b) that in calculating Richmond's and Chesterfield's ADM's for 1971 the State Board of Education erroneously credited Chesterfield County rather than the City of Richmond with 3,352 pupils residing in the City of Richmond at the time and attending schools in Chesterfield and for the tuition for whom Richmond was responsible and for which tuition Richmond had, in fact, paid.

This error should be corrected, which correction should be reflected in the distribution of the fund now deposited at interest to the credit of the court in this cause.

Counsel are requested to submit sketch for order in accord with the above ruling reserving all desired objections.

Yours very truly,



Alex H. Sands, Jr.

City Exhibit 4 -- From Page 24

Three Factors

This composite index weights the 1971 true value of real property 50 percent, 1971 taxable sales 10 percent, and 1969 personal income 40 percent. Each of the measures is stated in terms of 1970-71 ADM and is related to the statewide average for the particular measure. Personal income is used as a proxy for tangible personal property and all other tax and nontax revenue bases. The weights reflect the weighted average distribution of locally raised revenues in fiscal 1970.

$$\left[\frac{\text{Local True Value of Real Property}}{\text{Local Average Daily Membership}} \Big/ \frac{\text{Total Local True Values of Real Property Statewide}}{\text{Total Average Daily Membership Statewide}}\right] + .4^{*}\left[\frac{\text{Local Personal Income}}{\text{Local Average Daily Membership}} \Big/ \frac{\text{Total Personal Income Statewide}}{\text{Total Average Daily Membership Statewide}}\right] + .1^{*}\left[\frac{\text{Local Taxable Retail Sales}}{\text{Local Average Daily Membership}} \Big/ \frac{\text{Total Taxable Retail Sales Statewide}}{\text{Total Average Daily Membership Statewide}}\right] = \text{Average Daily Membership Composite Index}$$

$$\left[\frac{\text{Local True Value of Real Property}}{\text{Local Population}} \Big/ \frac{\text{Total Local True Values of Real Property Statewide}}{\text{State Population}}\right] + .4^{*}\left[\frac{\text{Local Personal Income}}{\text{Local Population}} \Big/ \frac{\text{Total Personal Income Statewide}}{\text{State Population}}\right] + .1^{*}\left[\frac{\text{Local Taxable Retail Sales}}{\text{Local Population}} \Big/ \frac{\text{Total Taxable Retail Sales Statewide}}{\text{State Population}}\right] = \text{Per Capita Composite Index}$$

$$\frac{[.66 \times \text{Average Daily Membership Composite Index}] + [.33 \times \text{Per Capita Composite Index}]}{2} = \text{LOCAL COMPOSITE INDEX}$$

Note: The composite index is calculated for the most recent period in which all required data are available. For the 1974-75 school year, 1971 data will be used.

* The constants (.5, .4, and .1) represent the average share of local revenues gathered from real property taxes, charges and miscellaneous revenue, and the 1 percent local option s tax, respectively. Personal income figures are used in the above equation as a proxy for the tax base associated with local charges and miscellaneous revenue because detailed mation on the latter tax source is not available. For an examination of the correlation between personal income and charges and miscellaneous revenue, see "Measuring Local cal Capacity to Finance Public Education in Virginia," by Dr. John L. Knapp of the Tayloe-Murphy Institute, University of Virginia (February, 1973).

Sources of Data:

True Values of Real Property - An estimate of the true or full value of locally taxed property (real estate and public service corporations) in Virginia is made every two years by the Department of Taxation. The 1971 data was published June 15, 1973 by the Research Division of that agency.

Average Daily Membership - Average daily membership is reported by each school division as part of their annual report submitted to the State Department of Education after the close of the school year. Data for school year 1970-71 was compiled by the Division of Educational Research and Statistics during the Fall of 1971.

City Exhibit #5

Exhibit 1
The Composite Index

Personal Income - The most recent estimates of personal income by county and city are for calendar year 1969 and are found in the 1970 Census (Social and Economic Characteristics). Figures were not published for towns under 2,500 population (Fries, Cape Charles, and Colonial Beach), but they can be obtained for the magisterial districts in which these towns are located. The Tayloe Murphy Institute at the University of Virginia currently publishes estimates for individual counties and combined areas based on information provided by the Bureau of Economic Analysis of the U.S. Department of Commerce. The most recent data cover 1969, and a report for 1970 will be released in early spring, 1973. By early fall, 1973, TMI is planning to publish 1971 data for all counties and cities, including those now reported in combined areas.

Taxable Retail Sales - A statement of taxable sales that reflect deposits of Virginia sales tax revenues in each city and county is published by the Dep[illegible] Taxation on the basis of each subsequent calendar quarter and year. While no data is available for towns comprising separate school distric[illegible]es, Cape Charles, Colonial Beach, Saltville, and Poquoson), an estimate of the sales tax base for these divisions can be made by multiplyi[illegible] [illegible]'s population times the per capita taxable sales of the entire county in which the town school division is located. Where this is done, total ta[illegible]le sales for the corresponding county are adjusted downward by a like amount to reflect the independent town school division.

Population - An estimate of the population within each city, county, and town of 3,500 persons and over is made every year by the Tayloe Murphy Institute in conjunction with the Bureau of the Census. Final population estimates for July 1, 1971 were released in June, 1973.

COMPOSITE INDEX FOR WISE COUNTY

For fiscal year 1974-75, the Governor's Task Force on Educational Finance recommended that the method for calculating a locality's ability to pay for public education be changed from the present measure (true value of real property) to a composite index which would incorporate the value of real property, personal income and taxable retail sales. In order to illustrate how this index is constructed, attached are two exhibits providing (1) a handwritten version of the formula and the different variables involved, and (2) a mathematical version of the formula showing a preliminary calculation of the index for Wise County.

Tax Raising Power as Related to Education

(1)

$$.5^* \left[\frac{\text{Local True Value of Real Property / Local Average Daily Membership}}{\text{Total Local True Values of Real Property Statewide / Total Average Daily Membership Statewide}}\right] + .4^* \left[\frac{\text{Local Personal Income / Local Average Daily Membership}}{\text{Total Personal Income Statewide / Total Average Daily Membership Statewide}}\right] + .1^* \left[\frac{\text{Local Taxable Retail Sales / Local Average Daily Membership}}{\text{Total Taxable Retail Sales Statewide / Total Average Daily Membership Statewide}}\right] = \text{Average Daily Membership Composite Index}$$

(1)

Tax raising Power as related to all local needs

(2)

$$.5^* \left[\frac{\text{Local True Value of Real Property / Local Population}}{\text{Total Local True Values of Real Property Statewide / State Population}}\right] + .4^* \left[\frac{\text{Local Personal Income / Local Population}}{\text{Total Personal Income Statewide / State Population}}\right] + .1^* \left[\frac{\text{Local Taxable Retail Sales / Local Population}}{\text{Total Taxable Retail Sales Statewide / State Population}}\right] = \text{Per Capita Composite Index}$$

(2)

App. 37

$$\frac{[.66 \times \text{Average Daily Membership Composite Index}] + [.33 \times \text{Per Capita Composite Index}]}{} = \text{LOCAL COMPOSITE INDEX}$$

(1) (2)

2

Note: The composite index is calculated for the most recent period in which all required data are available. For the 1974-75 school year, 1971 data will be used.

* The constants (.5, .4, and .1) represent the average share of local revenues gathered from real property taxes, charges and miscellaneous revenue, and the 1 percent local option sales tax, respectively. Personal income figures are used in the above equation as a proxy for the tax base associated with local charges and miscellaneous revenue because detailed information on the latter tax source is not available. For an examination of the correlation between personal income and charges and miscellaneous revenue, see "Measuring Local Fiscal Capacity to Finance Public Education in Virginia," by Dr. John L. Knapp of the Tayloe-Murphy Institute, University of Virginia (February, 1973).

Sources of Data:

True Values of Real Property - An estimate of the true or full value of locally taxed property (real estate and public service corporations) in Virginia is made every two years by the Department of Taxation. The 1971 data was published June 15, 1973 by the Research Division of that agency.

Average Daily Membership - Average daily membership is reported by each school division as part of their annual report submitted to the State Department of Education after the close of the school year. Data for school year 1970-71 was compiled by the Division of Educational Research and Statistics during the Fall of 1971.

Personal Income - The most recent estimates of personal income by county and city are for calendar year 1969 and are found in the 1970 Census (Social and Economic Characteristics). Figures were not published for towns under 2,500 population (Fries, Cape Charles, and Colonial Beach), but they can be obtained for the magisterial districts in which these towns are located. The Tayloe Murphy Institute at the University of Virginia currently publishes estimates for individual counties and combined areas based on information provided by the Bureau of Economic Analysis of the U.S. Department of Commerce. The most recent data cover 1969, and a report for 1970 will be released in early spring, 1973. By early fall, 1973, TMI is planning to publish 1971 data for all counties and cities, including those now reported in combined areas.

Taxable Retail Sales - A statement of taxable sales that reflect deposits of Virginia sales tax revenues in each city and county is published by the Department of Taxation on the basis of each subsequent calendar quarter and year. While no data is available for towns comprising separate school districts (i.e., Fries, Cape Charles, Colonial Beach, Saltville, and Poquoson), an estimate of the sales tax base for these divisions can be made by multiplying the town's population times the per capita taxable sales of the entire county in which the town school division is located. Where this is done, total taxable sales for the corresponding county are adjusted downward by a like amount to reflect the independent town school division.

Population - An estimate of the population within each city, county, and town of 3,500 persons and over is made every year by the Tayloe Murphy Institute in conjunction with the Bureau of the Census. Final population estimates for July 1, 1971 were released in June, 1973.

Exhibit 2

Calculation of the Composite Index for Wise County

Average Daily Membership Composite Index

$$.5\left[\frac{\text{Local True Value of Real Property / Local Average Daily Membership}}{\text{Total Local True Values of Real Property Statewide / Total Average Daily Membership Statewide}}\right] + .4\left[\frac{\text{Local Personal Income / Local Average Daily Membership}}{\text{Total Personal Income Statewide / Total Average Daily Membership Statewide}}\right] + .1\left[\frac{\text{Local Taxable Retail Sales / Local Average Daily Membership}}{\text{Total Taxable Retail Sales Statewide / Total Average Daily Membership Statewide}}\right] = \text{Average Daily Membership Composite Index}$$

$$.5\left[\frac{\$127,560,000 / 9,287}{\$40,871,508,000 / 1,067,996}\right] + .4\left[\frac{\$102,600,000 / 9,287}{\$18,493,000,000 / 1,067,996}\right] + .1\left[\frac{\$48,731,571 / 9,287}{\$7,933,749,775 / 1,067,996}\right] = \text{Average Daily Membership Composite Index}$$

$$.5\left[\frac{\$13,735}{\$38,269}\right] + .4\left[\frac{\$11,070}{\$17,316}\right] + .1\left[\frac{\$5,247}{\$7,429}\right] = \text{Average Daily Membership Composite Index}$$

$$.5\,[.36] + .4\,[.64] + .1\,[.71] = \text{Average Daily Membership Composite Index}$$

$$.18 + .26 + .07 = \text{Average Daily Membership Composite Index}$$

$$.51 = \text{Average Daily Membership Composite Index}$$

Exhibit 2'

Calculation of the Composite Index for Wise County

The Per Capita Composite Index

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

$$.5 \left[\frac{\$127,560,000 / 37,100}{\$40,871,508,000 / 4,719,600} \right] + .4 \left[\frac{\$102,600,000 / 37,100}{\$18,493,000,000 / 4,719,600} \right] + .1 \left[\frac{\$48,731,571 / 37,100}{\$7,933,749,775 / 4,719,600} \right] = \text{Per Capita Composite Index}$$

$$.5 \left[\frac{\$3,438}{\$8,660} \right] + .4 \left[\frac{\$2,765}{\$3,918} \right] + .1 \left[\frac{\$1,314}{\$1,681} \right] = \text{Per Capita Composite Index}$$

$$.5 \left[.40 \right] + .4 \left[.71 \right] + .1 \left[.78 \right] = \text{Per Capita Composite Index}$$

$$.20 + .28 + .08 = \text{Per Capita Composite Index}$$

$$.56 = \text{Per Capita Composite Index}$$

Exhibit 2

Calculation of the Composite Index for Wise County

The Local Composite Index

$$\frac{[.66 \times \text{Average Daily Membership Composite Index}] + [.33 \text{ Per Capita Composite Index}]}{2} = \text{Local Composite Index}$$

$$\frac{[.66 \times .51] + [.33 \times .56]}{2} = \text{Local Composite Index}$$

$$\frac{[34] + [19]}{2} = \text{Local Composite Index}$$

$$\frac{.53}{2} = \text{Local Composite Index}$$

$$.265 = \text{Local Composite Index}$$

Sources: Commonwealth of Virginia, Department of Taxation, "Estimated True (Full) Value of Locally Taxed Property in Virginia Counties, Cities, and Towns Constituting Special School Districts - 1971 (Real Estate and Public Service Corporation)", (Richmond: Department of Taxation, June, 1973); Commonwealth of Virginia, State Board of Education, Annual Report of the Superintendent of Public Instruction 1970-71, (Richmond: Department of Education, December, 1971) pp. 302-305; Department of Commerce, Bureau of the Census, Census of Population: 1970 General Social and Economic Characteristics, Final Report PC(1)-C48 Virginia (Washington, D.C.: Government Printing Office, 1972) pp. 460-471; Commonwealth of Virginia, Department of Taxation, Taxable Sales in Virginia Counties and Cities Based on Retail Sales Tax Revenues, January thru December 1971, (no date); University of Virginia, Graduate School of Business Administration, Tayloe Murphy Institute, "Estimates of the Population of Virginia Counties and Cities: July 1, 1971 and July 1, 1972," (Charlottesville Tayloe-Murphy Institute, June, 1973); University of Virginia, Graduate School of Business Administration, Tayloe-Murphy Institute, "Population of Incorporated Towns of 3,500 and Over, 1960, 1970 and Estimates for July 1, 1971," (Charlottesville: Tayloe-Murphy Institute, December, 1971).

RICHMOND PUBLIC SCHOOLS
301 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

THOMAS C. LITTLE
SUPERINTENDENT

January 26, 1976

Dr. W. E. Campbell
Superintendent of
Public Instruction
State Department of Education
Richmond, Virginia 23216

Dear Dr. Campbell:

In reviewing the appropriations from the State to Richmond Public Schools, we find that an incorrect ADM figure for 1970-71 was used in the calculation of our composite index. This error occurred due to failure to consider students attending Chesterfield County public schools for which the City of Richmond paid tuition. The enclosures provide the proper information for determining the adjusted ADM. This adjustment in ADM will be consistent with the adjusted ADA which was used as a basis for payment of State aid for 1970-71.

Since the composite index has a substantial effect on our basic State aid appropriation and the incentive fund, it is requested that you recompute this figure as soon as possible.

In reference to State Superintendent's Memo. No. 7764, for the reasons stated in the above paragraph, I would suggest that we delay settlement of the incentive fund payment for 1974-75 until the matter regarding the composite index is resolved.

We have discovered an error in the State Report for 1974-75 regarding the amount of funds supplied from local sources. Documentation to correct this error will be submitted at a later date.

Please let me hear from you regarding this important matter.

Very truly yours,

Thomas C. Little
Superintendent

enc/3

cc: Mr. F. Brent Sandidge

bc: School Board Members
Asst. to City Mgr. Talcott
Asst. City Atty. Crook

809 EAST MARSHALL STREET, RICHMOND, VIRGINIA 23219

June 18, 1971

Dr. Robert F. Kelly, Superintendent
Chesterfield County Public Schools
Chesterfield, Virginia 23832

Dear Dr. Kelly:

The enclosed statement is our estimated bill for the 533 Chesterfield County students who attended the Richmond Public Schools in 1970-71. The amount of the bill was based upon the estimated cost of operation of the regular day schools less the reimbursable revenue, and was prorated on the basis of ADA.

If further information is needed, please feel free to call. We would appreciate receiving payment by June 30, 1971.

Sincerely,

L. D. Adams
Superintendent

LDA:kt

Encl.

609 EAST MARSHALL STREET, RICHMOND, VIRGINIA 23219

ESTIMATED TUITION BILL TO CHESTERFIELD COUNTY FOR THE
FOR THE SCHOOL YEAR 1970-71

ESTIMATED NET COST OF CITY OF RICHMOND SCHOOL DIVISION CHARGEABLE TO CHESTERFIELD COUNTY AS TUITION FOR 1970-71:

Estimated Gross Cost		
Administration	$ 1,200,964	
Instruction	24,878,676	
Other Instructional Costs	2,956,811	
Coordinate Activities	704,030	
Operation of School Plant	3,392,636	
Maintenance of School Plant	1,743,171	
Fixed Charges	219,945	
Total		$35,096,233
Estimated Revenue Applicable to Chesterfield County Students		
State Funds:		
Driver Education	$ 21,000	
Guidance Counselors and Psychologists	137,000	
In-Service Training	21,513	
Supervision	49,800	
Pupil Transportation	79,084	
Special Education	661,800	
Supervising Principals	44,934	
Teachers' Sick Leave	45,000	
Educational Television	51,374	
Textbooks	104,532	
Vocational Education	688,000	
Total State Revenue		$1,904,037
Federal Funds:		
Public Law 89-10 Title I	$ 1,333,039	
Public Law 89-10 Title II	52,000	
Public Law 89-10 Title III	162,264	1,547,303
Local Funds:		
Tuition - Regular Day School (Excluding Chesterfield County Students)	$ 164,650	
Sale of Instructional Material	5,000	
Textbooks - Lost and Found	6,000	
Rent	62,000	
Miscellaneous	20,000	
Sale of Equipment & Supplies	9,000	
Total Local Revenue		266,650
Total Revenue		3,717,990
NET ESTIMATED COST OF OPERATION-REGULAR DAY SCHOOLS		$31,378,243

see p. 2

ESTIMATED TUITION BILL TO CHESTERFIELD COUNTY FOR THE SCHOOL YEAR 1970-71 - page 2

Chesterfield County Pupils:

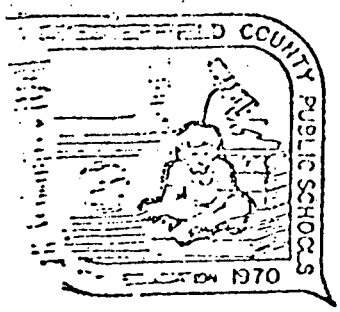
Enrollment	533
ADM	515.4
ADA	484.1

Ratio based on ADA:

$$\frac{484.1}{45,149} = 1.07248$$

1.07248 x $31,378,243 = $336,525

TOTAL ESTIMATED TUITION CHARGEABLE TO CHESTERFIELD COUNTY FOR THE YEAR 1970-71 ..... $ 336,525



Chesterfield, Virginia • 23832 • (703) 748-1405

Dr. Robert J. Kelly • Division Superintendent

Office of the Superintendent

August 3, 1971

Mr. L. D. Adams, Superintendent
Richmond Public Schools
312 North Ninth Street
Richmond, Virginia 23219

Dear Mr. Adams:

The 1970-71 attendance data for Richmond residents in the Chesterfield County Public Schools is provided below. All data is based on 180 teaching days.

	Grade K	Grades 1-7	Grades 8-12	Total Grades K-12
Aggregate Days Membership	33,124	265,736	304,432	603,292
Aggregate Days Attendance	30,096	249,248	278,580	557,924
Average Daily Membership	184.0	1476.3	1691.3	3351.6
Average Daily Attendance	167.2	1384.7	1547.7	3099.6

Sincerely,

Thomas R. Fulghum

Thomas R. Fulghum
Director of Research

TRF/mcw

RICHMOND PUBLIC SCHOOLS
301 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219

RICHARD C. HUNTER
SUPERINTENDENT

March 16, 1976

Dr. W. E. Campbell
Superintendent of
Public Instruction
State Department of Education
Richmond, Virginia 23216

Dear Dr. Campbell:

We are hereby requesting full payment of the Richmond City entitlement from the State Basic School Aid Fund for fiscal 1974-75. This is the same matter which we have discussed with you earlier and which was referenced by Dr. Thomas C. Little in his letter of January 26, 1976.

As you may know, the difference between our entitlement and actual receipts under State Basic Aid for 1974-75 is due to the composite index for Richmond which is used in the formula. The membership component of this index should have been 50,004 students rather than the unadjusted membership which was used (Exhibit A). This 50,004 membership would have given a composite index of .590 (Exhibit B). This index represents an entitlement of $8,883,384 for 1974-75. Our actual receipts under State Basic Aid totaled $8,361,215.

This means an additional $522,169 (Exhibit C) is required for full payment of our entitlement in 1974-75. Some arguments for counting tuition Richmond pupils in ADM are included in Exhibit D.

Our people are ready to provide additional information to your office or the State Board as you might consider appropriate and desirable.

Your prompt attention to this important matter will be highly appreciated.

Respectfully,

Richard C. Hunter

Richard C. Hunter
Superintendent

enc/4

bc - Page Godsey - City Mgr's office
Pearl Anderson - Budget office

[illegible]

301 NORTH NINTH STREET
Richmond, Virginia 23219

ADJUSTED
AVERAGE DAILY MEMBERSHIP
1970-71

1.	Unadjusted ADM (sheet 15, 1970-71 State Report)	47,239
2.	Richmond Students Attending Chesterfield Schools (Letter of August 3, 1971, to Mr. Adams from Mr. Fulghum)	3,352
3.	Less: Chesterfield Students Attending Richmond Schools (Letter of June 18, 1971, to Dr. Kelly from Mr. Adams)	(515)
4.	Less: Richmond Students Under 6 and Over 20 Years of Age (64/.89 ADA, State Report 1970-71)	(72)
Adjusted ADM 1970-71		50,004

RICHMOND, VIRGINIA
1974-76 BIENNIUM

ADJUSTED MEMBERSHIP

Terms

Z	=	Composite Index of Local Ability to Pay
X	=	ADM Composite Index
Y	=	Per Capita Composite Index
RE	=	True Value of Real Estate and Public Service Corporations
ADM	=	Average Daily Membership
S	=	Sales Subject to State Sales and Use Tax
P	=	Population
I	=	Individual Income
(L)	=	Local; P(L) means Local or Richmond Population
(S)	=	State; P(S) means Virginia Population

Data

ADM(L)	=	50,004	ADM(S)	=	1,067,966
P(L)	=	245,200	P(S)	=	4,719,600
RE(L)	=	$1,956,810,000	RE(S)	=	$40,902,351,000
I(L)	=	$1,104,871,200	I(S)	=	$18,492,705,798
S(L)	=	$723,745,696	S(S)	=	$7,933,749,775

Formula

Z = .50 (.667 X + .333 Y)
X = .5 (RE(L)/ADM(L) ÷ RE(S)/ADM(S)) +
.4 (I(L)/ADM(L) ÷ I(S)/ADM(S)) +
.1 (S(L)/ADM(L) ÷ S(S)/ADM(S))
Y = .5 (RE(L)/P(L) ÷ RE(S)/P(S)) +
.4 (I(L)/P(L) ÷ I(S)/P(S)) +
.1 (S(L)/P(L) ÷ S(S)/P(S))

Calculation

X = .5 ($1,956,810,000/50,004 ÷ $40,902,351,000/1,067,966) +
.4 ($1,104,871,200/50,004 ÷ $18,492,705,798/1,067,966) +
.1 ($723,745,696/50,004 ÷ $7,933,749,775/1,067,966)
X = .5 (39,133 ÷ 38,299) +
.4 (22,096 ÷ 17,316) +
.1 (14,474 ÷ 7,429)
X = .5 (1.02) + .4 (1.28) + .1 (1.95)
X = .51 + .51 + .20
X = 1.22

Y = .5 ($1,956,810,000/245,200 ÷ $40,902,351,000/4,719,600) +
.4 ($1,104,871,200/245,200 ÷ $18,492,705,798/4,719,600) +
.1 ($723,745,696/245,200 ÷ $7,933,749,775/4,719,600)
Y = .5 (7,961 ÷ 8,666) +
.4 (4,506 ÷ 3,918) +
.1 (2,952 ÷ 1,681)
Y = .5 (.92) + .4 (1.15) + .1 (1.76)
Y = .46 + .46 + .18
Y = 1.10

Z = .50 (.667 x 1.22 + .333 x 1.10)
Z = .50 (.81 + .37)
Z = .50 (1.18)
Z = .590 (Composite Index - Richmond)

Richmond Public Schools

STATE BASIC APPROPRIATION
ADJUSTMENTS
1974-75

Standards of Quality	
Average Daily Membership	38,729
Per Pupil Standards of Quality Program	x $687
Basic Operations Cost	$26,606,823
Less: State Sales and Use Tax	(5,720,032)
Basic Less Sales Tax	$20,886,791
Composite Index	x .590
Required Local Effort	$12,323,207
Basic Less Sales Tax	$20,886,791
Less: Required Local Effort	(12,323,207)
State Share Standards of Quality (1)	$ 8,563,584
Compensatory Funds	
Eligible Students	1,066
Allocation Per Student	x $300
Total Compensatory Funds (2)	$ 319,800
State Basic Appropriation	
(1) State Share Standards of Quality	$ 8,563,584
(2) Compensatory Funds	319,800
Total State Basic	$ 8,883,384
Less Actual Receipts	(8,361,215)
Additional Payment Due	$ 522,169

JUSTIFICATION FOR COUNTING TUITION PUPILS IN ADM (1970-71)

Although tuition pupils were not counted in most of the State ADM for 1970-71 in determining the composite index of ability, there are some compelling reasons for counting such pupils attending Chesterfield County schools from the City of Richmond. (Those attending Richmond schools from Chesterfield should, of course, be counted in ADM in Chesterfield for the same reasons).

ARGUMENTS FOR COUNTING TUITION PUPILS IN ADM

1. The 3352 pupils from the City of Richmond were attending Chesterfield County schools under the order of a special Annexation Court.

2. Richmond paid the full cost of education for those pupils.

3. The true value of real estate and public service corporation property in the annexed area where these pupils lived was attributed to the City of Richmond in computing the composite index.

4. Sales subject to State sales and use taxes from the annexed area were attributed to the City of Richmond in computing the index.

5. The population from the annexed area was attributed to the City of Richmond in computing the index.

6. Individual income from the annexed area was attributed to the City of Richmond in computing the index.

7. Whereas in most school divisions the number of tuition pupils is insignificant, in the City of Richmond and the County of Chesterfield the number was substantial. Counting tuition pupils in ADM in Richmond rather than in Chesterfield would result in an estimated increase in the basic state aid appropriation for the biennium in excess of $1,000,000.

8. These students were counted in Average Daily Attendance on which basis State matching funds were distributed in 1970-71.

JWT
2/23/76

Richmond Public Schools

301 NORTH NINTH STREET
Richmond, Virginia 23219

STATE BASIC 1975-76
ADDITIONAL FUNDING REALIZED
WITH ADJUSTED COMPOSITE INDEX

May 27, 1976

	Old Index	Adjusted Index
STANDARDS OF QUALITY		
Average Daily Membership	37,592	37,592
Standards Per Pupil Cost	x $730	x $730
	$27,442,160	$27,442,160
Less: 1975 Sales Tax	(5,473,276)	(5,473,276)
Basic Cost of Operation	$21,968,884	$21,968,884
Composite Index	x .615	x .590
Local Share	$13,510,864	$12,961,642
Basic Cost of Operation	$21,968,884	$21,968,884
Less: Local Share	(13,510,864)	(12,961,642)
State Share - Standards	$ 8,458,020	$ 9,007,242
COMPENSATORY FUNDS		
Students Below 12th Percentile	1,918.8	1,918.8
Per Student	x $300	x $300
Total Compensatory	$ 575,640	$ 575,640
TOTALS		
State Share - Standards	$ 8,458,020	$ 9,007,242
Total Compensatory	575,640	575,640
Total Basic	$ 9,033,660	$ 9,582,882
DIFFERENCE		
Adjusted Index Total		$ 9,582,882
Less: Old Index Total		(9,033,660)
Difference		$ 549,222

PLAINTIFF'S EXHIBIT 8 AHS

COMMONWEALTH of VIRGINIA

STATE DEPARTMENT OF EDUCATION
RICHMOND, 23216

May 19, 1976

RECEIVED
Richmond Public Schools
SUPERINTENDENT

Dr. Richard C. Hunter, Superintendent
Richmond City Public Schools
301 N. Ninth Street
Richmond, Virginia 23219

Dear Dr. Hunter:

Acknowledgment is made of your March 16, 1976 letter in which you request an adjustment in the composite index for Richmond City for the current biennium based on the claim that 3,352 pupils from the City of Richmond attended Chesterfield County schools under the order of a special annexation court, these pupils not being claimed by the City of Richmond to establish its composite index but apparently were included in the Chesterfield County ADM. As a result, the Chesterfield composite index was lowered while that of Richmond was increased. Based upon the information we have, we have no reason to question the validity of this information.

However, we have some complicating factors that do not permit the Department of Education to resolve this matter. First, the composite index for both Richmond and Chesterfield was established on the basis of ADM figures supplied by the respective superintendents in the annual school report for 1970-71, which was the base year for establishing the current composite index. The Department of Education had no reason to question these figures and our first knowledge of the situation stated above was in the form of a letter dated January 26, 1976 from Dr. Little, the former Richmond superintendent. Further, the Department of Education has no funds to indemnify the City of Richmond for the current biennium. I recognize that your letter claims reimbursement only for the 1974-75 year but the fact remains that the current year would also be involved.

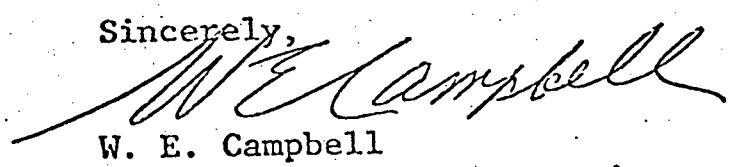
In addition, the question remains relative to the status of the entire annexation proceedings. We have no information regarding

the intent of the annexation court and indeed whether the court acknowledged the composite index formula and its possible effects. Consequently, we submit that the issue may be subject to inclusion in the final settlement between Richmond and Chesterfield to be ordered by the annexation court rather than one over-which the Department of Education has jurisdiction.

You may be assured of our sincere regret over this matter and we acknowledge with sympathy the complexities of these annexation proceedings. We would hope that the officials of both Richmond and Chesterfield recognize that the apparent oversight related to the 3,352 pupils in connection with the establishment of the composite index for each locality was not readily ascertainable at that time, particularly in view of the fact that the use of the composite index in the distribution of State funds to localities was new to all concerned.

Finally, I should like to state I felt an obligation to notify Superintendent Sullins of Chesterfield of this matter and have done so. While your March 16 letter speaks specifically to the Richmond position only, we must recognize that an adjustment in the composite index for Richmond must necessarily affect the composite index for Chesterfield. While I see no way of resolving your request at this time, I do not wish to block further discussion. If you and Dr. Sullins wish to meet with me, please advise.

Sincerely,



W. E. Campbell
Superintendent of Public Instruction

WEC/lc
cc: Dr. Howard O. Sullins

Defendant's #1

DISTRIBUTION OF BASIC STATE SCHOOL AID FUND *

1974-75 (ESTIMATED)

March 13, 1974

*Using 1974-75 sales Tax Distribution

REQ LCC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SOQ COST BASED ON 48.00 PUS.

03/03/74 COMPARISON OF 1973-74 AND 1974-75 ESTIMATED FINANCIAL DATA - PART 2 PAGE 1

COUNTY/TOWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LCC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN-SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
ACCOMACK	6,100	1,621,560	1,434,362		.00	2,064,083		46,500	2,110,583	1,970,707	139,876	7.10
ALBEMARLE	9,575	4,344,836	3,266,377		.00	2,269,856		36,000	2,305,856	1,940,761	365,095	18.81
ALLEGHANY	3,135	685,497	634,950		.00	1,179,193		13,200	1,192,393	1,059,034	133,359	12.59
AMELIA	1,800	434,384	450,174	15,790	3.64	561,453		9,900	571,353	579,012	7,659-	1.32-
AMHERST	5,320	998,744	1,108,205	109,461	10.96	1,961,328	19,173	30,900	2,011,401	2,023,826	12,425-	.61-
APPOMATTOX	2,365	599,608	586,670		.00	793,731		19,200	812,931	780,925	32,006	4.10
ARLINGTON	22,020	29,608,627	12,296,973		.00			61,800	61,800	4,300,505	4,238,705-	98.56-
AUGUSTA	10,600	2,750,971	2,641,288		.00	3,573,507		58,200	3,631,707	3,783,786	152,079-	4.02-
BATH	1,217	408,583	371,759		.00	364,397		6,300	370,697	320,911	49,786	15.51
BEDFORD	7,297	2,232,557	1,732,829		.00	2,493,583		38,700	2,532,283	2,316,034	216,249	9.34
BLAND	1,065	202,077	228,353	26,276	13.00	376,148	12,135	3,600	391,883	398,662	6,779-	1.70-
BOTETOURT	4,485	1,209,408	1,139,467		.00	1,479,997		18,600	1,498,597	1,354,106	144,491	10.67
BRUNSWICK	3,425	880,169	688,596		.00	1,224,172		27,300	1,251,472	1,004,124	247,348	24.63
BUCHANAN	9,339	1,964,738	1,816,800		.00	3,606,484		74,400	3,680,884	3,246,244	434,640	13.39
BUCKINGHAM	2,655	793,104	638,167		.00	899,586		22,800	922,386	631,198	291,188	46.13
CAMPBELL	11,200	1,970,016	2,342,084	372,068	18.89	3,642,411	350,132	49,800	4,042,343	4,369,547	327,204-	7.49-
CAROLINE	3,740	924,143	1,036,847	112,704	12.20	1,144,072	40,580	31,200	1,215,852	1,128,411	87,441	7.75
CARROLL	5,154	797,784	780,984		.00	2,222,800		26,400	2,249,200	2,140,675	108,525	5.07
CHARLES CITY	1,750	440,985	295,652		.00	706,557		33,900	740,457	746,637	6,180-	.83-
CHARLOTTE	2,881	612,332	578,580		.00	1,074,505		17,700	1,092,205	978,693	113,512	11.60

REQ LOC EXP # .50C X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 3C0
SOQ COST BASED ON 48.CC POS.

COUNTY/TOWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LOC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN-SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
CHESTERFIELD	24,354	8,842,143	7,082,649		.00	7,520,750		75,600	7,596,350	7,614,226	17,876-	.23-
CLARKE	1,895	855,992	657,413		.00	438,275		12,600	450,875	375,938	74,937	19.93
CRAIG	777	169,144	170,840	1,696	1.00	290,890		3,300	294,190	274,511	19,679	7.17
CULPEPER	4,800	1,727,210	1,502,381		.00	1,359,297		34,800	1,394,097	1,158,698	235,399	20.32
CUMBERLAND	1,630	296,470	338,813	42,343	14.28	594,228	25,392	6,900	626,520	640,295	13,775-	2.15-
DICKENSON	4,100	1,353,743	860,032		.00	1,433,386		28,200	1,461,586	1,306,662	154,924	11.86
DINWIDDIE	5,200	1,075,894	878,269		.00	2,203,378		44,100	2,247,478	2,233,326	14,152	.63
ESSEX	1,825	650,317	542,967		.00	521,675		17,400	539,075	514,349	24,726	4.81
FAIRFAX	129,486	94,978,008	45,427,895		.00	29,659,535		268,800	29,928,335	31,223,012	1,294,677-	4.15-
FAUQUIER	6,760	2,740,178	2,724,090		.00	1,281,924		29,100	1,311,024	1,239,862	71,162	5.74
FLOYD	2,080	411,938	431,682	19,744	4.79	767,435		13,200	780,635	771,540	9,095	1.18
FLUVANNA	2,060	742,235	649,623		.00	553,382		10,800	564,182	376,474	187,708	49.86
FRANKLIN	6,800	1,229,184	1,344,633	115,449	9.39	2,610,169		36,900	2,647,069	2,649,015	1,946-	.07-
FREDERICK	6,755	1,918,398	1,621,092		.00	2,332,792		21,000	2,353,792	2,308,377	45,415	1.97
GILES	3,630	1,422,447	936,780		.00	1,168,343		19,200	1,187,543	985,143	202,400	20.55
GLOUCESTER	3,525	1,098,258	1,126,450	28,192	2.57	940,430		21,600	962,030	879,078	82,952	9.44
GOOCHLAND	2,645	1,097,173	880,375		.00	664,143		20,400	684,543	475,775	208,768	43.88
GRAYSON	3,145	499,041	557,354	58,313	11.69	1,248,595	16,817	15,600	1,281,012	1,145,079	135,933	11.87
GREENE	1,365	256,067	265,227	9,160	3.58	514,852		14,700	529,552	535,502	5,950-	1.11-
GREENSVILLE	2,475	507,721	508,057	336	.07	903,212		14,700	917,912	755,087	162,825	21.56

REC LOC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SOQ COST BASED ON 48.00 PCS.

COMPARISON OF 1973-74 AND 1974-75 ESTIMATED FINANCIAL DATA - PART 2

COUNTY/TOWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LOC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN-SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
HALIFAX	7,150	1,313,944	1,176,605		.00	2,811,886		58,500	2,870,386	2,583,159	287,227	11.12
HANOVER	10,160	2,623,870	2,926,815	302,945	11.55	2,832,710	81,115	35,700	2,949,525	3,100,163	150,638-	4.86-
HENRICO	34,449	19,059,783	11,452,673		.00	8,293,315		99,900	8,393,215	8,720,567	327,352-	3.75-
HENRY	12,729	2,089,354	2,445,886	356,532	17.06	4,768,728	295,194	68,700	5,132,622	5,334,137	201,515-	3.78-
HIGHLAND	540	189,507	151,301		.00	160,660		2,100	162,760	100,328	62,432	62.23
ISLE OF WIGHT	4,460	1,399,634	1,250,386		.00	1,275,646		40,500	1,316,146	999,431	316,715	31.69
JAMES CITY	4,247	1,461,705	1,110,061		.00	1,412,805		33,600	1,446,405	1,389,597	56,808	4.09
KING GEORGE	2,215	930,302	697,913		.00	631,445		12,600	644,045	739,947	95,902-	12.96-
KING QUEEN	1,150	431,875	348,563		.00	315,366		7,800	323,166	226,998	96,168	42.37
KING WILLIAM	1,355	438,000	436,597		.00	343,040		12,300	355,340	361,458	6,118-	1.69-
LANCASTER	1,875	661,365	634,781		.00	414,444		7,800	422,244	344,145	78,099	22.69
LEE	4,740	684,850	676,899		.00	1,977,605		40,500	2,018,105	1,895,538	122,567	6.47
LOUDOUN	11,866	7,113,772	5,396,923		.00	1,566,849		39,300	1,606,149	2,144,529	538,380-	25.10-
LOUISA	3,750	803,957	851,516	47,559	5.92	1,331,859		41,100	1,372,959	1,174,444	198,515	16.90
LUNENBURG	2,741	603,892	552,041		.00	1,025,218		18,300	1,043,518	943,123	100,395	10.64
MADISON	2,318	663,392	632,035		.00	727,180		15,600	742,780	519,110	223,670	43.09
MATHEWS	1,443	509,240	441,662		.00	399,599		8,400	407,999	261,744	146,255	55.88
MECKLENBURG	6,270	1,287,095	1,341,407	54,312	4.22	2,188,611		46,200	2,234,811	2,224,907	9,904	.45
MIDDLESEX	1,390	481,812	478,757		.00	339,631		15,300	354,931	343,743	11,188	3.25
MONTGOMERY	8,850	2,083,805	2,296,733	212,928	10.22	2,818,231	9,093	35,700	2,863,024	2,906,466	43,442-	1.49-

REQ LCC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SCO COST BASED ON 48.00 POS.

03/03/74

COMPARISON OF 1973-74 AND 1974-75 ESTIMATED FINANCIAL DATA - PART 2

COUNTY/TOWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LCC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN-SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
NELSON	2,690	902,994	608,909		.00	932,632		16,200	948,832	800,294	148,538	18.56
NEW KENT	1,530	498,824	376,429		.00	498,988		6,300	505,288	350,338	154,950	44.23
NORTHAMPTON	3,050	692,376	612,891		.00	1,089,584		17,400	1,106,984	949,945	157,039	16.53
NORTHUMBERLAND	1,920	723,504	521,763		.00	576,686		15,300	591,986	366,846	225,140	61.37
NOTTOWAY	3,075	657,485	700,988	43,503	6.62	1,051,482		12,300	1,063,782	988,307	75,475	7.64
ORANGE	3,639	1,527,713	1,145,417		.00	975,726		25,200	1,000,926	642,387	358,539	55.81
PAGE	3,796	923,860	1,019,868	96,008	10.39	1,181,730	7,244	15,000	1,203,974	1,180,496	23,478	1.99
PATRICK	3,570	564,436	672,565	108,129	19.16	1,293,[illegible]	103,371	27,000	1,423,597	1,392,202	31,395	2.26
PITTSYLVANIA	14,600	2,660,256	2,459,519		.00	6,021,[illegible]		115,800	6,137,380	5,515,098	622,282	11.28
POWHATAN	1,713	593,068	476,152		.00	515,[illegible]		9,900	525,731	582,470	56,739-	9.74-
PRINCE EDWARD	2,090	591,037	681,786	90,749	15.35	392,445	63,291	24,900	480,636	405,120	75,516	18.64
PRINCE GEORGE	4,992	1,182,575	1,168,655		.00	1,789,964		19,500	1,809,464	1,968,670	159,206-	8.09-
PRINCE WILLIAM	36,171	15,368,783	10,630,981		.00	10,845,748		126,600	10,972,348	12,439,456	1,467,108-	11.79-
PULASKI	7,160	1,098,325	1,315,100	216,775	19.74	2,603,406	213,884	36,900	2,854,190	2,896,491	42,301-	1.46-
RAPPAHANNOCK	1,165	405,228	447,183	41,955	10.35	216,689	2,863	4,800	224,352	207,100	17,252	8.33
RICHMOND	1,550	498,629	418,440		.00	481,430		2,700	484,130	446,253	37,877	8.49
ROANOKE	19,719	6,200,221	5,828,881		.00	5,828,881		43,800	5,872,681	6,425,619	552,938-	8.61-
ROCKBRIDGE	3,935	1,109,881	910,943		.00	1,395,242		23,700	1,418,942	1,188,963	229,979	19.34
ROCKINGHAM	10,668	2,535,144	2,551,724	16,580	.65	3,597,008		57,600	3,654,608	3,168,821	485,787	15.33
RUSSELL	6,050	1,762,289	1,243,743		.00	2,211,100		29,100	2,240,200	1,763,281	476,919	27.05

REC LCC EXP # .5CC X CCMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATCRY FUNCS BASED ON 300
SOQ CCST BASED CN 48.00 POS.

COUNTY/TCWN CR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LOC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN- SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10- COL11 12	% OF CHANGE COL12/ COL11 13
SCOTT	5,290	914,447	829,800		.CO	2,187,653		27,600	2,215,253	2,036,345	178,908	8.79
SHENANDCAH	5,140	1,477,776	1,429,533		.00	1,548,661		20,400	1,569,061	1,336,908	232,153	17.36
SMYTH	6,960	1,133,519	1,294,057	160,538	14.16	2,578,512	94,373	27,600	2,700,485	2,686,171	14,314	.53
SOUTHAMPTCN	4,3CO	1,138,903	791,980		.00	1,682,956		36,900	1,719,856	1,337,385	382,471	28.60
SPOTSYLVANIA	5,015	1,145,496	1,284,105	138,609	12.10	1,595,740	48,119	26,400	1,670,259	1,873,969	203,710-	10.87-
STAFFCRC	7,009	1,600,821	1,764,511	163,690	10.23	2,348,570	7,217	33,300	2,389,087	2,360,629	28,458	1.21
SURRY	1,340	450,373	583,471	133,098	29.55		176,122	14,100	190,222	242,510	52,288-	21.56-
SUSSEX	2,856	633,125	598,404		.00	1,018,904		25,800	1,044,704	807,148	237,556	29.43
TAZEWELL	9,785	1,415,965	1,640,836	224,871	15.88	3,840,689	166,547	46,200	4,053,436	4,300,779	247,343-	5.75-
WARREN	3,625	1,171,963	1,293,902	121,939	10.40	782,034	9,487	12,900	804,421	884,864	80,443-	9.09-
WASHINGTCN	10,245	1,700,592	1,896,418	195,826	11.52	4,045,747	51,534	48,900	4,146,181	3,885,035	261,146	6.72
WESTMCRELANC	2,520	804,529	613,259		.00	829,704		20,400	850,104	662,002	188,102	28.41
WISE	9,350	1,127,168	1,296,042	168,874	14.98	3,906,199	112,315	44,400	4,062,914	3,877,877	185,037	4.77
WYTHE	4,850	975,955	1,003,162	27,207	2.79	1,783,398		17,700	1,801,098	1,829,945	28,847-	1.58-
YORK	8,410	3,CO6,122	2,092,230		.00	2,889,269		51,900	2,941,169	2,822,811	118,358	4.19
CAPE CHARLES	365	83,440	76,107		.00	135,302			135,302	151,306	16,004-	10.58-
COLCNIAL BEACH	514	203,329	161,808		.00	143,491		3,000	146,491	140,828	5,663	4.02
FRIES	205	45,464	27,371		.00	94,278			94,278	97,052	2,774-	2.86-
POQUOSCN	1,531	317,822	345,798	27,976	8.80	564,198		5,400	569,598	671,012	101,414-	15.11-
WEST PCINT	653	401,426	231,710		.00	148,143		1,800	149,943	138,491	11,452	8.27

REQ LCC EXP # .5CC X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATCRY FUNDS BASEC ON 3CO
SOQ CCST BASED CN 48.00 POS.

03/03/74 COMPARISON OF 1973-74 AND 1974-75 ESTIMATED FINANCIAL DATA - PART 2 PAGE 6

COUNTY/TCWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LOC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN- SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10- COL11 12	% OF CHANGE COL12/ COL11 13
ALEXANCRIA	15,895	16,383,882	8,145,481		.00	1,058,452		78,600	1,137,052	2,767,183	1,630,131-	58.91-
BEDFCRC	1,203	367,975	387,218	19,243	5.23	298,123		6,300	304,423	291,450	12,973	4.45
BRISTCL	3,042	896,701	796,930		.00	916,897		16,200	933,097	897,210	35,887	4.00
BUENA VISTA	1,500	326,372	331,034	4,662	1.43	551,724		3,000	554,724	547,576	7,148	1.31
CHARLCTTESVILLE	6,800	4,406,470	2,634,477		.00	1,327,143		28,800	1,355,943	1,310,050	45,893	3.50
CHESAPEAKE CITY	25,812	6,195,961	5,401,176		.00	9,602,090		180,600	9,782,690	8,759,692	1,022,998	11.68
CLIFTCN FCRGE	1,130	425,386	275,770		.00	388,735		6,000	394,735	388,602	6,133	1.58
COLCNIAL HEIGHTS	3,970	928,931	1,058,232	129,301	13.92	1,153,896	72,815	4,500	1,231,211	1,256,980	25,769-	2.05-
COVINGTCN	2,220	717,278	629,931		.00	696,239		9,900	706,139	631,651	74,488	11.88
DANVILLE	9,652	2,930,837	2,683,475		.00	2,849,463		33,600	2,883,063	2,886,436	3,373-	.12-
EMPORIA	1,025	210,312	249,042	38,730	18.42	296,049	35,397	6,300	337,746	289,601	48,145	16.62
FAIRFAX CITY	5,367	3,936,810	1,997,966		.00	1,099,655		11,100	1,110,755	1,104,932	5,823	.53
FALLS CHURCH	1,874	2,435,267	1,068,211		.00			4,800	4,800	376,258	371,458-	98.72-
FRANKLIN CITY	1,775	614,366	468,058		.00	583,757		5,100	588,857	636,234	47,377-	7.45-
FREDERICKSBURG	2,765	1,634,868	1,154,558		.00	483,113		6,000	489,113	531,467	42,354-	7.97-
GALAX	1,340	459,992	486,196	26,204	5.70	304,367		2,400	306,767	362,786	56,019-	15.44-
HAMPTCN	32,639	10,411,676	7,335,844		.00	11,718,297		132,600	11,850,897	11,653,841	197,056	1.69
HARRISCNBURG	2,479	1,743,848	1,053,900		.00	399,755		6,300	406,055	587,890	181,835-	30.93-
HOPEWELL	5,295	2,039,574	1,433,229		.00	1,616,194		18,900	1,635,094	1,643,277	8,183-	.50-
LEXINGICN	1,071	473,053	332,679		.00	289,151		3,000	292,151	275,454	16,697	6.06

REQ LCC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SOQ COST BASED ON 48.00 PCS.

COUNTY/TOWN OR CITY 1	1974-75 ADM 2	1973-74 LOCAL EXP 3	1974-75 REQ LOC EXP AT 687 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/COL3 6	1974-75 SOQ STATE SHARE AT 687 7	MAXIMUM LOCAL INCREASE PROVISION 8	1974-75 COMPEN-SATORY FUNDS 9	1974-75 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/COL11 13
LYNCHBURG	10,320	5,912,773	3,292,788		.00	2,694,099		56,700	2,750,799	2,726,019	24,780	.91
MARTINSVILLE	4,151	1,561,543	1,369,653		.00	991,818		9,900	1,001,718	1,058,134	56,416-	5.33-
NEWPORT NEWS	29,799	12,577,338	7,712,765		.00	9,238,366		153,300	9,391,666	8,376,536	1,015,130	12.12
NORFOLK	47,616	21,157,302	13,403,456		.00	13,138,042		387,600	13,525,642	12,557,647	967,995	7.71
NORTON	1,205	222,816	256,828	34,012	15.26	411,783	23,461	4,800	440,044	421,973	18,071	4.28
PETERSBURG	9,308	3,503,244	2,621,474		.00	2,621,473		69,300	2,690,773	2,590,764	100,009	3.86
PORTSMOUTH	23,700	6,739,231	4,876,172		.00	8,668,749		108,300	8,777,049	8,506,102	270,947	3.19
RADFORD	2,110	698,072	575,545		.00	675,640		5,100	680,740	661,710	19,030	2.88
RICHMOND	43,090	30,943,819	14,758,397		.00	9,238,997		319,800	9,558,797	7,794,600	1,764,197	22.63
ROANOKE	17,600	9,233,287	5,316,730		.00	5,007,018		87,300	5,094,318	4,670,157	424,161	9.08
SALEM	4,771	1,500,004	1,523,230	23,226	1.55	1,221,329		10,500	1,231,829	1,215,896	15,933	1.31
SOUTH BOSTON	1,622	425,083	444,934	19,851	4.67	472,455		7,200	479,655	481,716	2,061-	.43-
STAUNTON	4,400	1,758,125	1,403,718		.00	1,125,504		6,600	1,132,104	1,139,851	7,747-	.68-
SUFFOLK	11,100	2,537,190	2,459,069		.00	4,098,447		107,100	4,205,547	4,036,416	169,131	4.19
VIRGINIA BEACH	49,600	11,046,986	12,525,994	1,479,008	13.39	15,900,360	748,618	175,500	16,824,478	17,754,544	930,066-	5.24-
WAYNESBORO	4,438	1,728,572	1,384,882		.00	1,228,102		10,500	1,238,602	1,099,314	139,288	12.67
WILLIAMSBURG	725	707,925	402,924		.00			2,700	2,700	146,720	144,020-	98.16-
WINCHESTER	3,715	2,053,555	1,490,878		.00	669,815		6,900	676,715	684,883	8,168-	1.19-
STATE TOTALS	1,073,298	452,274,125	304,664,578	5,636,372	1.25	312,937,305	2,786,289	5,163,000	320,886,594	317,791,557	3,095,037	.97

Foster Home 1,248,880
Total Funds 314,186,185
Special Funds 1,594,960
General Funds $312,591,225

TOTAL MINUS 13,974,694-
TOTAL PLUS 17,069,731

App. 62

Defendant's #2

1974-76 Appropriations Act

	74-75	75-76
State SOQ Funds (P. 84, b.1)	$312,591,225	$329,295,060
Supplemental Skills Development (Compensatory) (P. 85, b.5)	5,163,000	9,293,400
Maximum Local Increase Provision (P. 86,c.2)	2,786,290	1,159,605
No Loss Provision (P. 86, c.3)	13,974,700	9,137,650
Sub-Total	334,515,215	348,885,715
Special Education (P. 84, b.2)	21,328,675	25,990,385
Gifted and Talented (P. 85, b.3)	1,100,000	1,440,000
Vocational Education (P. 85, b.4)	14,123,090	16,812,635
Teacher Education (P. 85, b.6)	1,609,500	1,609,500
General Adult Education (P. 86, b.8)	522,500	623,500
Incentive Fund (P. 86, b.9)	3,831,145	8,285,900
Total	377,030,125	403,647,635

Defendant's #3

DISTRIBUTION OF BASIC STATE SCHOOL AID FUND

1975-76 (ESTIMATED

March 13, 1974

REQ LOC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SOQ COST BASED ON 48.00 POS.

03/03/74

COMPARISON OF 1974-75 AND 1975-76 ESTIMATED FINANCIAL DATA - PART 2

COUNTY/TOWN OR CITY 1	1975-76 ADM 2	1974-75 REQ LOC EXP AT 687 PER PUPIL 3	1975-76 REQ LOC EXP AT 730 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/COL3 6	1975-76 SOQ STATE SHARE AT 730 7	MAXIMUM LOCAL INCREASE PROVISION 8	1975-76 COMPEN-SATORY FUNDS 9	1975-76 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/COL11 13
ACCOMACK	6,100	1,434,362	1,510,525	76,163	5.31	2,173,682		83,700	2,257,382	1,970,707	286,675	14.54
ALBEMARLE	9,575	3,266,377	3,441,337	174,960	5.36	2,391,437		64,800	2,456,237	1,940,761	515,476	26.55
ALLEGHANY	3,135	634,950	668,990	34,040	5.36	1,242,410		23,760	1,266,170	1,059,034	207,136	19.55
AMELIA	1,800	450,174	473,548	23,374	5.19	590,605		17,820	608,425	579,012	29,413	5.07
AMHERST	5,320	1,108,205	1,186,904	78,699	7.10	2,066,844		55,620	2,123,588	2,023,826	99,762	4.92
APPOMATTOX	2,365	586,670	618,409	31,739	5.41	836,670	1,124	34,560	871,230	780,925	90,305	11.55
ARLINGTON	22,020	12,296,973	12,930,853	633,880	5.15			111,240	111,240	4,300,505	4,189,265-	97.40-
AUGUSTA	10,600	2,641,288	2,784,846	143,558	5.44	3,767,732		104,760	3,872,492	3,783,786	88,706	2.33
BATH	1,217	371,759	392,607	20,848	5.61	384,832		11,340	396,172	320,911	75,261	23.44
BEDFORD	7,297	1,732,829	1,825,817	92,988	5.37	2,627,394		69,660	2,697,054	2,316,034	381,020	16.44
BLAND	1,065	228,353	248,863	20,510	8.98	396,326		6,480	407,331	398,662	8,669	2.16
BOTETOURT	4,485	1,139,467	1,201,152	61,685	5.41	1,560,117	4,525	33,480	1,593,597	1,354,106	239,491	17.68
BRUNSWICK	3,425	688,596	724,094	35,498	5.16	1,287,278		49,140	1,336,418	1,004,124	332,294	33.08
BUCHANAN	9,339	1,816,800	1,914,563	97,763	5.38	3,800,551		133,920	3,934,471	3,246,244	688,227	21.19
BUCKINGHAM	2,655	638,167	672,412	34,245	5.37	947,859		41,040	988,899	631,198	357,701	56.66
CAMPBELL	11,200	2,342,084	2,669,516	327,432	13.98	3,832,884		89,640	4,086,009	4,369,547	283,538-	6.48-
CAROLINE	3,740	1,036,847	1,123,098	86,251	8.32	1,207,086	163,485	56,160	1,276,918	1,128,411	148,507	13.15
CARROLL	5,154	780,984	823,168	42,184	5.40	2,342,864	13,672	47,520	2,390,384	2,140,675	249,709	11.65
CHARLES CITY	1,750	295,652	311,326	15,674	5.30	744,016		61,020	805,036	746,637	58,399	7.81
CHARLOTTE	2,881	578,580	609,317	30,737	5.31	1,131,589		31,860	1,163,449	978,693	184,756	18.87

REQ LOC EXP # .500 X COMPOSITE INDEX X TOTAL COST - SALES TAX
COMPENSATORY FUNDS BASED ON 300
SOQ COST BASED ON 48.00 POS.

03/03/74

COMPARISON OF 1974-75 AND 1975-76 ESTIMATED FINANCIAL DATA - PART 2

COUNTY/TOWN OR CITY 1	1975-76 ADM 2	1974-75 REQ LOC EXP AT 687 PER PUPIL 3	1975-76 REQ LOC EXP AT 730 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1975-76 SOQ STATE SHARE AT 730 7	MAXIMUM LOCAL INCREASE PROVISION 8	1975-76 COMPEN-SATORY FUNDS 9	1975-76 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
CHESTERFIELD	24,354	7,082,649	7,476,452	393,803	5.56	7,938,912		136,080	8,074,992	7,614,226	460,766	6.04
CLARKE	1,895	657,413	692,627	35,214	5.36	461,751		22,680	484,431	375,938	108,493	28.85
CRAIG	777	170,840	180,254	9,414	5.51	306,918		5,940	312,858	274,511	38,347	13.96
CULPEPER	4,800	1,502,381	1,585,438	83,057	5.53	1,434,443		62,640	1,497,083	1,158,698	338,385	29.19
CUMBERLAND	1,630	338,813	373,295	34,482	10.18	626,622	10,764	12,420	649,806	640,295	9,511	1.48
DICKENSON	4,100	860,032	904,448	44,416	5.16	1,507,414		50,760	1,558,174	1,306,662	251,512	19.24
DINWIDDIE	5,200	878,269	926,531	48,262	5.50	2,324,456		79,380	2,403,836	2,233,326	170,510	7.62
ESSEX	1,825	542,967	572,325	29,358	5.41	549,880		31,320	581,200	514,349	66,851	12.99
FAIRFAX	129,486	45,427,895	47,868,732	2,440,837	5.37	31,253,139		483,840	31,736,979	31,223,012	513,967	1.64
FAUQUIER	6,760	2,724,090	2,873,777	149,687	5.49	1,352,366		52,380	1,404,746	1,239,862	164,884	13.29
FLOYD	2,080	431,682	454,732	23,050	5.34	808,413		23,760	832,173	771,540	60,633	7.85
FLUVANNA	2,060	649,623	684,786	35,163	5.41	583,336		19,440	602,776	376,474	226,302	60.10
FRANKLIN	6,800	1,344,633	1,417,103	72,470	5.39	2,750,847		66,420	2,817,267	2,649,015	168,252	6.34
FREDERICK	6,755	1,621,092	1,709,049	87,957	5.43	2,459,364		37,800	2,497,164	2,308,377	188,787	8.17
GILES	3,630	936,780	987,116	50,336	5.37	1,231,122		34,560	1,265,682	985,143	280,539	28.47
GLOUCESTER	3,525	1,126,450	1,187,679	61,229	5.44	991,548		38,880	1,030,428	879,078	151,350	17.21
GOOCHLAND	2,645	880,375	928,024	47,649	5.41	700,089		36,720	736,809	475,775	261,034	54.86
GRAYSON	3,145	557,354	600,687	43,333	7.77	1,315,643	4,317	28,080	1,348,040	1,145,079	202,961	17.71
GREENE	1,365	265,227	279,256	14,029	5.29	542,085		26,460	568,545	535,502	33,043	6.16
GREENSVILLE	2,475	508,057	534,864	26,807	5.28	950,870		26,460	977,330	755,087	222,243	29.42

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COUNTY/TOWN OR CITY 1	1975-76 ADM 2	1974-75 REQ LOC EXP AT 687 PER PUPIL 3	1975-76 REQ LOC EXP AT 730 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/COL3 6	1975-76 SOQ STATE SHARE AT 730 7	MAXIMUM LOCAL INCREASE PROVISION 8	1975-76 COMPEN-SATORY FUNDS 9	1975-76 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/COL11 13
HALIFAX	7,150	1,176,605	1,237,180	60,575	5.15	2,956,649		105,300	3,061,949	2,583,159	478,790	18.53
HANOVER	10,160	2,926,815	3,149,872	223,057	7.62	2,983,505	18,180	64,260	3,065,945	3,100,163	34,218-	1.09-
HENRICO	34,449	11,452,673	12,060,423	607,750	5.31	8,733,410		179,820	8,913,230	8,720,567	192,663	2.20
HENRY	12,729	2,445,886	2,754,060	308,174	12.60	5,029,585	136,962	123,660	5,290,207	5,334,137	43,930-	.81-
HIGHLAND	540	151,301	159,398	8,097	5.35	169,258		3,780	173,038	100,328	72,710	72.46
ISLE OF WIGHT	4,460	1,250,386	1,315,873	65,487	5.24	1,342,457		72,900	1,415,357	999,431	415,926	41.[illegible]
JAMES CITY	4,247	1,110,061	1,171,207	61,146	5.51	1,490,627		60,480	1,551,107	1,389,597	161,510	11.[illegible]
KING GEORGE	2,215	697,913	736,751	38,838	5.56	666,585		22,680	689,265	739,947	50,682-	6.[illegible]
KING QUEEN	1,150	348,563	367,203	18,640	5.35	332,231		14,040	346,271	226,998	119,273	52.53
KING WILLIAM	1,355	436,597	459,860	23,263	5.33	361,319		22,140	383,459	361,458	22,001	6.08
LANCASTER	1,875	634,781	667,579	32,798	5.17	435,857		14,040	449,897	344,145	105,752	30.72
LEE	4,740	676,899	711,903	35,004	5.17	2,079,875		72,900	2,152,775	1,895,538	257,237	13.56
LOUDOUN	11,866	5,396,923	5,690,548	293,625	5.44	1,652,094		70,740	1,722,834	2,144,529	421,695-	19.65-
LOUISA	3,750	851,516	897,463	45,947	5.40	1,403,724		73,980	1,477,704	1,174,444	303,260	25.81
LUNENBURG	2,741	552,041	581,459	29,418	5.33	1,079,852		32,940	1,112,792	943,123	169,669	17.98
MADISON	2,318	632,035	666,391	34,356	5.44	766,708		28,080	794,788	519,110	275,678	53.10
MATHEWS	1,443	441,662	465,526	23,864	5.40	421,191		15,120	436,311	261,744	174,567	66.68
MECKLENBURG	6,280	1,341,407	1,411,194	69,787	5.20	2,302,474		83,160	2,385,634	2,224,907	160,727	7.21
MIDDLESEX	1,390	478,757	504,891	26,134	5.46	358,171		27,540	385,711	343,743	41,968	12.20
MONTGOMERY	8,850	2,296,733	2,429,514	132,781	5.78	2,969,406		64,260	3,033,666	2,906,466	127,200	4.37

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SOC COST BASED ON 48.00 POS.

COUNTY/TOWN OR CITY 1	1975-76 ADM 2	1974-75 REQ LOC EXP AT 687 PER PUPIL 3	1975-76 REQ LOC EXP AT 730 PER PUPIL 4	AMOUNT OF INCREASE COL4-COL3 5	% OF INCREASE COL5/ COL3 6	1975-76 SOQ STATE SHARE AT 730 7	MAXIMUM LOCAL INCREASE PROVISION 8	1975-76 COMPEN-SATORY FUNDS 9	1975-76 TOTAL STATE AID 10	1973-74 GENERAL STATE AID 11	AMT OF CHANGE COL10-COL11 12	% OF CHANGE COL12/ COL11 13
NELSON	2,690	608,909	641,213	32,304	5.31	982,111		29,160	1,011,271	800,294	210,977	26.35
NEW KENT	1,530	376,429	396,366	19,937	5.30	525,415		11,340	536,755	350,338	186,417	53.20
NORTHAMPTON	3,050	612,891	644,467	31,576	5.15	1,145,720		31,320	1,177,040	949,945	227,095	23.90
NORTHUMBERLAND	1,920	521,763	549,395	27,632	5.30	607,225		27,540	634,765	366,846	267,919	73.02
NOTTOWAY	3,075	700,988	737,955	36,967	5.27	1,106,932		22,140	1,129,072	988,307	140,765	14.23
ORANGE	3,639	1,145,417	1,207,295	61,878	5.40	1,028,437		45,360	1,073,797	642,387	431,410	67.15
PAGE	3,796	1,019,868	1,082,498	62,630	6.14	1,245,455		27,000	1,272,455	1,180,496	91,959	7.78
PATRICK	3,570	672,565	768,625	96,060	14.28	1,362,674	48,979	48,600	1,460,253	1,392,202	68,051	4.88
PITTSYLVANIA	14,600	2,459,519	2,591,911	132,392	5.38	6,345,714		208,440	6,554,154	5,515,098	1,039,056	18.83
POWHATAN	1,713	476,152	501,698	25,546	5.37	543,506		17,820	561,326	582,470	21,144-	3.62-
PRINCE EDWARD	2,090	681,786	755,925	74,139	10.87	412,071	26,413	44,820	483,304	405,120	78,184	19.29
PRINCE GEORGE	4,992	1,168,655	1,232,879	64,224	5.50	1,888,333		35,100	1,923,433	1,968,670	45,237-	2.29-
PRINCE WILLIAM	36,171	10,630,981	11,216,294	585,313	5.51	11,442,885		227,880	11,670,765	12,439,456	768,691-	6.17-
PULASKI	7,160	1,315,100	1,508,941	193,841	14.74	2,742,585	101,783	66,420	2,910,788	2,896,491	14,297	.48
RAPPAHANNOCK	1,165	447,183	473,888	26,705	5.97	228,168		8,640	236,808	207,100	29,708	14.33
RICHMOND	1,550	418,440	440,950	22,510	5.38	507,329		4,860	512,189	446,253	65,936	14.77
ROANOKE	19,719	5,828,881	6,148,402	319,521	5.48	6,148,402		78,840	6,227,242	6,425,619	198,377-	3.08-
ROCKBRIDGE	3,935	910,943	960,434	49,491	5.43	1,471,044		42,660	1,513,704	1,188,963	324,741	27.30
ROCKINGHAM	10,668	2,551,724	2,687,943	136,219	5.34	3,789,027		103,680	3,892,707	3,168,821	723,886	22.83
RUSSELL	6,050	1,243,743	1,309,475	65,732	5.29	2,327,956		52,380	2,380,336	1,763,281	617,055	34.98

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SCOTT	5,290	829,800	873,601	43,801	5.28	2,303,129		49,680	2,352,809	2,036,345	316,464	15.53
SHENANDOAH	5,140	1,429,533	1,506,276	76,743	5.37	1,631,798		36,720	1,668,518	1,336,908	331,610	24.79
SMYTH	6,960	1,294,057	1,423,149	129,092	9.98	2,714,503		49,680	2,802,690	2,686,171	116,519	4.33
SOUTHAMPTON	4,300	791,980	834,195	42,215	5.33	1,772,663	38,507	66,420	1,839,083	1,337,385	501,698	37.50
SPOTSYLVANIA	5,015	1,284,105	1,389,155	105,050	8.18	1,682,093		47,520	1,744,775	1,873,969	129,194-	6.88-
STAFFORD	7,009	1,764,511	1,868,288	103,777	5.88	2,476,568	15,162	59,940	2,536,508	2,360,629	175,879	7.44
SURRY	1,340	583,471	711,864	128,393	22.01			25,380	112,929	242,510	129,581-	53.42-
SUSSEX	2,856	598,404	629,739	31,335	5.24	1,072,258	87,549	46,440	1,118,698	807,148	311,550	38.59
TAZEWELL	9,785	1,640,836	1,829,857	189,021	11.52	4,046,039		83,160	4,203,360	4,300,779	97,419-	2.26-
WARREN	3,625	1,293,902	1,372,828	78,926	6.10	823,697	74,161	23,220	846,917	884,864	37,947-	4.28-
WASHINGTON	10,245	1,896,418	2,041,379	144,961	7.64	4,265,148		88,020	4,365,379	3,885,035	480,344	12.35
WESTMORELAND	2,520	613,259	645,766	32,507	5.30	873,684	12,211	36,720	910,404	662,002	248,402	37.51
WISE	9,350	1,296,042	1,434,588	138,546	10.69	4,111,592		79,920	4,239,335	3,877,877	361,458	9.31
WYTHE	4,850	1,003,162	1,056,532	53,370	5.32	1,878,278	47,823	31,860	1,910,138	1,829,945	80,193	4.37
YORK	8,410	2,092,230	2,207,142	114,912	5.49	3,047,959		93,420	3,141,379	2,822,811	318,568	11.28
CAPE CHARLES	365	76,107	80,191	4,084	5.37	142,563			142,563	151,306	8,743-	5.77-
COLONIAL BEACH	514	161,808	170,720	8,912	5.51	151,394		5,400	156,794	140,828	15,966	11.33
FRIES	205	27,371	28,877	1,506	5.50	99,466			99,466	97,052	2,414	2.48
POQUOSON	1,531	345,798	364,857	19,059	5.51	595,294		9,720	605,014	671,012	65,998-	9.83-
WEST POINT	653	231,710	244,201	12,491	5.39	156,129		3,240	159,369	138,491	20,878	15.07

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ALEXANDRIA	15,895	8,145,481	8,582,463	436,982	5.36	1,115,235		141,480	1,256,715	2,767,183	1,510,468-	54.58-
BEDFORD	1,203	387,218	407,629	20,411	5.27	313,839		11,340	325,179	291,450	33,729	11.56
BRISTOL	3,042	796,930	838,422	41,492	5.21	964,636		29,160	993,796	897,210	96,586	10.76
BUENA VISTA	1,500	331,034	349,096	18,062	5.46	581,827		5,400	587,227	547,576	39,651	7.23
CHARLOTTESVILLE	6,800	2,634,477	2,776,722	142,245	5.40	1,398,800		51,840	1,450,640	1,310,050	140,590	10.72
CHESAPEAKE CITY	25,812	5,401,176	5,692,101	290,925	5.39	10,119,290		325,080	10,444,370	8,759,692	1,684,678	19.22
CLIFTON FORGE	1,130	275,770	290,805	15,035	5.45	409,929		10,800	420,729	388,602	32,127	8.26
COLONIAL HEIGHTS	3,970	1,058,232	1,161,821	103,589	9.79	1,215,401	29,512	8,100	1,253,013	1,256,980	3,967-	.31-
COVINGTON	2,220	629,931	664,825	34,894	5.54	734,806		17,820	752,626	631,151	121,475	19.24
DANVILLE	9,652	2,683,475	2,825,890	142,415	5.31	3,000,687		60,480	3,061,167	2,886,436	174,731	6.04
EMPORIA	1,025	249,042	282,905	33,863	13.60	311,553	16,430	11,340	339,323	289,601	49,722	17.16
FAIRFAX CITY	5,367	1,997,966	2,104,779	106,813	5.35	1,158,445		19,980	1,178,425	1,104,932	73,493	6.64
FALLS CHURCH	1,874	1,068,211	1,124,554	56,343	5.27			8,640	8,640	376,258	367,618-	97.69-
FRANKLIN CITY	1,775	468,058	493,776	25,718	5.49	615,833		9,180	625,013	636,234	11,221-	1.75-
FREDERICKSBURG	2,765	1,154,558	1,217,966	63,408	5.49	509,645		10,800	520,445	531,467	11,022-	2.06-
GALAX	1,340	486,196	512,792	26,596	5.47	321,016		4,320	325,336	362,786	37,450-	10.31-
HAMPTON	32,639	7,335,844	7,732,781	396,937	5.41	12,352,364		238,680	12,591,044	11,653,841	937,203	8.03
HARRISONBURG	2,479	1,053,900	1,111,190	57,290	5.44	421,486		11,340	432,826	587,890	155,064-	26.37-
HOPEWELL	5,295	1,433,229	1,509,673	76,444	5.33	1,702,397		34,020	1,736,417	1,643,277	93,140	5.66
LEXINGTON	1,071	332,679	350,577	17,898	5.38	304,707		5,400	310,107	275,454	34,653	12.57

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LYNCHBURG	10,320	3,292,788	3,469,785	176,997	5.38	2,838,915		102,060	2,940,975	2,726,019	214,956	7.88
MARTINSVILLE	4,151	1,369,653	1,441,740	72,087	5.26	1,044,018		17,820	1,061,838	1,058,134	3,704	.34
NEWPORT NEWS	29,799	7,712,765	8,118,664	405,899	5.26	9,724,554		275,940	10,000,494	8,376,536	1,623,958	19.38
NORFOLK	47,616	13,403,456	14,092,900	689,444	5.14	13,813,832		697,680	14,511,512	12,557,647	1,953,865	15.55
NORTON	1,205	256,828	285,001	28,173	10.97	433,681	10,194	8,640	452,515	421,973	30,542	7.23
PETERSBURG	9,308	2,621,474	2,757,931	136,457	5.21	2,757,930		124,740	2,882,670	2,590,764	291,906	11.26
PORTSMOUTH	23,700	4,876,172	5,134,108	257,936	5.29	9,127,302		194,940	9,322,242	8,506,102	816,140	9.58
RADFORD	2,110	575,545	607,191	31,646	5.50	712,789		9,180	721,969	661,710	60,259	9.10
RICHMOND	43,090	14,758,397	15,516,761	758,364	5.14	9,713,745		575,640	10,289,385	7,794,600	2,494,785	32.00
ROANOKE	17,600	5,316,730	5,605,843	289,113	5.44	5,279,289		157,140	5,436,429	4,670,157	766,272	16.40
SALEM	4,771	1,523,230	1,604,376	81,146	5.33	1,286,392		18,900	1,305,292	1,215,896	89,396	7.34
SOUTH BOSTON	1,622	444,934	468,201	23,267	5.23	497,162		12,960	510,122	481,716	28,406	5.89
STAUNTON	4,400	1,403,718	1,478,437	74,719	5.32	1,185,414		11,880	1,197,294	1,139,851	57,443	5.03
SUFFOLK	11,100	2,459,069	2,593,768	134,699	5.48	4,322,946		192,780	4,515,726	4,036,416	479,310	11.86
VIRGINIA BEACH	49,600	12,525,994	13,700,669	1,174,675	9.38	16,767,462	297,854	315,900	17,381,216	17,754,544	373,328-	2.09-
WAYNESBORO	4,438	1,384,882	1,460,479	75,597	5.46	1,295,142		18,900	1,314,042	1,099,314	214,728	19.52
WILLIAMSBURG	725	402,924	423,579	20,655	5.13			4,860	4,860	146,720	141,860-	96.68-
WINCHESTER	3,715	1,490,878	1,571,234	80,356	5.39	705,917		12,420	718,337	684,883	33,454	4.87
STATE TOTALS	1,073,298	304,664,578	322,738,008	18,073,430	5.93	329,710,002	1,159,607	9,293,400	340,163,009	317,791,557	22,371,452	7.04

Foster Home 1,248,880
Total Funds 330,958,882
Special Funds 1,663,820
General Funds 329,295,062

TOTAL MINUS 9,137,657-
TOTAL PLUS 31,509,109

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COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ACCOMACK	.82	2,121,739	.83	.01-	2,104,131	17,608
ALBEMARLE	1.18	2,332,526	1.10	.08	2,556,752	224,226-
ALLEGHANY	.70	1,213,119	.69	.01	1,222,391	9,272-
AMELIA	.89	614,459	.85	.04	636,275	21,816-
AMHERST	.73	2,192,398	.69	.04	2,214,477	22,079-
APPOMATTOX	.85	963,961	.75	.10	1,027,312	63,351-
ARLINGTON	2.00	4,364,621	2.00	.00	4,364,621	
AUGUSTA	.85	4,189,424	.80	.05	4,246,843	57,419-
BATH	1.01	356,752	.99	.02	363,826	7,074-
BEDFORD	.81	2,531,780	.81	.00	2,531,780	
BLAND	.78	413,602	.73	.05	424,542	10,940-
BOTETOURT	.86	1,529,399	.83	.03	1,569,157	39,758-
BRUNSWICK	.72	1,162,352	.76	.04-	1,126,790	35,562
BUCHANAN	.67	3,664,903	.66	.01	3,691,900	26,997-
BUCKINGHAM	.83	983,023	.80	.03	1,007,644	24,621-
CAMPBELL	.85	4,657,443	.75	.10	4,774,964	117,521-
CAROLINE	.97	1,270,426	.92	.05	1,289,364	18,938-
CARROLL	.62	2,285,949	.60	.02	2,296,646	10,697-
CHARLES CITY	.59	811,717	.59	.00	811,717	
CHARLOTTE	.70	1,149,540	.68	.02	1,166,953	17,413-
CHESTERFIELD	.97	8,291,284	.94	.03	8,530,576	239,292-
					8,463,014	171,730-
CLARKE	1.20	451,048	1.24	.04-	429,126	21,922
CRAIG	.74	312,411	.69	.05	324,678	12,267-
CULPEPER	1.05	1,401,903	1.02	.03	1,445,246	43,343-
CUMBERLAND	.76	663,673	.71	.05	671,982	8,309-
DICKENSON	.75	1,564,006	.77	.02-	1,539,368	24,638

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DEFENDANT'S EXHIBIT 4

COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
DINWIDDIE	.57	2,298,317	.57	.00	2,298,317	
ESSEX	1.02	588,930	.98	.04	612,258	23,328-
FAIRFAX	1.21	30,790,209	1.18	.03	31,328,320	538,111-
FAUQUIER	1.36	1,377,662	1.36	.00	1,377,662	
FLOYD	.72	900,730	.68	.04	909,539	8,809-
FLUVANNA	1.08	580,782	1.06	.02	593,173	12,391-
FRANKLIN	.68	2,853,913	.66	.02	2,867,898	13,985-
FREDERICK	.81	2,651,183	.73	.08	2,828,002	176,819-
GILES	.89	1,299,406	.89	.00	1,299,406	
GLOUCESTER	1.09	924,636	1.04	.05	974,254	49,618-
GOOCHLAND	1.14	641,341	1.13	.01	648,562	7,221-
GRAYSON	.62	1,220,243	.64	.02-	1,202,783	17,460
GREENE	.68	614,536	.60	.08	640,752	26,216-
GREENSVILLE	.72	964,823	.71	.01	972,250	7,427-
HALIFAX	.59	2,995,439	.60	.01-	2,974,610	20,829
HANOVER	1.03	3,441,782	.93	.10	3,548,917	107,135-
HENRICO	1.16	8,683,542	1.17	.01-	8,693,542	
HENRY	.73	5,530,345	.72	.01	5,543,575	13,230-
HIGHLAND	.97	142,555	1.10	.13-	124,824	17,731
ISLE OF WIGHT	.99	1,324,279	1.01	.02-	1,298,857	25,422
JAMES CITY	.88	1,454,033	.80	.08	1,555,493	101,460-
KING GEORGE	1.05	773,721	.90	.15	808,218	34,497-
KING QUEEN	1.05	327,122	1.03	.02	333,844	6,722-
KING WILLIAM	1.09	402,563	.98	.11	449,737	47,174-
LANCASTER	1.21	447,599	1.30	.09-	397,495	50,104
LEE	.51	2,286,662	.49	.02	2,316,817	30,155-

COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 73-71 ADM 2	AMOUNT BASIC AI 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3
LOUDOUN	1.55	2,097,124	1.37	.18	2,264,654	167,530-
LOUISA	.78	1,346,759	.75	.03	1,378,866	32,10[illegible]-
LUNENBURG	.70	1,052,124	.69	.01	1,060,076	[illegible]
MADISON	.93	701,412	.90	.03	720,640	19,228-
MATHEWS	1.05	392,235	1.18	.13-	339,710	52,525
MECKLENBURG	.76	2,324,207	.78	.02-	2,305,795	1[illegible],412
MIDDLESEX	1.17	361,962	1.18	.01-	357,785	
MONTGOMERY	.90	3,034,557	.81	.09	3,213,237	178,680-
NELSON	.79	916,881	.84	.05-	879,659	37,222
NEW KENT	.86	576,608	.73	.13	641,644	65,036-
NORTHAMPTON	.71	1,066,843	.71	.00	1,066,843	
NORTHUMBERLAND	.95	581,057	1.03	.08-	537,929	[illegible],128
NOTTOWAY	.80	1,041,876	.79	.01	1,050,508	8,632-
ORANGE	1.08	1,080,285	1.06	.02	1,103,222	22,937-
PAGE	.93	1,258,586	.90	.03	1,269,942	11,356-
PATRICK	.75	1,488,869	.71	.04	1,503,169	14,300-
PITTSYLVANIA	.58	6,324,697	.59	.01-	6,280,972	4[illegible],725
POWHATAN	.96	681,201	.74	.22	823,207	142,006-
PRINCE EDWARD	1.31	427,206	1.18	.13	479,592	52,386-
PRINCE GEORGE	.79	1,930,113	.77	.02	1,956,516	[illegible] 403-
PRINCE WILLIAM	.99	12,122,936	.85	.14	13,785,795	1,662,859-
PULASKI	.74	3,049,122	.68	.06	3,093,236	44,[illegible]
RAPPAHANNOCK	1.35	242,308	1.34	.01	243,470	1,16[illegible]
RICHMOND	.93	507,135	.94	.01-	502,421	4,714
ROANOKE	1.00	6,284,166	.91	.09	6,284,166	
ROCKBRIDGE	.79	1,412,845	.80	.01-	1,401,357	11,488

COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ROCKINGHAM	.83	3,606,529	.84	.01-	3,576,196	30,333
RUSSELL	.72	2,390,785	.69	.03	2,446,137	55,352-
SCOTT	.55	2,291,656	.53	.02	2,322,884	31,228-
SHENANDOAH	.96	1,645,372	.93	.03	1,692,247	46,875-
SMYTH	.72	2,473,696	.68	.04	2,495,385	21,689-
SOUTHAMPTON	.64	1,726,462	.69	.05-	1,664,174	62,288
SPOTSYLVANIA	.91	2,274,923	.79	.12	2,347,744	72,821-
STAFFORD	.86	2,429,614	.79	.07	2,531,297	101,683-
SURRY	2.00	237,801	2.00	.00	237,801	
SUSSEX	.74	981,223	.83	.09-	912,978	68,245
TAZEWELL	.64	4,566,878	.62	.02	4,587,474	20,596-
WARREN	1.25	913,122	1.20	.05	931,595	18,473-
WASHINGTON	.65	3,963,080	.59	.06	3,963,080	
WESTMORELAND	.82	902,808	.83	.01-	895,330	7,478
WISE	.53	4,104,804	.50	.03	4,187,669	82,865-
WYTHE	.72	2,005,786	.70	.02	2,015,921	10,135-
YORK	.85	2,887,772	.84	.01	2,912,432	24,660-
CAPE CHARLES	.72	141,346	.71	.01	141,346	
COLONIAL BEACH	1.06	152,177	1.11	.05-	144,242	7,935
FRIES	.45	98,149	.54	.09-	98,149	
POQUOSON	.77	785,932	.65	.12	808,615	22,683-
SALTVILLE	.50	210,274	.70	.20-	196,153	14,121
WEST POINT	1.22	149,336	1.29	.07-	137,892	11,444
ALEXANDRIA	1.77	2,783,826	2.00	.23-	2,783,826	
BEDFORD	1.13	301,484	1.24	.11-	289,974	11,510
BRISTOL	.87	1,337,456	.89	.02-	1,314,156	23,300

COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
BUENA VISTA	.75	552,054	.75	.00	552,054	
CHARLOTTESVILLE	1.33	1,314,389	1.46	.13-	1,314,389	
CHESAPEAKE CITY	.72	10,394,186	.70	.02	10,249,086	154,900-
CLIFTON FORGE	.83	400,127	.85	.02-	393,390	6,737
COLONIAL HEIGHTS	.99	1,262,225	.99	.00	1,262,225	
COVINGTON	.95	665,531	.99	.04-	640,555	24,976
DANVILLE	.97	2,850,622	1.04	.07-	2,850,622	
EMPORIA	.98	339,934	1.05	.07-	333,269	6,665
FAIRFAX CITY	1.29	1,042,453	1.43	.14-	1,042,453	
FALLS CHURCH	2.00	368,355	2.00	.00	368,355	
FRANKLIN CITY	.89	629,456	.87	.02	629,456	
FREDERICKSBURG	1.41	520,424	1.49	.08-	520,424	
GALAX	1.23	350,567	1.28	.05-	350,567	
HAMPTON	.77	11,431,014	.79	.02-	11,431,014	
HARRISONBURG	1.45	585,266	1.48	.03-	585,266	
HOPEWELL	.94	1,520,405	.96	.02-	1,506,800	13,605
LEXINGTON	1.07	282,069	1.16	.09-	275,840	6,229
LYNCHBURG	1.10	2,711,282	1.24	.14-	2,711,282	
MARTINSVILLE	1.15	1,048,094	1.21	.06-	1,048,094	
NEWPORT NEWS	.90	9,575,201	.93	.03-	9,318,240	256,961
NORFOLK	1.01	13,461,428	1.14	.13-	12,488,625	972,803
NORTON	.81	412,682	.84	.03-	412,682	
PETERSBURG	.98	2,524,947	.97	.01	2,524,947	
PORTSMOUTH	.72	8,443,390	.82	.10-	8,443,390	
RADFORD	.92	656,019	.93	.01-	656,019	
RICHMOND	1.23	8,361,215	1.44	.21-	7,628,675	732,540
					# 7,579,824	781,391

COUNTY/TOWN OR CITY 1	1974-75 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1974-75 COMPOSITE INDEX USING 74-75 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ROANOKE	1.03	4,630,384	1.15	.12-	4,561,721	68,663
SALEM	1.10	1,218,505	1.08	.02	1,245,350	26,845-
SOUTH BOSTON	.97	468,259	.99	.02-	465,389	2,870
STAUNTON	1.11	1,112,035	1.20	.09-	1,112,035	
SUFFOLK	.75	4,296,217	.74	.01	4,329,730	33,513-
VIRGINIA BEACH	.91	18,740,536	.84	.07	18,740,536	
WAYNESBORO	1.06	1,098,615	1.10	.04-	1,098,615	
WILLIAMSBURG	2.00	133,651	2.00	.00	133,651	
WINCHESTER	1.38	683,644	1.42	.04-	683,644	
STATE TOTALS	1.00	338,360,397	1.00	.00	340,945,664	2,585,267-

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ACCOMACK	.82	2,330,275	.83	.01-	2,311,232	19,043
ALBEMARLE	1.18	2,618,080	1.09	.09	2,898,652	280,572-
ALLEGHANY	.70	1,346,211	.68	.02	1,366,694	20,483-
AMELIA	.89	664,567	.86	.03	682,098	17,531-
AMHERST	.73	2,325,567	.69	.04	2,385,343	59,776-
APPOMATTOX	.85	1,076,401	.74	.11	1,157,641	81,240-
ARLINGTON	2.00	4,364,621	2.00	.00	4,364,621	
AUGUSTA	.85	4,393,446	.81	.04	4,471,603	78,157-
BATH	1.01	374,302	1.00	.01	378,012	3,710-
BEDFORD	.81	2,600,922	.85	.04-	2,515,753	85,169
BLAND	.78	447,600	.73	.05	465,674	18,074-
BOTETOURT	.86	1,766,930	.80	.06	1,858,294	91,364-
BRUNSWICK	.72	1,245,931	.78	.06-	1,188,793	57,138
BUCHANAN	.67	4,051,375	.64	.03	4,140,262	88,887-
BUCKINGHAM	.83	1,050,263	.80	.03	1,076,616	26,353-
CAMPBELL	.85	4,877,414	.75	.10	5,070,907	193,493-
CAROLINE	.97	1,298,095	.92	.05	1,328,281	30,186-
CARROLL	.62	2,398,019	.61	.01	2,415,079	17,060-
CHARLES CITY	.59	855,984	.61	.02-	844,512	11,472
CHARLOTTE	.70	1,218,196	.70	.00	1,218,196	
CHESTERFIELD	.97	9,387,660	.90	.07	10,016,502	628,842-
CLARKE	1.30	482,597	1.25	.05-	453,642	28,945
CRAIG	.74	335,271	.69	.05	348,337	13,066-
CULPEPER	1.05	1,529,237	1.02	.03	1,575,590	46,353-
CUMBERLAND	.76	733,716	.69	.07	753,235	19,519-
DICKENSON	.75	1,774,643	.76	.01-	1,760,823	13,820

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
DINWIDDIE	.57	2,467,794	.57	.00	2,467,794	
ESSEX	1.02	629,637	.99	.03	647,956	18,319-
FAIRFAX	1.21	32,369,706	1.18	.03	33,581,995	1,212,289-
FAUQUIER	1.36	1,549,394	1.32	.04	1,643,114	93,720-
FLOYD	.72	934,517	.68	.04	963,017	28,500-
FLUVANNA	1.08	646,907	1.05	.03	667,405	20,498-
FRANKLIN	.68	3,048,569	.66	.02	3,088,952	40,383-
FREDERICK	.81	2,903,165	.71	.10	3,143,952	240,787-
GILES	.89	1,443,476	.88	.01	1,456,169	12,693-
GLOUCESTER	1.09	974,462	1.04	.05	1,026,254	51,792-
GOOCHLAND	1.14	691,875	1.15	.01-	684,256	7,619
GRAYSON	.62	1,320,564	.64	.02-	1,301,813	18,751
GREENE	.68	676,456	.59	.09	720,846	44,390-
GREENSVILLE	.72	1,014,027	.71	.01	1,021,743	7,716-
HALIFAX	.59	3,235,883	.61	.02-	3,191,403	44,480
HANOVER	1.03	3,666,077	.93	.10	3,842,068	175,991-
HENRICO	1.16	9,282,791	1.18	.02-	9,066,051	216,740
HENRY	.73	5,680,826	.72	.01	5,702,087	21,261-
HIGHLAND	.97	151,113	1.14	.17-	126,733	24,380
ISLE OF WIGHT	.99	1,515,480	.99	.00	1,515,480	
JAMES CITY	.88	1,580,423	.80	.08	1,689,418	108,995-
KING GEORGE	1.05	771,386	.89	.16	869,267	97,881-
KING QUEEN	1.05	342,626	1.05	.00	342,626	
KING WILLIAM	1.09	426,793	.99	.10	471,342	44,549-
LANCASTER	1.21	481,263	1.31	.10-	422,128	59,135
LEE	.51	2,629,908	.48	.03	2,681,476	51,568-

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
LOUDOUN	1.55	2,097,124	1.28	.27	3,187,105	1,089,981-
LOUISA	.78	1,486,744	.75	.03	1,521,636	34,892-
LUNENBURG	.70	1,149,730	.69	.01	1,158,320	8,590-
MADISON	.93	739,761	.91	.02	753,064	13,303-
MATHEWS	1.05	431,739	1.19	.14-	370,325	61,414
MECKLENBURG	.76	2,555,366	.79	.03-	2,495,223	60,143
MIDDLESEX	1.17	394,489	1.18	.01-	390,059	4,430
MONTGOMERY	.90	3,252,327	.81	.09	3,513,432	261,105-
NELSON	.79	990,077	.85	.06-	942,416	47,661
NEW KENT	.86	625,936	.73	.13	696,090	70,154-
NORTHAMPTON	.71	1,143,803	.73	.02-	1,126,490	17,313
NORTHUMBERLAND	.95	635,502	1.04	.09-	583,190	52,312
NOTTOWAY	.80	1,162,650	.78	.02	1,181,816	19,166-
ORANGE	1.08	1,181,095	1.05	.03	1,218,205	37,110-
PAGE	.93	1,339,543	.90	.03	1,371,376	31,833-
PATRICK	.75	1,494,318	.71	.04	1,517,196	22,878-
PITTSYLVANIA	.58	6,827,734	.60	.02-	6,767,538	60,196
POWHATAN	.96	771,664	.72	.24	938,945	167,281-
PRINCE EDWARD	1.31	533,638	1.13	.18	603,992	70,354-
PRINCE GEORGE	.79	2,146,495	.76	.03	2,198,846	52,351-
PRINCE WILLIAM	.99	13,041,114	.85	.14	14,817,206	1,776,092-
PULASKI	.74	3,243,043	.67	.07	3,327,409	84,366-
RAPPAHANNOCK	1.35	244,743	1.37	.02-	241,117	3,626
RICHMOND	.93	534,919	.96	.03-	520,050	14,869
ROANOKE	1.00	6,284,166	.91	.09	6,653,528	369,362-
ROCKBRIDGE	.79	1,526,013	.81	.02-	1,501,429	24,584

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ROCKINGHAM	.83	3,883,219	.84	.01-	3,850,803	32,416
RUSSELL	.72	2,702,924	.68	.04	2,785,886	82,962-
SCOTT	.55	2,497,799	.53	.02	2,531,859	34,060-
SHENANDOAH	.96	1,878,388	.92	.04	1,914,659	36,271-
SMYTH	.72	2,661,296	.68	.04	2,701,451	40,155-
SOUTHAMPTON	.64	1,734,846	.72	.08-	1,636,643	98,203
SPOTSYLVANIA	.91	2,528,136	.76	.15	2,685,007	156,871-
STAFFORD	.86	2,979,896	.73	.13	3,312,970	333,074-
SURRY	2.00	237,801	2.00	.00	237,801	
SUSSEX	.74	1,081,022	.84	.10-	1,009,742	71,280
TAZEWELL	.64	4,776,773	.62	.02	4,845,875	69,102-
WARREN	1.25	974,945	1.18	.07	1,017,101	42,156-
WASHINGTON	.65	4,014,164	.59	.06	4,189,137	174,973-
WESTMORELAND	.82	980,103	.84	.02-	964,112	15,991
WISE	.53	4,598,434	.49	.04	4,721,391	122,957-
WYTHE	.72	2,136,432	.70	.02	2,169,549	33,117-
YORK	.85	3,358,707	.82	.03	3,443,891	85,184-
CAPE CHARLES	.72	147,084	.72	.00	147,084	
COLONIAL BEACH	1.06	159,446	1.14	.08-	146,336	13,110
FRIES	.45	98,149	.55	.10-	98,149	
POQUOSON	.77	799,027	.64	.13	838,413	39,386-
SALTVILLE	.50	211,665	.75	.25-	177,020	34,645
WEST POINT	1.22	190,508	1.18	.04	200,140	9,632-
ALEXANDRIA	1.77	2,783,826	2.00	.23-	2,783,826	
BEDFORD	1.13	285,512	1.32	.19-	285,512	
BRISTOL	.87	1,437,219	.89	.02-	1,419,412	17,807

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
BUENA VISTA	.75	595,156	.75	.00	595,156	
CHARLOTTESVILLE	1.33	1,350,136	1.50	.17-	1,314,389	35,747
CHESAPEAKE CITY	.72	11,227,457	.69	.03	11,482,986	255,529-
CLIFTON FORGE	.83	416,463	.88	.05-	399,114	17,349
COLONIAL HEIGHTS	.99	1,274,758	.96	.03	1,312,400	37,642-
COVINGTON	.95	697,161	1.01	.06-	658,334	38,827
DANVILLE	.97	2,850,622	1.07	.10-	2,850,622	
EMPORIA	.98	335,699	1.05	.07-	325,334	10,365
FAIRFAX CITY	1.29	1,071,619	1.49	.20-	1,042,453	29,166
FALLS CHURCH	2.00	368,355	2.00	.00	368,355	
FRANKLIN CITY	.89	697,816	.83	.06	735,208	37,392-
FREDERICKSBURG	1.41	520,424	1.49	.08-	520,424	
GALAX	1.23	350,567	1.29	.06-	350,567	
HAMPTON	.77	11,431,014	.81	.04-	11,431,014	
HARRISONBURG	1.45	585,266	1.49	.04-	585,266	
HOPEWELL	.94	1,777,440	.92	.02	1,810,337	32,897-
LEXINGTON	1.07	298,582	1.20	.13-	275,840	22,742
LYNCHBURG	1.10	2,750,471	1.27	.17-	2,711,282	39,189
MARTINSVILLE	1.15	1,048,094	1.27	.12-	1,048,094	
NEWPORT NEWS	.90	10,442,353	.94	.04-	10,072,668	369,685
NORFOLK	1.01	14,459,292	1.16	.15-	12,488,625	1,970,667
NORTON	.81	449,969	.82	.01-	446,261	3,708
PETERSBURG	.98	2,974,658	.96	.02	2,928,577	53,919-
PORTSMOUTH	.72	8,760,071	.84	.12-	8,443,390	316,681
RADFORD	.92	686,659	.94	.02-	674,115	12,544
RICHMOND	1.23	9,033,720	1.48	.25-	7,628,675	1,405,045

COUNTY/TOWN OR CITY 1	1975-76 COMPOSITE INDEX USING 70-71 ADM 2	AMOUNT OF BASIC AID 3	1975-76 COMPOSITE INDEX USING 75-76 ADM 4	CHANGE FROM COLUMN 2 5	AMOUNT OF BASIC AID 6	CHANGE FROM COLUMN 3 7
ROANOKE	1.03	4,944,227	1.17	.14-	4,561,721	382,506
SALEM	1.10	1,343,793	1.08	.02	1,373,242	29,449-
SOUTH BOSTON	.97	485,614	1.01	.04-	467,578	18,036
STAUNTON	1.11	1,182,831	1.17	.06-	1,112,035	70,796
SUFFOLK	.75	4,599,998	.74	.01	4,635,257	35,259-
VIRGINIA BEACH	.91	19,343,773	.83	.08	19,343,773	
WAYNESBORO	1.06	1,134,134	1.13	.07-	1,134,134	
WILLIAMSBURG	2.00	133,651	2.00	.00	133,651	
WINCHESTER	1.38	716,791	1.45	.07-	716,791	
STATE TOTALS	1.00	361,192,109	1.00	.00	365,069,167	3,877,058-

* * *

Basic school aid fund ----------$377,030,125 $403,647,635

This appropriation shall be apportioned to the public schools by the Board of Education under rules and regulations promulgated by it to effect all of the following provisions stated herein.

Appellant: ADM definition — must use the school year in which the funds are distributed

a. Definitions

1. "Average daily membership", or "ADM"—the average daily membership for the first seven (7) months (or equivalent period) of the school year in which State funds are distributed from this appropriation.

2. "Standards of Quality"—operations standards for grades kindergarten through 12 as prescribed by the State Board of Education subject to revision by the General Assembly.

3. "Basic operation cost"—the Statewide cost of the aggregate personnel standard divided by the number of pupils in Statewide ADM plus a sum per pupil in ADM, as computed by the Department of Education, for other operations costs in programs

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not funded by State and/or Federal categorical aid. The cost includes, in addition to provision for personnel standards, provision for driver education, library materials and other teaching materials and teacher sick leave; also, general administration, free textbooks, operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, summer school, instructional costs other than personnel, school food services, fixed charges, and other costs in programs not funded by State and/or Federal categorical aid. The costs, for purposes of funding, are established by this item with relation to determinations by the Department of Education of State average expenditures for the fiscal year 1971-72 plus an amount for increased costs.

The calculation of the Statewide cost of the aggregate personnel standard does not include the costs for supplemental retirement, Social security and group insurance programs from State funds appropriated by other items of this Act.

4. "Composite index of local ability-to-pay"—an index figure computed for each locality. The composite index is the sum of ⅓ the index of wealth per pupil in ADM and 1/6 the index of wealth per capita (Bureau of Census population estimates 1971); the State average in the composite index is 50. The indexes 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 1971—50 per cent; (2) individual income level for the calendar year 1971 as determined by Tayloe Murphy Institute at the University of Virginia—40 per cent; (3) the sales for the calendar year 1971 which are subject to the State general sales and use tax—10 per cent. 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.

5. "Required local expenditure"—the locality's composite index times the excess of its basic operation cost over its revenues from the State sales and use tax returned on the basis of school age population.

6. a) In order to determine if a division has met its required local expenditure, the total cost of operation less all capital outlay items and debt service will be calculated.

   b) From the amount calculated in Paragraph a.6.a) of this item will be deducted receipts from State categorical aids (other than for capital outlays), receipts from Federal categorical aids (other than Public Law 81-874 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

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other State agencies and others, all as stipulated by the State Board of Education.

c) From the amount calculated in Paragraph a.6.b) of this item, will be deducted the State share of the basic operation cost as determined under Paragraph b.1. of this item and the State sales and use tax returned on the basis of school age population for the calendar year preceding that in which the school year begins.

d) The amount calculated in Paragraph a.6.c) of this item must be equal to or greater than the required local expenditure defined in Paragraph a.5. of this item.

7. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures as defined in Paragraph a.6. of this item, unless it first complies with all of the prescribed Standards of Quality.

b. Apportionment

Subject to the conditions and definitions stated below, each locality shall receive:

1. a State share of the basic operations cost, which cost per pupil in ADM is established for the fiscal year 1974-75 as $687 and for the fiscal year 1975-76 as $730, from general and special funds; the costs include $482 for personnel standards and $205 for other costs in the first year, and, $505 and $225, respectively, in the second year. The State share for a locality shall be equal to the basic operations cost for that locality less the locality's revenues from the State sales and use tax returned on the basis of school age population for the calendar year preceding that in which the school year begins and less the required local expenditure.

It is provided, however, that, if a locality determines that its schools can maintain an educational program meeting the prescribed standards of quality at a lesser cost per pupil, such locality may claim a lesser allocation of State funds from this item and make a lesser local expenditure; however, no locality may maintain a program at less than $640 the first year and $680 the second year. Also, no locality may receive a greater sum for "No Loss" by reason of the preceding sentence than it would receive pursuant to Paragraph c.3. of this item.

For this payment the appropriation includes $312,591,225 the first year and $329,295,060 the second year from the general fund, and the appropriation in Item 574 from special revenues.

2. an additional State payment for each pupil in ADM who is enrolled in a program of special education approved by the Department of Education. The specific amount to be allotted for each condition of exceptionality will be determined for each year of the biennium by the Department on the basis of the individual program required.

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For this payment the appropriation includes $21,-328,675 the first year and $25,990,385 the second year from the general fund.

3. an additional State payment for each pupil in ADM who qualifies for, and who is enrolled in a program approved by the Department of Education for gifted and talented pupils in academic ability and/or in the arts. The payment during fiscal year 1974-75 shall be $30; and during 1975-76, $40. The number of pupils for whom reimbursement to a locality shall be made shall not exceed 3% of the total number of pupils in ADM in the locality.

For this payment the appropriation includes $1,100,000 the first year and $1,440,000 the second year from the general fund.

4. an additional State payment for each pupil in ADM who is enrolled in a full-time vocational program approved by the Department of Education. The specific amount for each pupil in ADM will be determined for each year of the biennium by the Department on the basis of the individual program.

For this payment the appropriation includes $14,-123,090 the first year and $16,812,635 the second year from the general fund.

5. an additional State payment for each pupil in ADM who is selected, in accordance with criteria of the Board of Education, for and who participates in a fifth- or sixth-grade supplemental skill development program in reading and mathematics, approved by the Department of Education. The payment for each year of the biennium shall be $300 per pupil so selected for and participating in this demonstration or pilot effort. The amount of reimbursement in 1974-75 for a school division shall not exceed $300 times the number of 1972-73 fourth-grade pupils who scored at or below the twelfth percentile, national norm, on the Science Research Associates Achievement Tests of Reading (and/or criterion-referenced tests). The amount of reimbursement in 1975-76 for a school division shall not exceed $300 times the number of 1972-73 fourth graders who scored at or below the twelfth percentile, national norm, on the Science Research Associates Achievement Tests of Reading (and/or criterion-referenced tests) plus 80 percent of those who participated in the skill development program in the prior year.

For this payment the appropriation includes $5,-163,000 for a maximum of 17,210 pupils (fifth-grade low achievers) in ADM for 1974-75 and $9,293,400 for a maximum of 30,978 pupils (fifth- and sixth-grade low achievers) in ADM for 1975-76.

6. an additional State payment if it conducts a program for teacher education—staff improvement approved by the Department of Education. The State payment shall be made, on a fixed cost-per-student or cost-per-class basis, only after the class has been conducted.

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For this payment the appropriation includes $1,609,500 the first year and $1,609,500 the second year from the general fund.

7. an additional State payment for the prior year's local operations cost for each pupil who is attending public school in the locality, although previously resident in another locality, because of placement in a foster home by the Department of Corrections.

8. an additional State payment for general adult education programs. The State payment shall be for 60% of a fixed cost-per-student or cost-per-class.

For this payment the appropriation includes $522,500 the first year and $623,500 the second year.

9. an additional, incentive State payment if its local public school operations expenditures exceed the required local expenditure as computed pursuant to the Paragraph a. 6 on an assumed cost-per-pupil in ADM of $687 the first year and $730 the second year. The State payment shall be 2½% of such excess expenditure in the first year and 5% in the second year.

For this payment the appropriation includes $3,831,145 the first year and $8,285,900 the second year from the general fund.

c. 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. Maximum local increase provision. During the fiscal year 1974-75, no school division shall be required to increase its local operations expenditures, over those for the preceding fiscal year, by more than 10% plus ⅓ of the difference between 10% and the required local expenditures. During the fiscal year 1975-76, no school division shall be required to increase its total local operations expenditures, over those for the preceding fiscal year, by more than 7% plus ½ of the difference between 7% and the required local operations expenditures.

To provide this assurance the appropriation includes $2,786,290 the first year and $1,159,605 the second year from the general fund.

3. No loss provision. No locality shall receive from the total of Paragraphs b.1., b.5. and c.2. of this Item and Item 574 during either year of the current biennium a lesser amount than it received for the last year of the previous biennium from the State-fund appropriations for Basic School Aid, Supplemental Basic School Aid, Driver Education, Teacher Sick Leave, and Maintaining Libraries and Other Teaching Materials in Public Free Schools; provided, however, that this loss guarantee will not be applicable to the extent there is a loss of

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pupils in ADM during either year of the current biennium.

To provide this assurance the appropriation includes $13,974,700 the first year and $9,137,650 the second year.

4. Any sum which a locality, as of the end of a fiscal year, has not expended out of the State share and the required local expenditure shall be paid by the locality into a special fund account in the State treasury. Such payments shall be made not later than the year following that in which the underexpenditure occurs. The payments shall be utilized as directed by the General Assembly.

5. In the event the Statewide number of pupils in ADM exceeds the number estimated as the basis for this appropriation, each State share and required local share shall be reduced proportionately so this appropriation will not be exceeded.

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.

The State Board of Education shall make equitable adjustments in the computations of indexes of wealth for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. Also, the true valuation applied for a locality shall exclude the true value of any real estate donated by a private company to the locality in calendar year 1972, if the true value of such donation exceeded ½ of the total true values of real estate and public service corporation property reported for the locality in the calendar year 1971.

d. It is provided, further, that the apportionment herein directed shall be inclusive of, and without further payment by reason of, State funds for library and other teaching materials pursuant to § 22-163, Code of Virginia.

* * *

DR. JOHN L. NAPP, a witness called by the plaintiff, first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MATTOX:

Q Dr. Napp, will you state your name, residence, and your occupation for the record, please, sir.

A My name is John L. Napp. I am employed as an economist. My title is Research Director at the Economics Study Center at Tayloe-Murphy Institute at Colgate Graduate School of Business at the University of Virginia. My residence is in Charlottesville, Virginia.

Q Your age, please, sir?

A My age is forty.

Q Would you, for the record, state your educational background.

A My educational background is a B.A. in Economics from the University of Colorado. I have a Master's Degree in Economics from Duke University and a Ph.D. in Economics from the University of Virginia. And my specialty is Public Finance. And my career -- Do you want it, essentially? I have been employed as a Professional Economist all my life. I first worked as an Economist with the Federal Reserve Bank of Richmond and then went with the State Government. And for a number of years, I was with the Division State Planning of Community Affairs, Chief of Reserve, and later Deputy Director of that agency before I took my position in Charlottesville in 1973.

Q Dr. Napp, what relationship, if any, did you have with the Task Force dealing with the finance of standards of quality for Virginia Public Schools?

A I served as a Special Staff Consultant with that group. That group was formed in 1972, and I was with it from the inception. Dr. Fred Young headed up the Task Force, and I was asked to come over from the Division State Planning of Community Affairs.

Then they completed their report in December of 1972, and I went to the Tayloe-Murphy Institute

in January of 1973. After I joined the Institute, I continued to work with the Task Force, and I prepared a study entitled America's Local Fiscal Capacity to Finance Public Education in Virginia.

When I was with the Tayloe-Murphy Institute, that was printed or published in February of '73. And I continued to work with the Task Force in '73, at which time it ended.

Q Did your work result in the language used in the Act of the General Assembly for the distribution of basic school aid?

MR. GRAY: Objection, if Your Honor please.

THE COURT: What is the basis?

MR. GRAY: I object on two grounds. Number 1. He cannot possibly know what particular language was used in the law. Number 2. This is the first line of questioning which I perceive is to be intended to try to show by evidence what the language of the Act should be construed to mean. And the Supreme Court of Virginia has said many times, and I will cite you a most recent case that I have come across on that point. That is Portsmouth against Chesapeake, 205 Virginia. I will cite this for the Court. "We have many

times said that where the language of a statute is free from ambiguity, its plain meaning is to be accepted without resort to the Rules of Interpretation. In that situation, we take the words as written and a resort to extrinsic facts to determine their meaning is not permitted. Upon this principle the plain meaning of a statute cannot be affected by resort to its Legislative history."

THE COURT: Well, on this particular question, I will overrule your objection. He merely asked whether he furnished information to the Legislature for such acts as they wanted to make out.

MR. GRAY: I do not object to the question in that form.

THE COURT: All right.

BY MR. MATTOX: (Continuing)

Q Go ahead.

A Yes. I believe the information that I worked up in conjunction with Mr. Brown, another Special Consultant, was used to great extent in writing legislation.

THE COURT: That was his objection, the use. I think he can testify that it was

furnished to the Legislature.

DR. NAPP: I am saying that which we provided which they used.

THE COURT: I sustained the objection. He can testify if he furnished it.

BY MR. MATTOX: (Continuing)

Q What did you advise the General Assembly about the basic school aid, formally?

MR. GRAY: If Your Honor please, this goes to the objection that I made. It's immaterial unless it's to be used to persuade the Court that it should use a different interpretation of the language of the Act.

And the Court has said that where the language of a statute is free from ambiguity, its plain meaning is to be accepted without resort to the rules of interpretation.

THE COURT: And your objection goes to this whole line of testimony?

I am going to permit him to testify to this, and I will rule on that after his testimony is completed. I will consider it at that time. The Supreme Court certainly should have it in this record.

MR. MATTOX: I have the law of the other side.

BY MR. MATTOX: (Continuing)

Q Dr. Napp --

THE COURT: But it's understood that the objection goes to this whole line of testimony.

MR. MATTOX: Yes, sir. I understand that.

BY MR. MATTOX: (Continuing)

Q Would you explain to His Honor the factors used in the composite index for local ability to pay and the fact that it relates to the same year?

A Well, there are five factors or variables that are used. One is the true value of real estate. Another is the taxable sales. Another is personal income. The fourth is population, and the fifth is A.D.M., average daily membership. And I think you have that in the presentation in the form. But in essence, what you do is take these three variables, that is the taxable sales, the true value of real estate, and the personal income, and you standardize them because if you do not standardize them, that is put them in terms of population or A.D.M., then you are comparing one very large area with a small area, and the

dollar figures are not comparable in this fashion. And it was our intent all along in our recommendations to standardize them with a variable for the same year. That is that the true value of real estate would be standardized based on population or A.D.M. for the same year for which you had real estate. The same thing goes with taxable sales, and the same thing with personal income. The reason why 1971 was used for the appropriations of the General Assembly, which convened in 1974, was that in 1974, the most recent data that you had for personal income was for 1971, and also the most recent data you had for true value of real estate was 1971. And since it's imperative that you standardize with the same year, this meant that all variables should be for 1971.

Q Which, of course, includes A.D.M?

A Right.

Q Would you explain to His Honor the second A.D.M. that is used in the Act? What does that mean?

MR. GRAY: I -- Go ahead.

A There are two A.D.M.'s. One is the A.D.M. used in the local ability to pay composite index. Local ability to pay, and that is A.D.M. I have been referring to, and that is A.D.M. that you standardized for the year for which you have economic data for all the variables. And in this particular case, it was the year '71 because that

was the year for which we had data for the three tables, taxable sales, personal income, and true value of real estate. The other A.D.M. that is used in the formula is once you have developed the composite index of local ability to pay, then that index is applied against a total dollar figure of the stated cost of providing a standard of quality education, minus local sales tax receipts allocated to the locality, and that total cost for the locality is derived by multiplying the derived standard of quality cost per pupil times the average daily membership in the current applicable year so that that second A.D.M. changes in each year. And the first year was the A.D.M. for the first seven months of '74, '75, and for the second A.D.M. for the first seven months for '75 and '76, and I am told that they used the first seven months because those were the data that would be available during the year when allocations were being made.

Q If it changed the composite index's ability of providing any of those personal incomes and so forth, what would that do to the index itself?

A It distorts the index. For example, on the part that is based on true value of real estate, you would be creating the denominator assuming A.D.M. went up in the locality, and you would not be changing the numerator. So that would make the area in which A.D.M. went up quite a bit look relatively less able to finance education, whereas

in actuality if you had later data, say four of the true value of real estate, that might have gone up also. Usually property values do go up from one year to another. If A.D.M. had gone up quite a bit, this would be indicative of a larger growth in the tax the true value of real estate pays.

Q Proportions of money either by the State or locality, whatever the case may be, then would depend to some extent to the composite index, wouldn't it?

A You mean the amount received by a locality? Right.

MR. MATTOX: That is all I have for this witness, Your Honor.

THE COURT: Do you want to cross-examine?

MR. RYLAND: Your Honor, this might be a good time to get our proceedings straight as to the order of who goes when. Our preference would be to go last. They have a certain claim against Chesterfield, and we do not fully know what argument they are going to bring up. We would appreciate that opportunity.

MR. GRAY: I think the reason is a little odd that they are asserting against us.

THE COURT: We can proceed by the way they are listed in the proceedings.

MR. GRAY: It is understood that we are running our objections to the whole line of testimony.

CROSS-EXAMINATION

BY MR. GRAY:

Q Dr. Napp, you are familiar with the Appropriation Act?

A Yes.

Q How many times was A.D.M. used in the section dealing with basic school aid? Do you know?

A The whole section on basic school aid?

Q Yes, sir.

A I don't know.

Q Do you have a copy of that?

A Yes, I have got it.

Q Would you look under Definition Number 3, Basic Operating Costs, the State-wide cost.

A Yes.

Q Basic Operating Cost is defined as a State-wide cost of the Act Personal Standard divided by the number of pupils in State-wide A.D.M. Which year is that referred to?

A In some of our staff work that we did --

This is just on memory -- but let me see. We were doing this in '72. I think the actual cost figures that we had were for '70, '71.

Q Can you tell me what it means that the Act the Legislature adopted? Looking at this, they said number of pupils in State-wide A.D.M. Does that mean '74, '75, '71, or what? What does that mean?

A Well, we did it in computing that we would have based it on the same year. We would use A.D.M. in '70, '71. There was an attempt after we did our work to update this basic problem. You have a lag in data. There was an attempt to update the figures that we originally derived.

Q That is the first time that the term A.D.M. is used in this law following a definition in Section 1 just above that. What does that say A.D.M. means?

A That definition there says the average daily membership for the first seven months or quality of the school year in which State funds are distributed from this proportion. Now, I put a lot of emphasis on that. The Act does spell out that particular A.D.M. varies precisely.

Q This is an Appropriation Act?

A Yes.

Q And the whole purpose of it is to distribute State monies?

A Yes.

Q And this definition says that in this basic school aid fund A.D.M. means the A.D.M. for the seven months of '74, if you distributed any '74 money. Isn't that what it says?

A It says -- As I see it, the last part of the formula is after you have arrived at the standard of quality cost, you multiply that A.D.M. based on the seven months of the fiscal year that you are talking about and then subtract the sales tax, and that is the A.D.M. that they are talking about.

Q So you think that A.D.M. definition doesn't really mean what it says. It is for the purpose of distributing money, but not for computing composite index.

A Yes.

Q But that is not what it says.

A The last part indicates it pretty clearly.

Q Doesn't the last part of the sentence indicate a period of time for the first seven months of a period?

A It says that.

Q Anything about appropriations?

A The second part does.

Q Does the word purpose appear in there?

A No, but I am just saying what the second part says.

Q Can you tell me why the first time that the term A.D.M. is used in the Act after the Legislature defined it? You say it doesn't mean what the Legislature has defined it to mean.

A I said it means what it says, that they defined it as for the purpose of distribution of the funds.

Q Have we agreed that it doesn't say purpose in that first definition?

A I think in retrospect everyone would like to have this Act written a little bit more clearly. That is not the A.D.M. that is being used in retrospect.

Q You would like to rewrite the language. All right, sir. What does a sum per pupil in A.D.M. in the next line in Paragraph 3 mean? What does it mean plus a sum per pupil in A.D.M. capacity quoted by the State Department of Education or other operation as cost funds? Is that the same year? Is that '71?

A I go back to the original work, and I can't speak for the entire Act because it was a joint effort of Legislature and members of the Task Force, and it advised area consultants, and I was a consultant on it. But what we did -- and I have said before -- is in the original work,

and I believe this was in the fall of 1972, a National Report was put out on this, and it's mentioned in the list of sources to the first Task Force record, I believe. We tried to figure what the cost per pupil in average daily membership was for a standard of quality education. The latest year that we had was '71. Those costs would have been computed on the basis of A.D.M. in '70, '71. Now, what the Legislature did with that later in determining the standard quality cost, they wanted to use '74, '75, and '76 in another matter.

Q Did they use '73 or '71?

A I think they used our basic work and then applied some overall percentage increases to allow increases in salary.

THE COURT: Did I understand from your testimony that your Task Force or the Task Force updated the 1970, '71?

DR. NAPP: I believe they did, but Mr. Brown is going to talk. He can properly address this point.

BY MR. GRAY: (Continuing)

Q Well, anyway, under Paragraph 3, you think they are talking about A.D.M. for '71. Is that right?

A Well, I am saying if they may have had

another year data in computing this, they would have another year of data. They may have used '72, '73. In computing this cost, they used A.D.M., and they used cost for the same year. They didn't use separate A.D.M.'s for a later year.

Q Let's argue about the pronoun. They or you?

A Let me say this. I used and Mr. Brown used the cost, say, for '70, '71, and A.D.M. for '70, '71. "They" meaning whoever put together the final language for the Appropriations Act and the work that went into it.

Q Thank you. Now, you have indicated that you would take those three factors, sales tax, real estate value and personal income -- And that was information in '71. Is that the right time you were doing this?

A I said that is what my recommendation would have been, yes.

Q And you have indicated that to do otherwise, it would kind of distort the figure?

A Right.

Q If the locality without increasing its sales taxes or real estate values or its personal income, did receive a large influx of students in the year, using an old A.D.M. will distort badly in that respect, would it not?

A Well, that is a hypothetical question.

Q Wouldn't it?

A No. Because I think we are saying, in this case, we are taking an index as it is for a particular year relation to the variables for that year. That is the results you get.

Q Well, Doctor, what you are trying to arrive at in this composite index is the local ability to meet its educational needs?

A Right.

Q One year without increasing any of their taxable sales, doesn't that distort your answer?

A Yes. The hypothesis is so unrealistic.

Q Well, let's see if it is. Suppose I go with an index codifying it properly and you go with the results you get from that. Do you stick with your definition?

A Yes.

Q Now, let's take the years -- Suppose a locality has a sharp decrease in population, particularly in the school age population. It can do that without losing its taxables, can it not?

A It could.

Q It could and it does, does it not?

A Well, you are talking about a multivariable saying if I have variables as I brought out to

begin with.

Q Isn't the one variable the one variable with the fact of how much they have to spend, that is the number of children they have to educate? This is a non-factor for the year in which they are spending the money, isn't it?

A That's right.

Q And that can vary without the income factor varying, can it not?

A It could.

Q And a Legislature could determine that it would --

MR. MATTOX: I object to these questions because I don't see any connection between what Dr. Napp testified in direct and what the question is now or on cross-examination. I think Mr. Gray has to be limited to cross-examination on the basis of his direct. He is not Mr. Gray's witness.

THE COURT: I will overrule the objection.

BY MR. GRAY: (Continuing)

Q Does this happen in a number of tests that the school education population is moving out?

A Yes.

Q Wouldn't it be that a Legislature could determine that we want to use that one positive factor, the one that caused them the money, and will apply that non-factor of cost against the latest information we have with respect to revenue.

Would that be a logical thing to do?

A I think it would be if one wanted to design a formula in that way and do so, but that wasn't our recommendation and we never do that at all. As I related in my publication, it's the formulas that are a complex matter, and you can change one variable for one area.

Q Doctor, if the Legislature did define A.D.M. as meaning the membership for the first seven months of the school year in which the money is being distributed, that is what they did do, didn't they?

A For that purpose of formula, yes, for that part of the formula.

MR. GRAY: That is all the questions I have, Your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. RYLAND:

Q Dr. Napp, do you happen to know whether the 1972 Appropriations Act defined A.D.M. or not?

A 1972?

Q Yes. I just wondered if your study had before it the 1972 Appropriations Act.

A Well, we have got a couple of things. 1 - '72 was the last year in which they were completed on the old formula, and then in 1973 there was a supplement which has some interesting aspects as you may recall. I think that is the first year of revenue sharing. There was in addition to the formula in 1974, which was the first year of this formula. I am hazy about when the State went over to A.D.M. For a long time, they had used A.D.A.

Q But your answer is that you did not know whether the '72 Appropriations Act defined A.D.M. or not?

A No, I don't.

Q Do you know whether the composite index was added to the definition in the '74 Act?

A Yes. That was the first time the composite index was used.

MR. RYLAND: I have no further questions.

MR. MATTOX: I have one, Your Honor.

REDIRECT EXAMINATION

BY MR. MATTOX:

Q Do you know how the State Board interprets the formula to operate how it should be an A.D.M. question? Do you know how they interpret the law?

A Yes, I do. They are using the '74, '76 biennium. They are using 1971 total population. They are using 1970, '71 A.D.M. They are using 1971 true value of real estate, 1971 taxable sales, and 1971 personal income. And in my view, that is the way it was intended to be done.

MR. MATTOX: That is all I have, Your Honor.

MR. GRAY: I have just one question. Of course my objection is still running.

RECROSS-EXAMINATION

BY MR. GRAY:

Q You say the State Board is using 1971?

A That's right.

Q For all purposes?

A No, sir. I didn't answer it that way.

Q I think the question was in regard to the local ability to pay composite index.

A Yes, sir. For the allocations to the localities, they used a standard of quality cost figure for each year and they multiplied it by the A.D.M. for the first seven months and the locality for that particular year. So that the first year of the biennium would be '74, '75, second year, '75, '76.

Q So that it distributed for the actual number of children there in A.D.M. for '74, '75? They used '75?

A Yes.

Q That is really the way it's defined in the Act?

A Yes.

Q Then they used the '74 figures to distribute the money?

A No. When they defined the index, they were using '71 variables and the only omission is on the A.D.M.

Q But they did leave it out, didn't they?

A Yes.

MR. GRAY: That's all I have.

MR. MATTOX: That is all I have, Your Honor.

THE COURT: Give me those five variables again.

DR. NAPP: The true value of real estate, that is its market value; personal income, and taxable sales to the State. They are the three economic cases. By the way, the State Department of Education does it by A.D.M. for the full year 1970, '71, and by population as of July 1, 1971, and I should have said when I gave you the three economic variables, that each of those is for 1971.

THE COURT: All right, sir. Thank you.

MR. MATTOX: Your Honor, I would like to introduce this. (indicating)

Dr. Napp, would you identify this document, please?

MR. GRAY: It's beyond the scope of redirect.

THE COURT: Well, it is, but if --

MR. MATTOX: I thought that counsel for the State Board was going to introduce the document. I thought he was going to introduce it.

MR. MATTOX: Would you identify this, please, and it will be marked as City's Exhibit

Number 4, School Board, City of Richmond.

DR. NAPP: This is the report of Local Fiscal Capacity to Finance Public Education in Virginia that I prepared at the Tayloe-Murphy Institute, and it came out in '73.

MR. MATTOX: Turn to Page 24 and read the first paragraph.

MR. GRAY: Is that dated February, 1973?

DR. NAPP: That's right.

MR. MATTOX: Would you read the first full paragraph on Page 24?

DR. NAPP: Under three factors?

MR. MATTOX: Yes.

DR. NAPP: This composite index states 71 true value of real property, fifty percent. 1971, ten percent. In 1969, personal income forty percent. Each of the measures is stated in terms of 1970, '71 A.D.M. and is related to the State-wide average daily membership for the particular measure.

Personal income is used for tangible personal property and all other taxes, and non-taxes, revenue based.

MR. MATTOX: Your Honor, I thought this

document might assist the Court a little bit.

THE COURT: This is Defendants' Exhibit Number 4.

NOTE: The above-mentioned document is marked and filed as Defendants' Exhibit Number 4.

MR. GRAY: I have one other question. Personal income was used for 1969?

DR. NAPP: Yes.

MR. GRAY: You didn't use 1971?

DR. NAPP: Yes. There was a research document being prepared at that time when I had to rely on 1970. So they asked what they made in the previous year, and the 1969 figures were those that were the most recent available, and I was using them. Now, I do point out in a section in that report of statistics that I expected the 1971 personal income to be available by summer.

MR. GRAY: You used '71 true value but not '69 personal income?

DR. NAPP: I did in that case because I didn't have the income from the year that I wanted it.

MR. GRAY: Do you have just an idea of

what the results would be?

DR. NAPP: This paper was on the composite index, so I wasn't concerned about the allocation formula as such. I did spell out in there a rough idea of how a formula would work.

MR. GRAY: All right, sir.

MR. MATTOX: That is all.

THE COURT: All right. Thank you. You may be excused.

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WITNESS STOOD ASIDE.

THE COURT: Suppose we take a short recess?

MR. MATTOX: While we are in this type of posture in the case, may I respectfully suggest that Mr. Brown testify next? It will be along the same lines that Dr. Napp had.

THE COURT: That is perfectly agreeable with me. All right. Are there any objections to that?

MR. GRAY: Well, Your Honor, I don't know what the man is going to testify to. This

is the third time that they want to have the cake and eat it, too. They have to have motions for summary judgment, but they want to put the evidence in first. That strikes me as just a little bit odd.

MR. MATTOX: Your Honor, if Mr. Gray objects, we will go back to the pleadings.

MR. GRAY: Well, I just think it's odd.

MR. MATTOX: Well, some of my witnesses have other engagements so I was just suggesting this.

MR. GRAY: In that sense, I will withdraw the objection.

THE COURT: It doesn't matter to me how we proceed. I think I understand that the witness has another commitment and Mr. Mattox would like to release him.

Mr. Brown, do you have any commitments?

MR. BROWN: I am serving as a staff member across the street.

MR. MATTOX: Mr. Brown is the next witness I propose to call when we get to him.

THE COURT: Well, let's take a ten-minute recess before we put him on.

NOTE: A short recess is had, whereupon the hearing is resumed, viz:

STATE OF VIRGINIA,

CITY OF RICHMOND, to-wit:

I, Mary L. Harvell, a Notary Public for the State of Virginia at Large, do hereby certify that Pages 1-30 of the foregoing testimony were reported and transcribed by me, and that such transcript is true and correct to the best of my ability.

Further that I am neither related to nor employed by any of the parties, witnesses, or counsel in this matter and have no interest in the outcome thereof.

Given under my hand this 6th day of July 1976.

My Commission Expires:
March 5, 1980.

Mary L. Harvell

MARY L. HARVELL, Notary Public for the State of Virginia at Large

RICHARD D. BROWN, a witness, called by the plaintiff, first being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MATTOX:

Q Mr. Brown, would you please state your name and occupation, age, and your place of residence.

A My name is Richard D. Brown. I am a senior economist for the Division of State Planning and Community Affairs. I reside in Richmond and I am 30 years old. I have a B.A. degree from the College of William and Mary in economics, and a Master of Commerce from the University of Richmond.

Q Mr. Brown, did you participate in the study dealing with the composite index? You have been in the courtroom this morning and you heard Dr. Napp. Did you participate in those studies?

A Yes, sir, for the Governor's Task Force.

Q Were you an advisor?

A I was an economic consultant for the Task Force.

Q Would you explain to His Honor your role in the preparation of the composite index?

A Well, I served on the staff to the Governor's Task Force and worked in cooperation with John Napp at the Tayloe-Murphy Institute in developing both the formula and the

composite index for distributing funds. Later on I was on loan to the Department of Education and served as a consultant to them in explaining to the General Assembly the workings of the formula.

Q Would you explain to His Honor the formula as you understood it and the formula you presented to the General Assembly?

A The formula--

MR. GRAY: Excuse me, Your Honor, may it be understood that this is under the same objection?

THE COURT: The same objection, yes, sir.

A The formula, as we derived it in the Governor's Task Force and explained it to the General Assembly, followed in line with what Dr. Napp said this morning. The formula defines the program costs for the standards of quality as the amount defined by the General Assembly times A.D.M. in the locality. The sales tax to be distributed to the localities is taken from that and the remaining amount is split between the state and the localities according to the local composite index of physical ability to pay.

Q The composite index, you explained that all the factors therein had to be the same year?

A Yes. In the Task Force all the data, except personal income which we didn't have the '71 figures on, so we had to use '69 personal income, were the same in trying to

develop estimates of what this program would cost. When I later appeared before the House Appropriations Committee the composite index contained all '71 figures. The income data became available in December of '73.

Q So, in 1974 when you presented this to the General Assembly all the factors going into the composite index were 1971 factors?

A Yes, for the most part. The State Board had to make estimates for their budget request and since we didn't have the '71 figures until December of '73, of course their budget request and what was in the budget was based on the budget as submitted by the Governor and that was based on '69; but, that was changed to '71 in the House Appropriations Committee.

Q And you appeared before the House Appropriations Committee?

A Yes, I did.

MR. MATTOX: Your Honor, for the purpose of identification I would like to identify this as City's Exhibit No. 5.

THE COURT: All right.

Q I hand you a copy of City Exhibit No. 5 which appears to be an explanation of the formula. Who prepared this explanation?

A This is an explanation of the composite

index. I prepared this explanation and it was one of the exhibits I gave to the House Appropriations Committee in explaining the educational formula before them.

Q So, you explained this to the House Appropriations Committee and the Educational Committee?

A No, not to the Education Committee. I explained to the House Appropriations Committee and to the Senate Finance Committee.

Q Does that explanation of the composite index indicate that 1971 data would be used?

A It does in footnotes. Now, for true value of real property it says '71; average daily membership, '71; I believe it does say '69 personal income. I think I make reference to the fact that the report for '70, which again should be-- I have in the last sentence on personal income, "By early fall of 1973 the T.M.I., Tayloe-Murphy Institute, had planned to publish 1971 data for all cities and counties." So, everything in here is '71 except '69 where I make reference to the '71 income.

Q But, in fact did you use '71 income?

MR. GRAY: Who do you mean by "did you"?

MR. MATTOX: In his explanation to the Finance Committee.

MR. GRAY: All right.

A Yes. This document was off of earlier work

that I had begun for the Task Force so that is why the '69 income was in there when I explained this to the House Appropriations Committee; of course, by that time we had '71 income and I used '71 income.

Q Mr. Brown, what other services did you render the Appropriations Committee other than to explain this to them? Did you run computer printouts or computer computations based on '71 A.D.M., personal property tax, and so on?

A We ran a number of program alternatives with varying costs and varying types of other programs outside of the basic school aid, because they are all related in the respect that some of the appropriations depend on what is appropriated in the other items; the total amount.

Now, we ran literally about a hundred programs of different alternatives on this. All the programs used have as their base a local composite index which was based on '71 figures.

Q When you ran a composite index, that portion of your computer work, was that amount of money used so far as you know in the work of the Appropriations Committee in coming out with the amount of money to be appropriated?

A Do you mean what's in the Appropriation Act?

Q Yes.

A Yes, that was one of the programs.

Q If in fact the composite index went into the

amount of money appropriated by the General Assembly and the composite index was changed, what would that do to the appropriation?

A The composite index, because of the workings of the formula, determines the state and local split for each locality. Now, the state's share--it's in the Appropriation Act--is just a sum of what all the individual school districts get.

So, if you change the composite index in any way with any type of data from the data that I used, of course you would get a different index for every locality in the state. It would just be by chance if it worked out one locality had the same index. I would expect that you would find a significant difference in the index and of course you would find a significant difference in the amount of distributions among the localities. Where those distributions are added it would probably change the state total.

Q In order for the amount of money appropriated to be distributed according to the formula, you could not change the formula; in other words, what the Legislature intended to do, assuming this is correct, would not be carried out?

A I would testify that the amount of money they put into the Appropriation Act is based on 1971, and yes, if you change the index it would change that amount of money.

Q So, the appropriation would not be--

A It would be strictly by chance if it worked out that the line items in the Appropriation Act matched what you would get.

Q Why did you use the '71 figures in this composite-index formula?

A It was the latest data we could get. As I referred to earlier, we didn't get the '71 income data until December of 1973 which was right before the General Assembly met. There was no way that we could get earlier figures on that; as for true value, '71 was the most recent data available. We did have '72 data on taxable sales, and we did have some later data for A.D.M. Population, the only estimates that we had were the final census for 1971 and estimates for 1972.

Q So, the indices in the formula all have to be in the same year?

MR. GRAY: If Your Honor please, I didn't object before but he is leading the witness.

THE COURT: Don't lead him, Mr. Mattox.

Q Is it your view that all the indices in the formula should be compiled in the same year?

MR. GRAY: Objection.

THE COURT: The objection is sustained.

Q Why did you use 1971 data?

A We used 1971 because it was the latest year

that we could get consistent data for all five variables across the board.

Q Why did you use '71 A.D.M.?

A We wanted to relate the tax basis to consistent measurements of population and A.D.M. We wanted to keep the data consistent because the formula ranks the localities' ability to pay relative to one another. It was the decision, which I believe was a correct decision, that all the data should be taken at one point in time so that you could correctly rank the localities relative to one another on their ability to pay.

Q Going back to Exhibit 5 again, did you present Exhibit No. 5 to the Appropriations Committee?

A Yes.

Q And you explained it?

A Yes, we went over it.

MR. MATTOX: Answer Mr. Gray's questions, sir.

CROSS-EXAMINATION

BY MR. GRAY:

Q Do you have a copy of the Act?

A No, I don't.

Q Are you familiar with it?

A Fairly familiar with it.

Q How is A.D.M. defined in the Act for purposes of the basic school-aid formula?

A I think the only A.D.M. that is mentioned in it is A.D.M. for the first seven months in the school year of the distribution; something to that extent.

Q In that definition, every school division has an A.D.M. for each year, don't they?

A Yes.

Q And this definition tells you which years A.D.M. is to be used; isn't that what it does?

A It does for purposes of distribution.

Q Does it say "for purposes of distribution"?

A I believe it makes reference to that. It doesn't exactly say that but--

MR. GRAY: May I approach the witness?

THE COURT: Yes, sir.

Q Read the definition and see if it limits this.

A "Average daily membership or A.D.M.: The average daily membership for the first seven months or equivalent period for the school year in which state funds are distributed from this appropriation."

Q That tells you what year to use, doesn't it?

A Yes, it does.

Q It doesn't say to use it for the purposes of

distribution but don't use it for the purpose of index, does it?

A No, it does not.

Q So, it just defined A.D.M.? Let me ask you, you used real property value for part of the composite index?

A Yes.

Q How did you arrive at real property values?

A Those true values are published by the Department of Taxation. They come out of the sales assessment ratio study that was previously done biannually but now it is done once every year.

Q How often was it done at the time you were working on the Appropriation Act?

A At that time they were just switching over. They had published one in '70 and they had gone to some statistical changes in computing it. They published the figures for 1971. It was only on a biannual basis so the next one would be published in '73; after that it would have been annually.

Q And they are based on sales in the locality?

A The relationship of the assessments to sales.

Q What kinds of assessments? Assessments made by the local taxing body?

A Right.

Q How often are they made in the localities?

A The law requires general reassessments once every six years for the counties and once every four years for the cities.

Q So, some of the localities' assessment data may be six years old that you are using?

A Yes, because it was the assessment as of--

Q As of the day the assessment was made?

A It was the assessment for this year, right.

Q So, if they hadn't reassessed you would have six-year-old values, is that right?

A Yes, in some cases. I'm not familiar with the statistics of how they do it. I don't know whether they make some adjustment to the assessed value.

Q Who?

A The Department of Taxation.

Q You said they use the assessments that the localities provide?

A On its assessments, yes.

Q And then they make some comparison with respect to recent sales?

A Right.

Q How recent are the sales?

A The sales are taken during that year, '71, whatever year the study is published for. All the sales are during that year. It is a relationship of the assessments to

sales during that year.

Q So, all the data you have isn't '71 data? You are using assessments from the localities which may be six years old?

A No. The true values as published by the Department of Taxation are for 1971. The Department of Taxation in computing that figure may use data or assessments that were done in the past. As I say, I don't know. I am not particularly involved with publishing those papers, so I don't know if they make any sort of adjustments to them.

Q The point I am trying to make, Dr. Brown, is that you use the most current information you have but it isn't all 1971 information; is it?

A To my knowledge, it is.

Q Well, you know that the assessments from every county in this state were not done in '71, don't you?

A Yes, I think that is true. The reassessment is not.

Q What is the factor in all of this that is regarded as the most important factor as far as the locality is concerned in all of this formula that you are trying to work out?

A The most important factor for what?

Q Well, to the amount of money that they get.

A Are you talking about the formula or the

composite index?

Q In all of this action that the General Assembly takes.

A I think that the common thread that runs through it, that sets the program costs and at least is a factor in the composite index, although not the most important factor in the composite index, is A.D.M.

Q Now, the Legislature after you had presented all these studies didn't use 1971 A.D.M. for the purpose of distributing the money even under the view that you had stated? They didn't use it in '74. When they got around to giving the localities some money, which A.D.M. did they use in determining how many shares would be given?

A In the '73-'74 school year?

Q '74-'75.

A In '74-'75, determining how much the program should cost the locality and how much would be split between the state and locality, they used '74 A.D.M.

Q And what you have tried to do in the formula is come up with what I think Dr. Napp described as a rough index of the localities' ability to pay; is that correct?

A Yes, but the important part about the index is that it is relative; in other words, it is not just an absolute measure. Every locality's ability to pay is determined by relating their tax per capita to A.D.M. and what the average

is for the state.

Q But if it has a drastic change in its A.D.M. the formula would give you a false estimate of its ability to pay in the more recent years, wouldn't it?

A No, not if the tax basis changed; you couldn't make any estimate.

Q I didn't say that. The number of students in its schools change?

A All you could say is that-- You can't make any conclusion if just the number of students changes. Are you saying the tax basis is going to be held constant?

Q If all the factors remain the same but the A.D.M. changes.

A All you can say is that over a period of time the ability to pay, of that locality, would go down.

Q The 1974 appropriation year, it will go down that year if it has a thousand more children to educate, won't it? Its ability to educate each individual child will be decreased, will it not?

A If you use that A.D.M. including the index?

Q No, sir, if you use A.D.M. in expending the money. If it has the same tax revenue coming in and if you have a thousand more children to educate, it has less per child to educate; doesn't it?

A That is right.

Q So, on the expenditure side of the formula, A.D.M. is the factor; isn't it?

A A.D.M. is the factor that determines the total program costs to be split between the state and localities.

Q Doctor, do you still have that definition of A.D.M. in front of you?

A Yes.

Q I want to ask you if you were a legislator and you were looking at this Act and you were preparing to vote and you wanted to know how many kids they were going to give you credit for when they work out this formula in 1974, and you read that definition, how many children would you think you were going to get credit for in that index?

A I would think that the average daily membership would be for the first seven months of the school year in which the state funds are distributed.

MR. GRAY: Thank you, sir, I have no more questions.

BY MR. HEFTY:

Q Dr. Brown, when you testified before the committee did you present actual figures to the committee of the total program costs?

A I presented them computer runs, yes. We went over the computer runs of what the appropriation to each

individual locality would be.

Q How specifically did you go over the computer runs with them?

A We went over the formula, I guess, a couple of times because there was a great deal of confusion. It was something that was new, at least in its classification. We went over construction of the index and the explanation that was already presented to The Court and the data that was used. I did go over an example of Wise County as to how the appropriation in that program would be; how much money they would get. We went through that step by step and calculated it by hand.

Q What year figures did you use for that computer run, for the components?

A For the components of the index?

Q Yes.

A 1971.

Q For all five components?

A Yes, I believe so.

Q Did you explain to the committee that you were using the figures for 1971 in all five components?

A Yes, sir.

Q You were working at this time for whom?

A I was working for the Division of State Planning but I was on loan to the Department of Education

during the time of the General Assembly; assigned by the Secretary of Finance.

Q Did you advise the Department of Education as to what the computer runs that you had run for the committees were and what the composite index consisted of?

A Yes, I think we hashed that out.

Q In the composite index, do the factors interrelate?

A Yes, to the extent that actually what you are doing is running two indices: one that has a basis of population and one that has a basis of A.D.M.

Now, the two internal indices themselves are weighted two-thirds for A.D.M. and one-third for the per capita index to come out with the composite index.

Q If they are interrelated, can you take them for a different year, one of the factors that goes into the index, and not affect the validity of the index?

A It would certainly change the results of the index. Like I say, if you use '74 data you could substitute it in for any variable, it wouldn't have to be A.D.M. The question you have to keep in mind is, does it really relate to that locality's ranking at that particular time, since that is a source of your consistent data. I would say it would be less correct economically to do that. You could build an index that way, but in terms that it is a relative

index and you are ranking the localities as to their ability to pay at one point in time, no, I don't think it would be correct in my eyes.

Q What affect would you have on the index if you used current A.D.M. with the other '71 factors, in your opinion?

A Well, it would change the distribution substantially. I don't have a computer run on it and I can only guess as to what would happen. Since those localities that are losing A.D.M. would be divided through by a smaller denominator it would make them seem to be more wealthy and able to pay for education. In contrast, the locality that is gaining substantially in A.D.M., its ability to pay would go down.

Q I refer you to City's Exhibit No. 4, the Appropriation Act. In the composite index of the local ability to pay where A.D.M. is used--

A What page?

Q It is on Page 2.

A Okay.

Q How would you think A.D.M. is being defined if you were a legislator at that point?

MR. GRAY: If Your Honor please, he has answered that question for me.

MR. HEFTY: He has answered in regard to the

whole Act.

MR. GRAY: No, sir. I asked him about the composite index. I asked him how would the Legislature think that A.D.M. was used in the composite index and he said 1974.

MR. MATTOX: Your Honor, let the witness answer the question again because I was coming back to the same thing.

THE COURT: All right, go ahead.

A If I read Item 4 down here on the composite index, on local ability to pay, I would think it would be defined as '71. All values are '71 and it is spelled out in that section.

MR. HEFTY: That is all I have.

REDIRECT EXAMINATION

BY MR. MATTOX:

Q Mr. Brown, you answered the question of Mr. Gray a moment ago and Mr. Gray wanted you to read the definition of A.D.M. He asked you if you were voting on such an act or if you were a member of the General Assembly and you read that, "read that" being the definition of A.D.M. That is what he asked you, and you answered the question that you would expect your payment to your school district to be on A.D.M.; that is what you answered. Now, if you were this

hypothetical legislator that Mr. Gray had you be awhile ago, would you read the definition and read nothing else in the Act?

A No, I don't believe I would.

Q And when you got to Paragraph 4, composite index of local ability to pay, would you know then that you just were not going to get paid on A.D.M.?

MR. GRAY: Objection, if Your Honor please.

MR. MATTOX: You were the one that started this.

MR. GRAY: If you ask him the question and not tell him the answer.

THE COURT: Go ahead. You are inquiring as you did on Direct; don't lead him.

Q But, you would have to read the total Act to determine how much money your locality would receive?

A Yes, I would say that if I was a legislator I would have to read the whole Act plus I would probably need much more explanation before I understood the workings of that formula.

Q Were you in the courtroom when Dr. Napp testified?

A Yes, I was.

Q Do you agree with his use of the term A.D.M. so far as it is used in this Act?

A As to the A.D.M. to determi the program

costs for the year that the distribution is made, and the A.D.M. use in the composite index as being 1971; yes, I do.

MR. MATTOX: That is all I have.

RECROSS EXAMINATION

BY MR. GRAY:

Q Mr. Brown, look at the composite index and tell me if in each instance, wouldn't it relate the population, wealth, or whatever they relate to? Do they tell you what year they are talking about?

A They do in each instance except A.D.M.

Q They don't do it in A.D.M.?

A No, sir.

Q As a legislator, where can I find out which A.D.M. they are talking about? Do they define the first thing they do in the Act?

A There is a definition in the Act--

Q What does it define?

A A.D.M.

Q When you come to this definition of A.D.M. is there something on this page that says to strike what we said before, we don't mean what we said on the preceding page, we are talking about another A.D.M.?

A Well, I think this was taken along with my explanation of this section.

Q Did you stand in front of the Senate and House of Delegates and explain it?

A No, sir, I didn't.

Q I believe you indicated that--

A Excuse me, you said in front of the total House and the Senate; no, I did not.

Q Well, you have got the Act up there, you have got the whole appropriation and all of the basic--

A I have got the first two pages where it goes into Item 573.

Q You don't have the conditions, do you?

A I don't think I have.

Q Let me hand you the conditions and ask you to read Condition No. 5 to The Court.

A "In the event that the statewide number of pupils in A.D.M. exceeds the number estimated as the basis for this appropriation, each state share and required local share shall be reduced proportionately so that the appropriation will not be exceeded."

Q So, the Legislature understood that the numbers that it was dealing with were not sacrosanct; that is, these numbers were going to change and it took precautions to see that it would not be exceeded; did it not?

A As far as the program costs, yes. We had to estimate the A.D.M. for the future years.

Q You have indicated on Redirect Examination that if you changed and used a different factor than the 1971 factor you might distort or get a false impression of the locality's ability to pay or ranking at that particular time.

A Yes.

Q And what particular time did you mean by "that particular time"?

A At 1971.

Q For what year was the appropriation being made?

A '74-'75 and '75-'76.

Q And the expenditure which the Legislature was trying to help meet was for the children going to school?

A Right.

Q So that if that factor changed between '71 and '74 the comparative ranking in '71 really has very little to do with its ability to pay in '74, is that correct?

A Well, the ranking is relative so it doesn't change as much as absolute figures do. If you are twentieth in the state at one period of time in the ranking, usually in those terms you don't change as fast over a period of time as you would if you are taking what your true value of property is.

Q Do you have any localities whose A.D.M. is increasing fairly rapidly?

A Yes, I suppose so.

Q Do we have localities whose A.D.M. is decreasing?

A Yes.

Q So, could there not be a marked changed?

A In A.D.M.?

Q A.D.M.

A Yes.

Q And this would have a marked change in the amount of money that the locality gets if you adjusted to change that?

A Well, if you adjusted the tax basis, too, you don't know what the results would be.

Q Suppose you didn't adjust the tax basis, just get more students?

A You would change not only the distribution of the funds but also the amount of money the state is supposed to put out.

Q In these computer runs that you had, what kind of numbers did you have on those? Did you have the A.D.M.s for each locality listed there?

A We had our estimate of '74-'75 and 75-'76 A.D.M.s listed, I believe, in the first column.

Q '74-'75 A.D.M. is what the Legislature was looking at?

A In one program. There are two sheets to the program. I am sure you are familiar that a computer does some work internally and it doesn't always spit out each step it goes through. On the complete program of one year's appropriation, the complete program of that is the calculation of the composite index and the distribution with the index used internally in this distribution.

Q What I want to know is, what numbers as far as A.D.M. is concerned did you show to the Legislature when you talked about A.D.M. and showed them figures?

A I showed two A.D.M.s. I showed '71 in the calculation of the composite index and '74-'75 A.D.M. in determining the program cost.

Q So, you showed the Legislature the figures for each locality for the '71 A.D.M.?

A No, I showed them the state '71 A.D.M. and like I say, we worked through the example of Wise County on computing the index. The figures were available from the Department of Education and the Superintendent's report as to the '71 A.D.M. They were calculated and I think that they were aware of what their district's A.D.M. was.

Q Do you think that each legislator knew what his district's '71 A.D.M. was?

A It was readily available to them.

Q That was the A.D.M. as reported by the local

division to the State Board, is that correct?

A Yes, I believe in the August survey, if I am not mistaken.

Q So, each locality reported their A.D.M. and that is the information that the Legislature looked at or could look at?

A Yes, as far as '71 A.D.M. Now, of course, when you are dealing in future years there is no way a locality can publish future years; that is our projections of what the A.D.M. would be.

Q I understand about that. I am just talking about the '71 A.D.M.

A The '71 A.D.M. is published from what the individual localities turn in to the Superintendent. It is published in his report and it was available to them.

Q That is what they acted upon, you think?

A As far as the composite index.

MR. GRAY: I have no further questions.

BY MR. HEFTY:

Q For the composite-index formula to be relevant, is it more important for all of the figures to be in the same year than that the A.D.M. be current in terms of the composite-index formula?

MR. GRAY: Well, if Your Honor please, I

think he should let us know relevant to whom; to an economist or to a legislator.

MR. HEFTY: To an economist.

A I would think that you would find the general concensus is that it should be computed on one consistent period of time. To be theoretically correct, and if you have those two options, I would think the economist would get consistent data rather than mixed data.

Q What was the first year that the composite-index formula was put into the Appropriations Act?

A It was put in by the '74 session for '74-'75 and '75-'76.

Q Do you know if the other seven-month definition of A.D.M. was put in in '74 or '75? Or, was it in a previous appropriations act?

A No, other than that they used to distribute on A.D.A. and they then switched to A.D.M.

Q Do you know what year they switched to A.D.M.?

A I believe it was '70-'71.

MR. HEFTY: I have no further questions.

MR. GRAY: I have nothing further.

THE COURT: In making up your composite index, do I understand that the A.D.M. is the only variable and that the other components are constant?

MR. BROWN: All the other components in the Appropriation Act are 1971. Now, it doesn't say clearly in the Appropriation Act that A.D.M. is '71 but, yes, it was explained to the House Appropriations Committee and the House Finance, as it came by the Governor's Task Force, that all data would be consistent '71.

THE COURT: Including the A.D.M.?

MR. BROWN: Including the A.D.M.

THE COURT: All right. Thank you, you may be excused.

MR. MATTOX: Your Honor, on this same problem we do have one other person who might be able to shed some light on what transpired before the Appropriations Committee.

THE COURT: While we are on this route, let's go ahead.

MR. MATTOX: I call Mr. Cecil Jones.

CECIL F. JONES, a witness, called by the plaintiff, first being duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. MATTOX:

Q Mr. Jones, would you state your name, age, residence, and your current assignment.

A My name is Cecil F. Jones. I am 54 years old and I am a resident of the City of Richmond. I have been a resident of the City of Richmond from 1935 until 1950 and since 1950 I have been residing in Henrico County. I am currently the Chief Legislative Fiscal Analyst on the staff of the House Appropriations Committee, the House of Delegates. I have been in that capacity since just prior to the 1974 session commencing.

Q Mr. Jones, I hand you what previously has been identified as City's Exhibit No. 5. Have you ever seen that exhibit in the record of the Appropriations Committee?

A Excuse me, just a second, I would like to compare it with mine. Yes, that appears to be the same.

Q Do your records in the Appropriations Committee files indicate that that exhibit was presented to the Committee?

A Yes, on February 4th, 1974.

Q Do you have tapes in the Committee's files of public hearings relating to just this one item, Item 572 in the Appropriation Act? You have been in the courtroom all morning, have you not?

A Yes, I have.

Q Have you had an opportunity to look at the tapes of the hearings in the Appropriations Committee? Have you listened to the tapes?

A Yes. Based upon the Chairman's request I started looking through our tapes on Thursday afternoon and spent that time and Friday reviewing our tapes of the 1974 session. The Committee Chairman, Delegate Lane, assigns and prepares a schedule in which certain items of House Bill 30--at this particular time this came forth from the Governor's Office with a certain number of items--would be discussed in a two- or three-day time frame depending upon the number of items selected.

The first day would be devoted to a representative from the Governor's Office of the budget, John McCutcheon or Ed Crockin, and their presentations would relate to the items contained in the House Bill 30 under discussion. They would give some history as to what possibly the agency requested and what some of the reasoning behind the action taken in the Governor's Office was; sometimes to lower and sometimes to increase.

The second day, the second or third days, would be generally related to the agency heads themselves being offered the opportunity to talk about the items being reviewed. The agency heads, agency personnel, other legislators, and also interested public organizations have a chance to speak.

The tapes cover basically a two-day period on discussion of the school formula. Now, there are other

tapes, I believe, which run subsequently to this date of the 4th of February but I just have not had time to review all of the tapes in detail. Mr. Brown's presentations relating to this document, which I just glanced at, were made and the tapes are there.

Q Is it clear that the 1971 A.D.M. was to be used--

MR. GRAY: Objection, if Your Honor please.

MR. MATTOX: Your Honor, I know this may be unusual. The tapes are across in the Capitol. We could get the tapes over for Your Honor to listen to them, but it would seem to me that it is something that might not be necessary. Mr. Jones has listened to the tapes and this may be a little out of the ordinary, but he referred to Mr. Brown's statements to the Appropriations Committee and it would seem to me that in the essence of time that The Court might permit Mr. Jones to tell The Court what were on the tapes.

Now, if Mr. Gray would like to listen to the tapes I am absolutely positive that all we would have to do is ask Mr. Jones to let him listen to them. I would ask The Court's indulgence to let Mr. Jones say what was on the tapes.

THE COURT: Well, I can't permit him to

testify as to what were on the tapes over the objection unless that is agreed on. The tapes themselves might or might not be admissible but I don't think this witness can testify to what he heard on that if there is an objection.

MR. MATTOX: Do you object?

MR. GRAY: Number one, it is hearsay. Number two, any testimony he would give would be an hearsay testimony. Number three, it is improper and number four, you don't know who was there to listen to. I object.

THE COURT: I will sustain it on the first two points.

MR. MATTOX: That is all I have.

CROSS-EXAMINATION

BY MR. RYLAND:

Q Mr. Jones, do you know if there was a definition in the 1972 Appropriations Act?

A I believe there was. I just haven't gone back that far, but my recollection is that there was a definition contained in the '72 Appropriations Act which is similar to the one in the '74 and also the '76 Acts.

Q Does the '72 Appropriations Act have a composite-index definition in it?

A No, I do not believe it does.

Q The composite index was not used in 1972?

A Nor '73, as amended, either.

Q Do you know the first year that the composite index appeared in the Appropriations Act?

A For the 1974-'76 biennium.

Q And that definition in the '74-'76 Act still retained the old definition of A.D.M.?

MR. GRAY: Objection, unless he really knows the Act. They speak for themselves and we don't need a witness to tell us what they say.

THE COURT: Do you know?

MR. JONES: Yes, sir. The definition in '74 is the same as what was in the '72 Act.

Q Mr. Jones, do you know of your own knowledge whether the figure for the monies that would be appropriated under the '74 Act was in fact based on a '70-'71 computation?

A Mr. Ryland, there is a considerable gap, as Mr. Brown alluded to a little earlier, between the lump-sum figure that you will see in the certain subsections of the Appropriation Act with the computer printouts and the explanations that went along with it.

The members of the Appropriations Committee and also the remaining members of the House of Delegates, I believe, were supplied with up-to-the-minute and up-to-date

printouts just as this appropriation bill was reported out of the Appropriations Committee and onto the floor of the House. My recollection is that there was quite a bit of discussion in various sessions about this new type of approach for funding the standards of quality. One of the main items of discussion was the omission from the Governor's recommendation of provision for incentive funds, which after deliberation was recommended by the Appropriations Committee and was actually inserted, which would necessitate a change from the original printout to the subsequent printout. There was a reduction from the recommended S.O.Q. costing of $890.00 down to, I believe, $887.00 for the first year of the biennium and there was also a reduction in the second year but I don't remember exactly what it was.

There was quite a bit of discussion on the proper placement in the funding provision for compensatory funds for slow achievers. My recollection again is that there was very little questioning posed to Mr. Brown as to the concept of determining the composite index of wealth for a locality having all the items of the same time frame. All the variable elements in there, I believe, have previously been stated that there were basically five elements being from this same time frame; in fact, my recollection is that on the tape there is a specific question by a member of the Committee to Mr. Brown asking if these items were in the same time frame,

was that consistency to be desired.

Q So, to the best of your knowledge, the '70-'71 A.D.M. was used in the calculation of the appropriation?

A Yes.

Q Do you think it would be possible for us to reconstruct that today during the lunch break? Could we do that or would it be too burdensome to do?

A I doubt that, but Mr. Brown would probably be in a better position to do the reconstructing.

Q Let me ask you this: Were you aware that during this biennium the Department of Education was making its distribution based on the '70-'71 A.D.M.?

A To be honest, I had not given it any further thought.

MR. RYLAND: Thank you. I have no further questions.

MR. MATTOX: I have nothing further.

MR. GRAY: Mr. Jones, I have a few more questions.

BY MR. GRAY:

Q You talked about the figures that the legislators had before them, and what exactly was this that they had? Did each legislator look at a sheet of paper and this is what the locality is going to get in dollars?

A There was one printout, Senator, which would indicate the basic share; the state share of the basic aid and what each locality would receive. I'm not sure of all the other bits of information that were in there for each locality but a number of illustrations were provided and they were also told that if there was any confusion existing about what their locality would receive, the information would be supplied. There was also a listing for every division, locality, the whole composite index which was a separate sheet.

Q And you say that was computed on the basis of A.D.M. for '71?

A That is my understanding.

Q As reported by the local school division to the State Board of Education?

A Yes.

Q So, each locality knew what the composite index was?

A This information was contained on the printout, yes, sir.

Q The Chairman of the Appropriations Committee represented the City of Richmond, did you say that?

A No, I said he is a representative. He is a d e of the City of Richmond.

Q And he would know what the composite index was?

A He had a tabulation, yes.

Q And of the amount of money that would bring to the City of Richmond?

A Whether or not he asked for it is another matter.

Q For what purpose was A.D.M. used in the '72 Appropriation Act?

A Senator, I am not that familiar with the '72 Appropriation Act; that was before my time. I have simply started to find out if there was a definition of the average daily membership in there. Beyond that, there was a completely different method of providing funds.

Q Well, the composite index wasn't in there.

A That is true.

Q That was brand new for 1974?

A '74, that is correct.

Q And money was distributed on A.D.M. in '72?

A I do not know.

Q Was it distributed on A.D.A.?

A I do not know.

Q You don't know?

A No, sir.

MR. GRAY: I don't have any more questions.

THE COURT: Thank you, sir, you are excused.

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* * *

WILLIAM H. COCHRAN, called as a witness by the Commonwealth, being first duly sworn, deposes and says as follows:

DIRECT EXAMINATION

BY MR. HEFTY:

Q Dr. Cochran, state your full name and address for the record, please?

A My name is William H. Cochran, C-o-c-h-r-a-n, 2321 Conti Drive, Midlothian, Virginia.

Q Dr. Cochran, what is your present position?

A Deputy Superintendent of Public Instruction.

Q And would you state briefly your educational

and occupational background?

A I have a Bachelor's Degree in Educational Administration and Economics, a Master's Degree in Education and Doctorate in Educational Administration at the University of Virginia. I received my Master's at Duke University and Bachelor's at Lynchburg College.

Q And what is your occupational background?

A I have been a classroom teacher-principal, visiting teacher-supervisor of secondary education. I have been Superintendent of Schools and Assistant Superintendent for Administration of Finance for the Department of Education, Acting Superintendent and Deputy Superintendent of Public Instruction.

Q How long have you been with the State Department of Education?

A Five years.

Q And what have been the duration of your jobs at the State Department of Education?

A I was Assistant Superintendent for Administration and Finance for approximately two years and Deputy Superintendent for approximately three years.

Q In your present position and as Assistant Superintendent for Administration and Finance, what were your responsibilities in the administration of school aid

formula?

A Well, largely my responsibilities were for the total budget in the distribution of the school aid school formula. I have had final responsibility within the department; that is where final responsibility does not reside with the Superintendent himself. But I have been responsible -- the one individual who has been responsible for the distribution of funds for three of my five years with the department.

Q In your job, have you dealt with the Appropriations Act?

A Yes. We deal with the Appropriations Act always because the school formula in Virginia -- and I think we need to put this in place. The basic school aid formula is the foundation program whereby the State puts most of the money by which it supports the education of the children in Virginia. That is as far as the locality is concerned, from 65-80% of the State's monies they receive would be coming through the basic school aid formula. Now, every State has a foundation program. Virginia's Basic School Aid Fund is what you call a weighted equalization formula. That is, it attempts to establish the need of localities and then distribute the money on the basis of this need. This is opposed to a flat grant formula, which would simply take what-

ever monies the legislature might appropriate and divide it by the total number of children and send everybody that number of dollars for that for each child.

The equalization formula is somewhat different. Virginia's program has two components, essentially one is the composite index such of the composite index two is to take into account the varying wealth of the localities to support education. For example, in Virginia some localities are six times as able to support education programs as are others, so there is need for an equalization formula. The composite index attempts to put equalization into it. The fact that the distribution is made on a current year's ADM makes it a current formula to that extent. In other words, you receive money on the number of pupils that you have in the current year, although your relative ranking with the other localities is based on composite index.

Q When was the first year ADM was used as a basis of distributing school aid?

A We have shifted from ADA to ADM in 1972 for the support of education.

Q When was the composite index first used by the State Department of Education?

A The composite index was first utilized in 1974. It was written into the 1974-76 appropriation.

Q What are the components of the cost index?

A There are five. Actually, of the composite index, three indicate wealth and the true value of real estate and public service corporations. The income level of that locality and the return of the sales tax; that is, returned on the basis of where it collected. In other words, a one cent tax is returned on the basis of where it was collected, initially. These three things are related to the State average and so, their relative rankings for that part of the then three things are divided by two divisors; one being ADM and the other being the per capita population for that locality. Now, they divided on a weighted basis, then, again, two-thirds on the basis of ADM and one-third on the basis of per capita.

Q How has ADM since you have been in the State Department of Education been defined by the State Department of Education in the composite index?

SENATOR GRAY: May it please the Court, it is understood, of course, we are objecting to all this testimony.

THE COURT: Yes, Sir.

SENATOR GRAY: We are objecting to this line of testimony.

THE COURT: Yes, Sir.

THE WITNESS: Well, since the inception of the composite index, ADM has been utilized for the year in which the other factors were located. In short, we used 1971 data for the 74-76 binding, for the reason that that was the latest year we had a true value of real estate. And we felt that all the factors should be in the same year to make it a logical measurement of wealth. So, all the factors were utilized from the 70-71 year.

BY MR. HEFTY: (Continuing)

Q What happens to the formula if you use '70 current ADM in the composite index formula with the other '71 figures?

A It becomes distorted. It does not give you a picture of relative acts within that year. It extends it over multiyear period and distorts the result.

Q When ADM is defined in the Appropriations Act as current ADM, what is that used for by the Department of Education in its basic school aid distribution?

A We actually calculate each locality's entitlement to funds on the basis of their current year ADM. That is when it has been utilized for the current year ADM.

Q When you make the school aid distributions, are you actually paying on current ADM, as defined in the Appropriations Act, or on early year '71 ADM?

A We are actually paying on the current year ADM. The amounts they receive are affected, of course, by their composite index, which is based on '71 data for the 74-76 biennium.

Q Do you feel a composite index is a different formula than the paying formula used by the State Board?

SENATOR GRAY: Objection, your Honor.

THE COURT: The same objection?

SENATOR GRAY: No. I don't think it's relevant what he feels something is in a definition.

THE COURT: I missed the question. What was the question?

NOTE: The court reporter read the last question.

THE COURT: I sustain the objection as to what his feeling is. He can state what the use or the practice is but I don't think what his feeling is.

BY MR. HEFTY: (Continuing)

Q Dr. Cochran, I show you a copy of the Appropriations Act, which is Plaintiff's Exhibit -- what is it, four, I think?

MR. MATTOX: Four, I believe.

Q The Appropriations Act of 1974, 75-76 biennium, and ask you to look at Item 573?

A Yes.

Q Can you tell me what the numbers in the right-hand column, Item 573 are?

A Yes. This is the general appropriation for the Basic School Aid Fund which includes all of the monies that are included in this item. Now, the figures that are listed, here, in the right-hand column of $377,030,125.00 for the first year and $403,476,635.00 for the second year.

Q Did the Department of Education have any input how these items were arrived at?

A Yes, Sir. We consulted with and we have an opportunity to provide a good bit of input. We originally submit, as you may know, to the Department of Education or the Board of Education officially presents the budgets to the Governor in August of the odd-numbered years. This

budget is then reviewed and scrutinized rather closely by the budget office -- the Governor's budget office -- and very often in my experience it has been revised. In these revisions, we work closely with the officials of the budget office. They ask us what the figures of this would be or that would be in different cases. So it is necessary for us to go back and make different calculations, using revised figures. Now, the Governor from this, then recommends a budget to the legislature. When the legislature comes into session, we repeat the process, generally with the Appropriations Committee. They examine and scrutinize and review the total budget and when they come to this part of it, they again may suggest certain changes or ask what the figures would be of other cases. We provide information by way of running the basic school aid fund back through the computer and show what the impact would be on the different counties, cities, towns and State. So, our input is fairly large for that reason.

Q The computer run's done by the budget office of your department?

A Yes. We do all of the computer work.

Q I show you what is marked as Defendant's Exhibit One.

MR. MATTOX: Has that been introduced?

THE COURT: Was that introduced into evidence?

MR. HEFTY: No. It hasn't been introduced yet. I would like to introduce it into evidence. Will you read the title?

THE WITNESS: That is entitled Distribution.

THE COURT: Wait a moment. Mr. Rudy, have you had an opportunity to look at this?

SENATOR GRAY: I submit the same objection.

THE COURT: That is Defendant's --

MR. HEFTY: Exhibit Number One. Yes.

This is submitted, The Distribution of Basic School Aid Fund of 1975-76, Estimate of March 13, 1974.

NOTE: The above referred to document was marked as Defendant's Exhibit Number One for identification.

BY MR. HEFTY: (Continuing)

Q What was the use made of this?

A This was the computer run that was presented by us to the Appropriations Committee for the 1974-76 period. This is for the second year of the biennium 74-76.

Q Do you have 74-75 in there?

A It is not here.

MR. HEFTY: The one you have, your Honor, is 74-75?

THE COURT: 74-75.

MR. HEFTY: That's the one we would like to put in evidence at this time. There is another one '75 and '76.

BY MR. HEFTY: (Continuing)

Q This was one by the Department of Education?

A Yes.

Q And it was run at your request?

A Well, yes. The request generally comes from a member of the Appropriations staff to the Department of Education. We just pass the request on the computer.

Q Turning to page 7, can you explain what the figure in the column -- it is about the middle of the page, for 74-75 Standards of Quality State Share, at the bottom, of $312,937,305.00; what that is and how it was arrived at?

A Well, within the formula there actually is three and three. The sales tax which has been assumed before these computer runs were made and the State share and local

share. Now, column 7 is the State share or the amount of money that would need to be appropriated for the State to support education at a unit cost of $687.00 per pupil. Now, you'll note that the total of that column is $312,937,305.00.

Q Did that figure correspond with any figure in the appropriation?

A Not precisely. You will see written in at the bottom of the page that to this amount of money, we had to add an amount which is necessary to fund the Foster Home Program in which local school divisions have to provide educational opportunities for those youngsters who are placed in their school divisions by Court. This amount is $12,248,880.00, and when you add those two, you get a total fund needed of $314,186,185.00. Now, there is a deduction of Special Fund, penciled in here. This deduction was $1,594,960.00, leaving a balance due in the general fund of $312,591,225.00. Now, that Special Fund deduction was money that is received by the Department of Education under provisions of the Highway Safety Act. Actually, the money comes from a dollar and thirty-three cents assessment on each driver's license that is issued and it is ear-marked in law as being a certain amount that would go to support driver's education. We support driver's education in the Basic School Aid Fund. So this money simply goes in and is not needed in

general fund sources, so it was deducted. The figure $323,525,000.00 should appear in the Appropriations Act and it will appear within the body of the material an item of 57 -- if I can find it --

Q That's on page --

A That is found on page 155 and it comes under Apportionment One. It is the final paragraph. Now, you'll find that throughout the Apportionment, there are different sums indicated for special public funds that are all part of this item 573 and a part of the Basic School Aid Fund overall. They will be added to the $312,000,000.00 and this will account for the $377,000,000.00 which appears at the top of the page. In other words, that is accumulated.

Q I show you a copy of Defendants Exhibit 2, which I would also like to offer into evidence. Will you explain to the Court what this represents?

A Yes, Sir. This is an item, a variation of these figures that make up the $377,030,125.00 figure. The $312,000,000.00, as has been stated, comes in the support of education at the local level from State funds for what they call the Basic Standards of Quality Program. Now, during the 74-76 biennium, there was, in effect, a program by the State which would give special help to those youngsters who were achieving at a very low level. This was collared a

Supplemental Skills Development Program. It was based -- the payments were based on, I believe, $300.00 per pupil for how many pupils you had who were identified as being below a certain percentile in these scores. This amount of money is $5,263,000.00 for the year 74-75. Then there is a provision of the formula called a Maximum Local Increase Provision, and that amount is listed $2,736,290.00. When the formula is run -- if a locality as a result of the factors that are in the formula finds itself with a three increase or, let's say, above average increase, then the State Assistance for that year and that increase by providing 50% of the money that would be needed over a 7% increase. In other words, if a locality's requirement from one year to the next would exceed 7%, then the State will assist in the excess over 7% to a 50% limit. That accounts for the $2,786,290.00.

The third figure, No Loss Provision figure -- this is $13,974,700.00. The formula also provides that no locality will receive less money than it received for the same number of pupils during the last year of the previous biennium. Now, in a locality such as Arlington, which has high wealth, the formula, itself, would not entitle them to receive any funds. So, all of the funds they receive could come from the No Loss Provision.

Q Are the rest of the items listed in this exhibit set out, perse, in the Act?

A Yes, Sir, they are.

Q And do any of them have anything to do with ADM at all?

A No, Sir. They are not paid on the basis of total ADM, no.

Q And is the total at the bottom found any place in the Appropriations Act?

A Yes, Sir. The $377,030,125.00 is the first figure you will find in the Appropriations Act to the right.

Q Okay. In the composite index, you used the figure in the Basic School Aid Formula in Defendant's Exhibit One. Was ADM used by the State Department of Education?

A In this formula, the first thing -- the way variations in the formula is approached, the first thing that must be done is to assume what it costs to establish. What the cost would be for Standards of Quality Education Program in a locality. Now, in order to figure what that cost, if you take the aggregate cost for salaries; for example, in the State of Virginia for the last year in which you had information available. When this was done, the last year we had information was in 71-72. We had figures for at the end of 71-72. So, we took the aggregate cost figure for personnel,

for example, and divided them out first by the average to find the average salary. And then we divided by the ADM that people had at that time by the numbers of pupils that they had during that year in order to establish a unit cost. We had the same thing for all of the other instructional costs in education. This was called Costing Out the Standards of Quality and it was in this way that the $687.00 was established. I might add that as my memory serves me, we established at $710.00, but it was reduced from $710.00 to $690.00 by the budget office, and then to $687.00 during the legislative deliberations on it. So, $687.00 was established there, and actually, we did it from aggregate costs divided by numbers of pupils that people had during that year. The year happened to be 71-72.

Q As far as the composite index goes, in figuring out the totals in Defendant's Exhibit One, was ADM used to figure out the composite index?

A The 1970-71 ADM was figured -- was utilized in the composite index.

Q And that is the basis of the figures in Defendant's Exhibit One and Two?

A Yes, Sir. That is the basis on which these figures were calculated.

Q Mr. Cochran, I show you Defendant's Exhibit

Three?

THE COURT: Before you get off of Exhibit One, though, we have Exhibit Two. Down at the left-hand corner you are using 1974-75 sales tax distribution. Is that the same component that we are talking about in this Basic School Aid Fund, paragraph number four, subsection three, as one of the components contained in this subsection of the County's '71, which is subject to the sales use tax?

THE WITNESS: No, Sir. There are two sales tax figures used in the composite index. We utilized the receipts that a locality will have for the one cent that is returned on the basis where it is collected. Now, the reason for that is, in the rural County, the suburban County, or Cities would benefit from the expenditures made from the shopping habits of the people who live in the rural Counties. So, the receipts from that part of the sales tax will be much greater percentage wise in the Cities and suburban areas than will be in the rural areas.

THE COURT: So, this figure does not feature in your composite index?

THE WITNESS: No, Sir. This figure is 1%

returned on school age children who live in the area.

BY MR. HEFTY: (Continuing)

Q Dr. Cochran, would you read the title of Defendant's Exhibit Three?

A Distribution of Basic State School Aid Fund, 1975-76, Statement of March 13, 1974.

Q Okay. Can you tell the Court what this was used for?

A I believe this is the -- this is the circled part of what was presented to the Appropriations Committee. It is for the second year of the biennium, the Basic School Aid Fund calculated for the second year of the biennium and it was -- when it was given to the Appropriations Committee so they could see what the experience would be in each County and City using the factors that were included herein.

Q Can you turn your attention to page 7 of this exhibit, column 7? Can you explain how the figure of $329,710,002.00, what it is and how it was arrived at?

A Yes, Sir. This is the column -- column 7 again is the State's share of funds that would be needed in order to support education at a cost of $730.00 per child during the 1975-76 year. Now, the $329,710,002.00 had to be adjusted by an addition for foster home children, again of

$1,248,880.00, resulting in a total need of $330,958,882.00. Then we deduct the special fund, which we anticipated would be received from the Highway Safety Act, which we estimated amounted to $1,594,960.00, leaving a general fund appropriation necessary of $329,295,062.00.

Q And can this amount be found anyplace in the Appropriations Act?

A Yes, it is. It is under item 573. It is in the column to the right, under the second year of the biennium -- I beg your pardon, it is included in that -- it's actually found on page 1355 and in the body of the information. It says $329,295,062.00, the second year from the general fund.

Q And referring again to Defendant's Exhibit Two, would your testimony apply as well to the 75-76 year, things that have to be added in as to the 74-75 year?

A Yes. It would be much the same.

Q The total year for Exhibit Two, 75-76, can it be found anyplace in the Appropriations Act?

A Yes. That's found in the right-hand column, Basic School Aid Fund, page 1533, the amount of $403,407,635.00. It is the total amount needed to fund the Basic School Aid Fund with all its components.

Q In the composite index formula that was used to figure the Basic School Aid, Defendant's Exhibit Three,

what ADM was used by the defendants at arriving at these figures?

A The composite index was used for a two year period of time and we do that. We figure the composite index with the intention that it would stay unchanged unless a locality is involved in annexation during that time, but it would sustain unchanged for a two year period of time and the importance of this to a local school division is that they are able to plan on the basis of knowing their composite index would be the same for that period of time. The only variable they have to deal with in order to calculate how much State funds they would receive, would be their own ADM.

Q Okay. In the composite index that was used in Defendant's Exhibit Three, which year was ADM used in figuring the composite index by the Department of Education?

A Well, 1970-71 figure was used for both years.

Q Dr. Cochran, have you also calculated the total appropriation which would have been needed for 1974-75 and 1975-76 if Chesterfield's formula of using current ADM and composite index were used?

A Yes, Sir, we have.

MR. HEFTY: Mark this Defendant's Exhibit Number Four into evidence.

THE COURT: Yes.

NOTE: The above referred to document was marked Defendant's Exhibit Number Four into evidence.

BY MR. HEFTY: (Continuing)

Q Is Defendant's Exhibit Four, in fact, that calculation?

A Yes, Sir, it is. It results in amount of basic aid $340,945,664.00.

Q If you used Chesterfield's formula of using current ADM in composite index, would there have been sufficient money in either years' appropriation to fund the basic schooling.

A The shortage in the first year would have been $2,585,267.00 and then the second year to have required a total of $365,069,167.00, which would have left us a deficit of $3,877,058.00.

Q Can you tell us where you are getting those figures from?

A Yes, Sir.

Q What pages?

A Those come from page 6 of the calculations that were done two days ago, I believe. It is dated 7/7/76

and does not carry a heading. It carries a series of headings. But it would come from page 6 of each of these calculations.

Q Okay. Dr. Cochran, how important is it for a school superintendent, before the year begins or during the year, to be able to estimate the amount of State aid he is going to receive during that year?

A I'd say it is highly important and critical in many cases. Actually, a school budget comes from four sources. The Federal fund which normally accounts for 10% or less; the State fund, which, Statewide, would provide about 35%; and local funds which would provide from 55% Statewide. That leaves -- percentages will vary widely depending on the practice within a local school division and the educational aspiration of the people in that community, as refelcted in this quarter. But in this, the State -- the local superintendent knows he needs to know such things as where the money is coming from outside, so that he will know what his picture has to be out of local funds. Now, the fourth thing that I mentioned was other funds, which are a very small part of a local school budget. But the superintendent needs to know -- you see, he makes an estimate of how much money he will receive from Federal sources and from State sources so that he can present his local counsel of

Board of Supervisors with their local funds. Once this budget is made, if the State or Federal funds are running behind, then he certainly needs to be aware of this so he can alert the people and the community and he can make variations in his operation. But it is extremely important that he be able to get periodic reading on this matter of where he stands.

Q Under the school aid formula as it has been administered for the last two years by the State Board of Education, using all 1971 data in the composite index, how good an estimate can be made by September of the amount he is going to receive in the basic school aid?

A He should be able to make an excellent estimate because the only variable there would be his ADM. And within that locality he should know the history of the locality as regards to change in the ADM plus the fact that he can get reported to him by the schools -- the respective schools in his locality. Generally these reports come in on a monthly basis, but if need be, he can have it reported in any one day on what his ADM is at that time.

Q If you change the formula and interpret it as required current ADMs to be used in the composite index, how does this affect his ability to estimate?

A It would pretty largely destroy it in that he

would never know it -- what his composite index was. And he would also have the variable remaining of ADM, so he would be extremely limited in his ability to predict at that moment.

Q If you are able to estimate the ADM for purposes of ADM on how many pupils you have -- now, if he can estimate that under the formulas, why can't you similarly plug his estimated ADM into his composite index and figure out his composite index?

A The reason for this is he may know his own ADM within pretty close approximation but he has no way of knowing what the history is during the year or what the development is during the year for all the other school systems. You see, the composite index is relative ranking and the experience that other people are having are going to affect his operation or his receipts under the composite index.

Q When is the earliest in the year that superintendents, if you were using the current ADM in the composite index, can tell if his estimates were any way near correct?

A I would say it is in April or May in the current year.

Q Looking again at Defendant's Exhibit Four, which shows what the composite index would be and the changes, monetary changes, if he used the current ADM in the composite

index formula, are there monetary changes in most cases?

A Yes. In the majority of the cases there are monetary changes.

Q From a superintendent's standpoint, would the changes in most cases be significant?

A Yes. I think it would be significant. They amount to several percentage points in most cases.

Q In your opinion, is the use of 1971 ADM in the composite index in order to allow a superintendent to estimate better State aid reason for interpreting it that way --

SENATOR GRAY: Objection.

THE COURT: I think the objection is well taken. I sustain the objection.

BY MR. HEFTY: (Continuing)

Q Was this one of the reasons that you, as an Administrator in the Department of Education, interpreted the Appropriations Act in the ADM as you did?

SENATOR GRAY: The same, again.

MR. HEFTY: Your Honor, he is administering --

THE COURT: I believe that was leading --

wasn't it in addition to this other objection? I sustain the objection.

MR. MATTOX: It is a leading question, as an Administrator what he did.

THE COURT: He can testify what he did.

SENATOR GRAY: He testified what he did, he testified on that.

MR. HEFTY: I am asking the reason he used to administer the school aid formula, using the '71 ADM?

THE COURT: I think that is all right if you ask the reason. All right, go ahead.

THE WITNESS: Certainly, this is an important factor in any assistant's -- as a school administrator, it is essential that a local school superintendent know this information.

BY MR. HEFTY: (Continuing)

Q Next, Dr. Cochran, turning your attention again to the Appropriations Act, and turning your attention to A3 on the first page of the Appropriations Act, can you explain the concept of the basic operation cost which is defined there?

A Yes, Sir. The basic operation cost is that

cost which is determined as being necessary to having in hand to operate an educational program at the Standards of Quality level in the average community in Virginia. This is determined by the aggregate cost divided by the number of pupils to bring out a unit cost. And we have divided that into personnel costs which amounts to the majority of the sum and other instructional costs which make up all the other costs.

Q What ADM has the State Department of Education been using to interpret this section?

A Well, we divide the aggregate costs by the number of pupils there are during the year in which the cost was determined. In this case it was 71-72.

Q And in both years biennium?

A The cost, you see here, when this basic operation cost is determined, then it is revised for each year and an inflationary percentage is added to it to project it forward. So, you really establish the cost in effect in 71-72. I believe it was the year we divided here, and then we projected those costs forward with a percentage for inflation to bring it up to 74-75 and 75-76.

Q So, you are using a different ADM to interpret this section than the definition found in the section above?

A Yes. We kept it in the same year as the cost

came up.

Q Why did you not use the definition of ADM that is found in A-1 to interpret this Section?

A This appeared to be the logical way, the only logical way to determine unit costs for that particular year.

Q And why is that?

A Because you are dealing with total expenditures and you are dealing with the number of people for whom those total expenditures were utilized. So, if you want a unit cost, then it seemed logical to put them in the same unit.

Q Why can't you use current ADM to do that?

A You are talking about costs from one year related to a number which was not there during that particular year; in other words, going back to an earlier estimate which was made, if you want to know how much it costs to feed a family of four, then you divide the total cost by four. If the family then changes to three, you would not have a unit cost if you divide the cost of four by three.

Q Is the definition you used in ADM in Section Three also a different definition that you used for the composite index?

A Yes, Sir. It is from a different year.

Q So, as a matter of fact, you are using three

ADMs to interpret the Appropriations Act?

A Yes, Sir.

Q What input does the Department of Education receive in interpreting an Appropriations Act other than the Act itself?

A Do you mean what assistance we receive from other people in administration?

Q Yes.

A When we have questions, we normally will go to the budget office and talk the matter over. If they are available, we will talk to people in the Appropriations -- certain of those people on the Appropriations Committee staff -- but in the final analysis, of course, it is a decision we have to make. To give an example of that, the first year this biennium -- for example the sales tax that it was based on -- that the formula was based on -- was written in for the fiscal year in which the money was to be distributed. I suppose no one anticipated this but as we approached the end of the year, it became obvious that we couldn't distribute the money precisely because we did not know precisely how much sales tax each locality would receive until after the year was over. We had to take the iniative to the extent that we decided to estimate on the basis of peoples' receipts from sales tax for the first ten months.

We attempted to estimate what the total sales tax would be for the year and we went ahead and distributed the money in the last month of that year. But this meant that everything was an estimate and so we had to make a judgment in the subsequent year to correct that. In most cases the adjustments were very small because the estimates had been reasonably close, but this was an estimation that we had to make. Now, when the legislature came back into session during the next fiscal year, we pointed out this problem to them and they changed the language which allowed for the year of the sales tax to be listed as a calendar year rather than a fiscal year, and so we eliminated the problem in the second year.

Q As an Administrator, do you feel the Appropriations Act is a difficult Act to administer?

A Yes. It is a difficult Act to administer because you consistently run into things that could not be anticipated. For example, a 5% reduction became necessary this year because of economic adverse conditions during this past year. But if you look at the formula, it could be applied in at least one of three ways. The 5% reduction could be applied against the amount of money, which was $730.00 per pupil. It could be applied against the number of people in ADM, if you wanted to, or you could run the formula and apply it at the end. That is the method that we

utilized. But when you do computer runs -- on doing it in three different ways -- you have a different impact on the localities within the State determining which way you apply it the reduction. Now, this is an example and, of course, it has an affect on every school division in the State, but it is an example of what a simple Act such as the 5% Reduction Overall can get into in this formula.

Q Chesterfield alleges that because the 74-75, 75-76 ADM wasn't used in the composite index, it has been underpaid $398,820.00 for 74-75 and $718,677.00 for 75-76. In your opinion, in fact, to use the current ADM in determining the composite index to the last two years, would you agree with those figures?

A Yes. I would agree with the figures and those figures would indicate, of course, the amounts that would go to both Chesterfield and Richmond.

Q Did you re-compute the amounts of the 75-76 composite index figures used?

A Yes, Sir. In 1975-76 Chesterfield would have received --

SENATOR GRAY: Excuse me. Do these figures show up on the exhibits?

MR. HEFTY: Yes, on Exhibit Four.

SENATOR GRAY: On Exhibit Four?

MR. HEFTY: These are on Exhibit Four, correct.

THE WITNESS: Yes, Sir. They are on my copy, I think.

SENATOR GRAY: Okay.

BY MR. HEFTY: (Continuing)

Q If the Department of Education has run the figures, how much would Chesterfield get for 74-75 and 75-76?

A For 74-75, Chesterfield would receive $8,463,014.00, which would be an increase for them of $171,730.00. 75-76 they would receive $9,284,526.00 which would be an increase over what they were scheduled to receive under the original formula of $489,490.00.

MR. HEFTY: Do have any objections, Mr. Gray?

SENATOR GRAY: Excuse me?

MR. HEFTY: Do you have any objections?

SENATOR GRAY: No.

BY MR. HEFTY: (Continuing)

Q Those are not the same figures Chesterfield originally alleged in their complaint?

A No, Sir. These are figures that were calculated by the defendants when we calculated -- re-calculated the formula last for all the school divisions.

Q If you used the current ADM in the composite index, did you calculate how much Richmond would owe the State Department of Education?

A Yes, Sir. Richmond would have received $7,000,000.00 during 1974-75. Richmond would have received $7,579,824.00, which is $781,391.00 less than they were scheduled to receive under the original interpretation. During the second year, 1975-76 Richmond would have received $7,071,194.00, which would be $1,392,245.00 less than they were scheduled to receive under the original interpretation.

MR. HEFTY: Your Honor, do you have a copy of 75-76 or 74-75?

THE COURT: I have Exhibit Three.

MR. HEFTY: It is Exhibit Four. There should be two of them with that. 74-75 and 75-76, they go together.

THE COURT: Yes. 74-75 is Exhibit One, isn't it?

MR. HEFTY: Yes.

It is this language.

THE COURT: Yes, Sir, I have --

MR. HEFTY: Exhibit Four is where it is.

THE COURT: Exhibit Four, right.

MR. HEFTY: There should be two separate parts, 74-75 and 75-76. It is stapled in two groups.

SENATOR GRAY: Your Honor, second column, front page, it is headed 74-75.

THE COURT: I have 74-75 on the first page.

MR. HEFTY: There is another one, 75-76.

SENATOR GRAY: They're both the same exhibits.

MR. HEFTY: Yes. They are both Exhibit Four.

THE COURT: Remove that.

MR. HEFTY: Here it is.

THE COURT: They should be stapled together then, right?

MR. HEFTY: Yes.

BY MR. HEFTY: (Continuing)

Q We have deposited certain monies with the Court in excess of $2,000,000.00. Does the State Board have a claim to any of that amount regardlessof the outcome of this suit?

A Yes, Sir. The amount is in excess by the amount of $15,640.00. It was calculated hastily and on

checking the figures, we found that -- I'm not sure which, in Richmond's or Chesterfield's -- it was over-calculated by $15,640.00.

Q Why should that be paid back to the Department of Education?

A Well, it was not an entitlement by either of the localities. So if it is returned to the Department of Education, it would revert to the general fund monies unspent last year.

Q If the Court rules that the State aid was paid under an improper composite index formula, as Chesterfield alleges -- if Chesterfield's formula as to its composite index, as I said, claims such digital money, would more be owed to Richmond than that owed to Chesterfield?

A Well, actually, under the interpretation that has been brought up here by Chesterfield County, they would receive more money.

Q I'm sorry -- not with the composite index -- but with the 3,000 pupils who were originally credited to Chesterfield. If that distribution were in favor of Richmond and against Chesterfield, would Chesterfield have to pay more money than Richmond would get?

A Yes. The way the formula works, it would affect the composite index of both localities and the amount

of money would not be the same. In fact, if Chesterfield County's index were raised, it would mean that they would be entitled to $1,309,633.00 less during the biennium and Richmond would be entitled to $1,035,378.00 more during the biennium, which would mean that the State would receive $274,255.00, or the difference between those figures as a return.

Q Changing to the other part of the case, which is the 3,000 pupils who were credited to Chesterfield, who do you think the 3,000 pupils should be credited to for the last two years?

SENATOR GRAY: Objection.

THE COURT: Yes, objection sustained in that form. I think you can lay more foundation than that.

BY MR. HEFTY: (Continuing)

Q As the claim by Richmond against Chesterfield, what is that claim based -- or against the Department of Education?

A Well, the claim is based -- you go back here into March of 1971, at which time the composite index was put into effect, to become effective July of '74. The Department of Education knew this was a new formula, knew

the composite index was a new experience for the localities. We had a series of meetings around the State to explain the way the composite indexes were derived and the impact it would have on the funding. We had one final meeting at the Richmond Technical Institute, in which we presented information to each of the localities as to how their composite indexes were calculated, the figures that they were calculated from and the calculations themselves. Now, at that time, we requested that each locality would review its information, the information that we gave them, very carefully, and to notify us if there were changes that should be made. I point this out because the Department at that time -- we utilized the reports of ADM that had been made by the localities for 70-71. Now these were their figures, but they were unjumbled figures at that time. We knew that across the State, between many localities, there are pupils who are traded. By that, I mean, it may be more convenient for pupils who live in one County to go to schools in another County, and the second County would work out an arrangement whereby they were paid by the first County for the difference. But we do not maintain records on this as long as we pay per pupil cost to only one locality. We are not normally concerned with this. We did realize there could be an impact from this in the composite index. We asked the localities to respond to us

on this and we had a response from some 10 or 12 localities that, yes, they did have such arrangements. They did, in fact, affect the ADM figure. We investigated each case that was brought to us, checked with the other involved locality and made changes. We felt those changes were acceptable. Now, the general practice was to accept or to give a locality credit in its ADM for those pupils for whom they were paying the local costs. In other words, if you received students from another locality and educated them in your system, but the other locality paid your local cost, and you got your stated cost from the Department of Education, then our assumption was in ADM they belonged to the people who paid the local cost. So we made our revisions. There were a number of revisions at that time on those baises. We did not at that time hear from Richmond or Chesterfield. If we had, we would have investigated, in all probability, if it had been established at that time that Richmond was assuming the local cost, then we probably would have included them in Richmond ADM rather than Chesterfield.

Q Why would you do that?

A Because they were being paid for by Richmond, in that particular case, if they were indeed paying the local cost.

Q Now, again, we are talking about the composite

index rather than the distribution of ADM, in your opinion, to define A-1 in the Appropriations Act?

A Yes.

MR. HEFTY: No further questions.

THE COURT: All right. Gentlemen, it is 12:25. I believe we had decided to recess for lunch at this time. I expect cross-examination would take some time, won't it?

MR. MATTOX: I have very few questions.

SENATOR GRAY: Judge, while it's fresh in my mind, I would suggest we go on. They said they're not going to have many questions. We are not going to be too long.

THE COURT: Go ahead, counsel.

CROSS-EXAMINATION

BY MR. MATTOX:

Q Dr. Cochran, a moment ago you said you had a meeting at Technical Institute at Richmond?

A Yes.

Q Do you recall the date of that meeting?

A I believe it was March 13, 1974.

Q Was Mr. Wilkinson there, Public Instruction?

A Yes.

Q He was at that meeting and information was supplied to those that attended were represented by the school districts throughout the State?

A Yes. They were given the computer printouts that were issued at that time. They were given information relative to the calculation of the composite index and information as to what figures were used for the composite index.

Q In the calculation for the composite index, was it indicated that 1977 ADM was to be used?

A Yes.

Q Do you have any information -- do you know whether or not the Richmond School Board assumed the local cost for the 3,000 odd children that you referred to that were actually educated in Chesterfield schools in 1971?

A I have either asked nor received that information, personally.

Q But the State Board included those in the ADA; is that right?

A That's right. That is my understanding.

Q Did you have an opportunity to examine the 1977 forms that were required at that time to be filed by all school districts relative to ADA and ADM?

A Yes. That information came from the Superintendent's annual report.

Q Do you have anyreason to believe that either Chesterfield or Richmond did not fill out the forms as the instructions required?

A No, Sir, they were certified as being correct.

Q Did those forms include the tuition students?

A My memory is hazy on that subject but I believe the tuition students are provided in the final annual school report.

MR. MATTOX: A second, your Honor.

THE COURT: Yes, Sir.

(OFF THE RECORD DISCUSSION)

BY MR. MATTOX: (Continuing)

Q Dr. Cochran, could you get it at the lunch hour, a copy of the printout you referred to that was distributed to the various representatives of the school districts on March 13, 1974?

A Yes, Sir.

Q All right. If you could have that here after the break, I would appreciate it.

A Now, the computer printout will not show the exact figures that were introduced as evidence for two reasons: one being the fact that I believe we had gotten further information on sales tax at that time; and the second being that in the last hour or two of the legislative session, the year of the sales tax that was utilized was changed.

Q I understand --

A -- resulting in an impact on both State funds and local funds.

Q What I am really interested was ADM being used?

A ADM was being used for distribution of money.

Q But not any composite index?

A There was more than the printout given at that meeting. There was information given relative to the index calculation, also.

Q I just want to clarify -- it is your view that the ADM belongs to the school district that paid the local cost for education of the child?

SENATOR GRAY: I object, your Honor, please.

THE COURT: Objection sustained, unless he gives a basis for his opinion.

MR. RUDY: May it please the Court, he testified on that point. There was no objection. He

testified the ADM was credited with the tuition.

SENATOR GRAY: What he does I do not object to but what he thinks, I object to.

THE COURT: Sustained.

MR. MATTOX: I have no further questions, your Honor.

THE COURT: All right?

BY SENATOR GRAY:

Q Dr. Cochran, you have just said in reply to a question of Mr. Mattox, at the last moment of the legislature some changes came about that caused changes in the sales tax figure?

A Yes.

Q Did that change anything on Exhibit Four? -- not Exhibit Four, I'm sorry, on Exhibit One -- One and Two?

A Yes, Sir. It has an impact on those figures, yes.

Q You mean, those figures that the legislature relied on weren't what they finally relied on?

A Those figures were correct as given to the legislature at that time. Those figures what you are looking at, is a computer printout and it is a second part. Now, as

I indicated before, when you multiply the number of pupils you have in ADM by the unit cost, which for that year was $687.00, as I recall, you get a total net in order to offer Standards of Quality Education Program. From that total net is deducted the sales tax that is received by localities. The one cent that goes back to localities on the basis of school aid to children.

Q Yes?

A Now, after that is deducted, the remaining net is divided roughly on a 50/50 basis between the State and localities.

Q Yes?

A Now, what happened following our presentation of these figures to the Appropriations Committee -- and I understand it, in the final they made a slight change in the Operations Act concerning words to the effect that the sales tax for the year preceding that -- the effect of this was to utilize a sales tax which was $14,000,000.00 less Statewide than the whole formula had been built on. Now, theoretically, then, you increase the State's need for money for an Appropriation here, and the locality's need for an appropriation year by $7,000,000.00 each.

Q Did they appropriate that additional $14,000,000.00?

A No.

Q They made the change but didn't come up with the money? So they came up with a deficit?

A Yes.

Q They changed and didn't use the same year of sales tax that all the rest of the formula had been built on?

A That's right.

Q But it is your theory that all the figures should be of the same year?

A No, Sir. You are talking about -- there are two sales taxes referred to here. Now, the sales tax referred to in the composite index throughout is that goes back on the basis of where it is collected. It is utilized because it is an equalization factor. But the other sales tax, the one cent that goes back on the basis of how many school aid children you have, is a sales tax referred to here and that is one of the three components, final components, of this Basic School Aid Formula.

Q It is one of the basic things in the composite index?

A No, Sir. It is in the application of the index, but it is not a part of the composite index.

Q Well, it is one of the ways you determine how much money the home local gets to meet its needs?

A Yes, Sir. It has an affect.

Q It is not in the same year that all the other figures are?

A No, Sir. The next year following, they changed it back to the way it was before.

Q All right. But at least, then, these numbers that we came to -- finally appropriated -- are not sacrosanct, we built a deficit at the last minute?

A Yes.

Q You were asked when you made the distribution of the funds -- did you actually use the ADM -- as defined in the Appropriations Act -- and I believe you answered that "Correct?" your answer was "Yes, that you did?"

A The distribution of money?

Q Yes?

A Yes.

Q You answered that, as you distributed the money, you did it on the definition of ADM as defined in the Appropriations Act?

A That is correct -- well, that's -- we actually distributed the money on two bases -- on thebasis of what your composite index was and how many pupils you had during that current year.

Q When you tried to find out what the ADM for

a locality was in '74, did you have any difficulty with the definition in the Act?

A I'm not sure I understand your question.

Q How did you determine in 1974 -- how did you determine how many children you should credit the County with?

A We operate on an estimated basis from July until March.

Q Right?

A And as of March 31, which is the end of the seventh month, and they reported at that time how many actual pupils they had, then we adjust, so that the total payment was correct on that basis.

Q On the basis of that year's ADM?

A Yes.

Q Why do you use that year's ADM?

A Those are the children they have to deal with in that particular year.

Q Those are the children they have not met the expenses of?

A Yes.

Q Is there any law that tells you to do that?

A Yes. That is in the definition. It is in the Act.

Q That definition is in the Act?

A Yes.

Q Do you know, Doctor, how many times the term ADM is used in the program of the Appropriations Act?

A No, Sir. I know it is utilized in three places.

Q Well, how do you know which ADM to use in the various places in the Act? As I understand it from your testimony -- you have the Act in front of you -- will you get down to the third definition, "Basic Operating Cost." If you don't use ADM for the current year, why that calculation?

A No, Sir.

Q And the first time the material appears in the Act, after it is defined in the Act, you use something else?

A Yes.

Q And then you get down to the composite index and, of course, you don't use it there? Look down at the bottom of number four, definition number four. Which ADM did you use?

A The composite index would use 70-71.

Q You used 70-71 throughout the composite index?

A Yes.

Q Which ADM did you use in the Basic Operating Cost?

A The one for the year 71-72.

Q So, for the composite index, you used ADM for 70-71, right?

A Yes, Sir.

Q But for the Basic cost, you used 71-72 ADM?

A Right.

Q And for the distribution of funds, you used the 74-75 ADM?

A Yes, Sir. That gives it the current figure.

Q I see. Doctor, what part does basic cost play in the composite index; any at all?

A It is not a part of the composite index. The basic cost is the amount of money that you are going to fund per child.

Q Fund per child?

A Right.

Q The composite index determines your ability to pay that cost?

A That's right.

Q So what you have done, is taken what it costs in 71-72 and compared it with their ability to pay in 70-71?

A Well, what we have done is taken what it costs

in 71-72 and projected it to those costs forward to 74-75 and 75-76 by applying a percentage increase, which was an inflationary factor.

Q I think the reason you said you used 71-72 was because this was the best information you had?

A No, Sir.

Q Most recent you had, 71-72 for basic cost?

A At thattime those were the last exact costs figures that we had.

Q Would you look at Exhibit Number One please, Sir?

A Yes, Sir.

Q And look at column number two, and tell me what that is?

A Column number two is ADM, 67576.

Q What is column number three?

A 1974-75, Required Local Expenditure.

Q What are we looking at?

A I have something different --

Q I'm sorry, let's get on 74-75 estimate, please?

A All right.

Q Exhibit One, what is column three of that?

A It is the local expenditure for the preceding year.

Q Why isn't that the local cost for the preceding year?

A Well, you have two things here. You have what people are required to spend within the formula; in other words, the requirements of the formula; and then you have the actual expenditures. The reason we do this is to determine whether they are entitled to the maximum local increase provisions.

Q But at the time that you drew this up and ran through the computer, you knew what they had spent in 74-75, didn't you?

A No. The first runs of this prior to the budget, prior to the legislature arriving, are done on an estimated cost.

Q How about this one right here, what is it done on?

A At the time this was given out, I guess this was a final figure.

Q So, at that time you knew the actual 73-74 cost; is that right?

A Yes, Sir.

Q And at that time, on Exhibit Three, you actually knew these 74-75 costs; is that right?

A In all probability, yes.

Q So, you didn't use in the Basic Operating Cost -- you didn't use the best latest available information, you used the 71-72 figures; is that right?

A With an update.

Q With an estimate for an update?

A Right.

Q But you had actual figures on the computer?

A Well, not until the final estimation of this thing. You have to recall that a budget, a State budget, is documented -- involves over a period of about a year.

Q Since you had the 73-74 local expenditures, why couldn't you have used the 73-74 ADM?

A In what application?

Q In all applications, any application? Why do you have to go back to 71?

A We went back to '71 on the composite index because we did not have true value of real estate for a later year than that.

Q The true value of real estate that you have is not a current figure, is it?

A This is as current as the taxation department can give us.

Q But it is based on assessed value, which could be six years old in some cases; is that correct?

A I'm not prepared to answer that; I don't know.

Q You don't know? Doctor, would you look at Exhibit Number One and Exhibit Number Three and tell me if, I, as a legislator, looking at this, can find on here, anywhere, any reference to a 1971 ADM?

A No, Sir. In this computer printout, it does not appear.

Q The only ADM it shows on this computer printout is the years 74-75 ADM; is that right?

A Yes, Sir.

Q For 75-76, the only thing it shows is 75-76 ADM; is that correct?

A Right. This was not all of the information that was presented to the Appropriations Committee.

Q Now, is there anywhere else in this Act that ADM does not mean current ADM?

A You mean is there another application of it?

Q Yes. I mean, is there anywhere else in the Act you don't use what the legislature said ADM means?

A I don't believe it's referred to in another place, but it may be.

Q Well, when it talks about -- page 1357 -- it talks about additional incentive fund for $687.00 a year in the first year of the biennium, the second -- what is the

second year of the biennium?

A That would be 730.

Q Sir, $730.00? But which ADMdid you use in making that payment?

A We used the same ADM as it cost the year the costs were incurred, which was the current ADM and the current costs.

Q So, in that appropriation, you took the current cost for that year and the current ADM for that year?

A I might say the problem that is raised here, you can't determine this until after the year is finished.

Q How about under the item dealing with vocational program, which ADM did you apply there?

A Well, these are categorical programs, in that the amount of money a locality receives would depend on what programs they offer, how many people they have in each class, and that sort of thing.

Q But when you determine -- when you pay them additional payment for each pupil in ADM -- you use ADM of what year?

A The same year. The application is a basic part of the current year.

Q You use current year ADM for that?

A Just as you do for the cost.

Q Now, you talked about an item had to be added on to the budget to take care of the maximum local increase?

A Yes, Sir.

Q As I understand it, a locality is not going to be required to come up with so much if their increase is more than 7%, you'll give them help; is that in the formula?

A Well, anything of this kind will take away from its equalization, but the impact of this is to assist normally the poorer localities.

Q Very commendable, but it distorts the equalization formula?

A Once you have set equalization, anything that goes as a special payment will distort it to some degree.

Q The same is true of no loss provision?

A Yes, Sir.

Q So, there is nothing sacrosanct in the idea -- we have an equalization formula that has to work in rigid lines and you can't change one of the elements in it; am I correct?

A That is correct. Of course, this matter has been in litigation, you know, across the country. It is a matter of degree. I think people have judged -- I think Courts have judged on how much equalization you have; for example, if I pointed out there was a need, the affect of this

formula would improve it to about a two to one basis, so it sometimes doesn't reach true equalization.

Q When you figured out these cost figures on the basis of 71-72 figures, you said you talked about salaries -- teachers, that is one of the big items of cost?

A Yes, Sir.

Q Would you change in the ADM from one year to the next, the number of teachers you have to have?

A Well, what you do when you establish a cost is find out what the actual cost is, or should be, per pupil. Now, this is one reason that in projecting it forward, you put in an inflationary factor with it. This takes care, or hopefully takes care, of an increase in the salary range. Obviously, if you had more pupils, you would have to add more teachers.

Q This inflationary thing doesn't take care of increase in the number of students?

A No, Sir. We rely on that directly on the basis of current ADM.

Q But you do not change in cost per student?

A No.

Q And is the converse true if you are losing students, you would need less teachers?

A Yes, Sir, that should be true. It doesn't

always work out that way.

Q Doctor, a great deal of emphasis has been put on the fact that we are trying to figure out in the same year -- we have seen them change that is the sales tax a lot of things -- when you use the 70-71 ADM in the composite index, how many months of the calendar year 1971 got plugged into the formula?

A Well, there we took the '71 ADM. We used the ADM for the total year.

Q For the first seven months?

A No, Sir. It came from the appropriation. It came from the Superintendent's Annual Report.

Q Which was made up at what time?

A Made up in 70-72.

Q Made up a year later?

A Yes, Sir. Well, it's made up approximately six months later. You see, it's made up at the time of the final annual report, which is due in the Department of Education in September.

Q That is in the year you determine that average ADM for the whole preceding year?

A Yes, Sir.

Q Not for the first seven months?

A Well, at the time the Department changed from

using ADA or ADM from the total year to the first seven months, it was done because it was becoming increasingly difficult to make all your calculations following the closing of school in June and get the checks out before July 1. So, it was determined that there was not a significant difference between the ADM at the end of seven months and at the end of the year. So, there was an accommodation of that fact.

Q Now, you talk about these sales tax distribution of 74-75 funds based on the school age population. That is a part of the funds received by the locality that go into meeting a need for that year; is that right?

A That's right.

Q And when the locality gets its money under the sales tax, what school age population is used, the current year or 1971 year?

A That is based on the triannual census and this census is updated once during the three years. At that time we were using -- it would have been the '71 census which was taken in '71, '74, and '77.

Q But it doesn't necessarily have to be the same year as the ADM you use?

A No, Sir.

Q So, use a different factor than that?

A Yes.

Q Now, when you went to the legislature, all these original computations were made, I believe, the personnel income figures that were being used were the '69 personnel incomes, weren't they?

A Dr. Knapp testified to that, I believe. Of course, he provided them.

Q And he worked out a formula to use the '69 personnel incomes and the '71 true valuation, and so on?

A I believe he did that on a tentative basis for a period of a few months until it was available.

Q But you could use the formula without using the '69 -- happily, he got the '71 until the final Act was taken. It would go on to the '69 figure?

A I would think '69 was the latest figures he could take. The whole thing would be improved.

Q I think the whole thing would be improved including the '69 ADM?

A Yes, Sir.

Q All right, Sir. What relevance does the '69 ADM have to the cost of education in localities in 1974?

A Well, it has relevance to that locality's relationship to the other localities in the State of Virginia to each other as far as their relevance.

Q It had relevance in 1969 for that fact?

A Yes.

Q It may be totally irrelevant in 1974?

A Quite possibly.

Q Quite possibly. As a matter of fact, Doctor, in these new computer runouts, you ran on Defendant's Exhibit Number Four, it will show a rather substantial reduction in the amount of State aid Richmond would receive with the 1974 or 1975 ADM used; is that correct?

A That's correct.

Q But all of the other factors remain the same, do they not?

A Yes. We only change the one factor.

Q Change the one factor?

A Yes.

Q And conversely, there are many localities on here who would use more assistance?

A Yes.

Q So that the change in ADM very definitely affects the relationship of the locality's ability to pay, does it not?

A Well, if ADM changes and everything else stands still -- but the assumption has been made, I think, that if the number of pupils goes out, then the wealth factor goes up.

Q That is a fine assumption. Doctor, do you have the figures in it of composite index calculations for the current year biennium?

A Yes, Sir.

Q Would you tell me, please, if you have them, whether Richmond's taxable valuation have gone up or down?

A I'm sure they have gone up.

Q But their ADM has gone down?

A Yes. Which, in effect, will raise the composite index.

Q That means, they will have to put up more money locally?

A Yes.

Q And reduce the amount of State aid they get?

A Yes.

Q The assumption you made the ADM goes up when the valuation goes up, doesn't hold true, does it?

A No. Nothing of this kind holds true in every case.

Q You talked about the importance to the School Superintendent of knowing what his money was going to be?

A That's right.

Q Do you have a school Superintendent who lives in an area that is constantly increasing and rather drastically

increasing its ADM -- would it be better for him to know at one point in time that he is going to receive a small amount of money, or would it not be better for him to know later on he is going to get more money?

A As far as intelligent planning is concerned, he is better off in knowing those factors.

Q So he can do for the schoolroom, it would be better if he could get more money?

A I feel sure you can utilize dollars but if he doesn't know what those dollars are, he is fated not to spend them until he finds out whether they are coming.

Q Doctor, how soon after school opens, do school divisions in this State make their first report to the Department of Education as to their enrollments for the year?

A We receive one as of September 30.

Q So as of September 30, the School Superintendent who wants to know to determine what his population in every school division in the State is; at that time he can?

A Yes.

Q And that is not going to change drastically in the year?

A It has changed from 6 to 10,000 pupils.

Q For the whole State?

A Right.

Q How many students?

A Approximately a million and nine.

Q So you can make a pretty good estimate of what his ADM, or the State ADM could be at that point, couldn't he?

A I could figure his ADM -- he would not be able to figure his change in valuation if you only improve its ADM.

Q Just talking about ADM, he could have a pretty good picture of the Statewide ADM as of September 30?

A Yes.

Q Not until September?

A He would have to wait until he could get a good estimate in September.

Q You gave us a result of the defendant's difficulty with respect to the sales tax because you were supposed to distribute it on the basis of the fiscal year and obviously couldn't know until the fiscal year was over what the actual figures would be. You estimated what those figures would be and made allocation and then justified them later; is that right?

A Yes.

Q But, ultimately, you did what the legislature said to do? You did it on the basis of the sales tax for the fiscal year, did you not?

A Yes, Sir.

Q And you indicated some difficulties you got into in administration. You were told you made a different percent reduction. What was that? Who directed that?

A This was a reduction that occurred during this year, that came about because of the shortage of State revenue. It was applied to the Basic State School Aid Fund.

Q Where did the instructions come from to make this reduction?

A This came from the Governor's office.

Q Did he tell you to do ADM or reduce 5%?

A We were notified that the amount of money instead of being $403,000,000.00 would be $383,000,000.00 approximately; in other words, a $20,000,000.00 reduction.

Q While we are talking about that, Doctor, let me make certain -- on this Defendant's ExhibitFour, in the last column, there are some numbers that don't have it and then there are some numbers that appear to have a minus sign behind it. That minus sign behind it is a plus quantity, is it not?

A Yes.

Q Where it appears that $252,000.00, $572 dash, they would get an increase of that amount?

A That's right.

Q If there is no dash, that means a decrease of that amount?

A Yes, Sir.

Q And you will notice in column five, where it shows a change in the index -- so it prints inversely. Now, with respect to the figures concerning Chesterfield and Richmond, there are penciled in figures?

A Yes, Sir.

Q Now, I take it, correct me if I am wrong, that with respect to Chesterfield and Richmond, you have adjusted this computer printout to take care of the reductions required Statewide and these figures are prorata figures are 92.6 -- something percent -- all of the figures would have to be justified if you were trying to get the true figure for the whole State; is that right?

A That's right. All the other unjustified figures, they have not been prorated. When you run this and go above the amount of an appropriation, you have to go back and prorate it. We did prorate it for these two localities because they were the only two in question.

Q In the normal course of administering throughout

this litigation, if litigation in the administration of this, the number of students ultimately in ADM in the State had been more than the legislature estimated; in other words, if the figure calculated, that you were going to need more money than was appropriated, what do you do?

A We prorate all of them.

Q And the Act tells you to do that, does it not?

A Yes.

SENATOR GRAY: Excuse me, one moment?

THE COURT: Yes, Sir.

SENATOR GRAY: If your Honor, please, if we can reserve the right to recall the Doctor later on, we have no further questions.

THE COURT: Let me ask you this, to be sure I understand you -- the true concept of, or rather, the concept of a true composite index revision that all of the components have to be within the same period of time because if any one component is not of the same period, that would upset the whole concept?

THE WITNESS: Yes, Sir. It would tend to distort it, yes.

THE COURT: The information asked, if some of

the components were available to you later than 70-71, that the fly in the ointment was the question of the real estate value -- you have to relate back to 70-71 for your real estate valuation and that meant you have all the other components -- all the other components would have to relate back, so you have a distortion?

THE WITNESS: Yes, Sir. It ties it all back to the last year you can get the latest thing.

THE COURT: All right.

Any further? Mr. Mattox?

RECROSS EXAMINATION

BY MR. MATTOX:

Q Dr. Cochran, when an error has been made in underpayment or overpayment, for any reason, what does the Department do about it?

A Well, prior to the problem that we had with the sales tax, with the incentive fund, the practice was never to correct an error in the prior year. The reason for this is the money had been distributed and we had no funds to do it. But we still follow that if it required additional funds. I might give an example, we audit people's registers.

If those audits indicate that they have reported people in ADM who should not have been reported, and therefore we have overpaid them, then they pay us. We collect. But if they made errors the other way, which would require payment from us, we do not pay them. Now, we would offset. If they had errors both ways, we would utilize in their favor to offset some of those. We have not gone back to prior years to make payment.

Q When you say "prior years," do you mean one biennium or another?

A I mean to the same biennium.

Q Are you telling the Court that the Board makes no correction in, let's say, a school year 74-75, when they find an error to exist and make no correction for that in 75-76?

A Yes, Sir, other than the incentive payments, which has come in after the last couple of years. That one year of the sales tax, that's not been the practice of the Department.

Q So, that's been tough for them, hasn't it?

A It has been, yes.

Q If you overpay someone, he's lucky?

A No, Sir. We collect it, get it back.

Q You get it back? So you try to do what the

Act tells you to do?

A Yes.

Q If you underpay it's because you don't have the money; is that the reason?

A Yes.

SENATOR GRAY: I'm afraid, your Honor, that opened up more for me. That left me confused.

RECROSS EXAMINATION

BY SENATOR GRAY:

Q What has been your practice with respect to retroactively correcting ADMs?

A As I just stated, if the auditors find the ADM was in error, and that error meant the locality received additional State funds which they did not deserve, then we collect it from the locality.

Q If the locality underreported its ADM, the practice has been that they suffer from their underreport?

A Yes.

Q Now, Doctor, tell me -- and let's get away from the definition, from the book which tells you which ADM to use -- what is meant by the term Average Daily Membership?

A Well, it indicates -- it means the number of children who are enrolled in that school at a particular time.

Q The number of children who are enrolled in that school at that particular time?

A Yes.

Q Now, with respect to children in an annexed area, we have been talking here about 3,000 children, where were those children in ADM according to that definition?

A According to that definition, they were in school in Chesterfield County.

Q And they were in ADM in Chesterfield County; is that right?

A That's right.

Q Where in the Act does it say that you make an adjustment of the ADM because of annexation?

A Well, I have to go back to an earlier estimate to say what that ADM unit is determined of where the State dollars for that child goes. Now, when we get into --

Q I don't want to interrupt you before you finish, but please tell me where in the Act I can find this?

A I don't know that you are going to find the authority just in that Act. It is administration.

SENATOR GRAY: All right, I am through.

BY MR. MATTOX:

Q Doctor, will you explain to his Honor how a student can be an ADM in one system and an ADA in another system?

A Well, it would not happen -- now, it happened, -- it could, I guess. At this particular time, we were paying -- a unit of payment was ADA. Now, for that reason, the ADM was an unjustified figure. The ADA was justified because we wanted to make sure we paid the proper locality the unit cost for that child. Now, the reason we called the school divisions together, as we did, was to make -- the purpose was to correct the -- or adjust the ADM for those -- the way it should be adjusted at that time. Now, in a locality -- and I'll take Galax and Grayson County -- for years many of the students who live in Grayson County had attended school in Galax. Now, it has been cheaper for Grayson County to pay Galax so much per child than it would have been to build a school in that area. So, they have seen fit to continue this. Now, these children are really Grayson County's responsibility and Grayson County is paying whatever local costs is involved for those children they send to Galax. It is, in effect, a contract between two school

divisions, under which some of them handle the children. Now, in a place like the City of Fairfax or the City of Salem, both of those Cities are school divisions by law, by legal definition, but neither of them operate any schools. Now, for that reason, although it is the City of Fairfax or the City of Salem's responsibility to educate those children, they have chosen to pay a certain amount per pupil to the Counties to educate them. That is where the confusion arises, here, I think.

Q When you talk about ADM, it would appear Salem had no children in ADM because they had nobody attending their own schools. But, actually, they have responsibility for, I would assume, approximately 5,000 -- maybe 6,000 children. But they have chosen to discharge that responsibility by contracting with Roanoke County to pay for their education. In other words --

THE COURT: You mean ADA or ADM?

THE WITNESS: ADM in this case, now.

THE COURT: That is determined where the body actually is?

THE WITNESS: Well, in this case we give Salem credit for having 5 or 6,000 children in ADM although, they do not run them in their own schools.

THE COURT: So, in the report for 1977 made by Salem and Fairfax, they reported ADA, did they not?

THE WITNESS: Yes, Sir.

THE COURT: But they did not report any ADM, did they?

THE WITNESS: I'd have to go back and look at that. Salem was still a town in 70-71. They may have become a City at that point. We do it one of two ways. As long as we pay ADM on the child one time and as long as the two school divisions are agreed to it, it does not matter to us whether the payment goes to the County or to the City. If it goes to the City, in a case such as we've indicated, then it would subsequently go from the City to the County and the City would add to that estimate payment for ADM and an extra amount for whatever their cost was.

MR. MATTOX: Your Honor, I hand you a book --

BY MR. MATTOX: (Continuing)

Q Doctor, would you please identify it for the record, not as an exhibit, 1970-71 Annual Report? Will you turn to page 5, please, and read to his Honor what is on

that chart, that is, chart table number 56 indicated number of days taught, average daily attendance? Look at Fairfax City, what does that table show?

A For Fairfax City, it does not show any number of days taught, any pupils in average daily membership or in average daily attendance. There is no percentage of attendance. It shows ADA was used to determine cost of operation per pupil. It shows a figure of $1,184.00.

Q So that's all?

A Excuse me -- $5,542.00.

Q So, as reported to the State Board for 1970-71, Fairfax City had no students in the ADM?

A Yes, Sir.

Q But they had students in ADA?

A Well, they were entitled to a State payment for X number of children.

Q In ADA in 1971?

A Yes.

Q Now, what did you do in 1974, when the Act required that students be paid on ADM for 1970-71?

A Well, I don't remember specifically that case, but we operated pretty much the same. If the County and the City had an agreement, a contract, and the City said go ahead and send ADM payment to Fairfax County, then we sent it to

Fairfax County, and they would have reported no pupils at that point.

Q In any event the State Board had to make an adjustment between the County and the City?

A Yes, Sir.

Q As far as ADM and ADA were concerned, that didn't involve an annexation difficulty?

A No, Sir.

Q Doctor, what happens where the children go to the City's schools, and vice versa, what happens to the payment that the State makes?

A Well, as I indicated, we were willing to send the payment to the treasury of either locality as long as there is an agreement on it.

Q Suppose there is no agreement?

A Well, if there is no agreement, we send it where the responsibility -- well, I don't know. You have raised a question which I don't think we have ever encountered.

Q That's the ADA you send it to, right?

A In a case you brought up -- a case where if there were no agreement -- I can't conceive why a school system would accept somebody else's pupils if they were not told in advance they were going to receive payment for it. I can't conceive a situation of that kind.

Q You can't answer the question, who you would pay, then? Let's say that five students from Richmond go to Chesterfield County and Richmond won't pay Chesterfield County?

SENATOR GRAY: I object. I think you are getting into his personal opinion. He can state what he has done in a case in the past but not what he would do in the future.

THE COURT: That is well taken. I think he has indicated he doesn't know what he would do under those circumstances.

BY MR. MATTOX: (Continuing)

Q Doctor, have you a composite index for Fairfax City?

A With just the number of pupils that live in Fairfax City and who attend Fairfax County school.

Q You just automatically send an ADM?

A You use that.

Q From that case, as far as your memory serves, ADA and ADM are interchangeable?

A We would, to get ADM from Fairfax County, I suppose Fairfax City would get it from Fairfax County.

MR. MATTOX: Thank you. That's all I have, your Honor.

BY SENATOR GRAY:

Q Now, Dr. Cochran, as I understand, the administrative practice has been with respect to the tuition students, localities agree in advance, you send your children to us and you can count them as being in your ADM. You talked at some length about the importance of a Superintendent knowing in advance what his index is going to be and what his funds were going to be. What affect does it have on the operation of a school, if you find out in the final month of the fiscal year, someone is claiming there should be a substantial adjustment in his ADM?

A If it is substantial, that would be a disruptive thing budgetarily because this would be translated to his receipts of funds from the State, and if he counted on them and didn't get them, he would have a problem.

Q Is that part of the reason the Department has said these adjustments are made in agreement in advance?

A Yes. We are talking here about an adjustment only where the check goes. There is no obligation on one locality to accept students from another locality unless the Court involved --

Q Finally, Doctor, we have talked a lot about what a legislator had to look at and what the committees were acting upon, we have established the fact that on the exhibits that were put before the Court, only indices -- composite ADMs -- excuse me, ADMs that appear on that were current year's ADM 74-75 for '76?

A That is when distribution is made.

Q When the formula was calculated and the legislators were told how they were being calculated, could each of them find out what the actual ADM for his locality was, the 70-71 ADM?

A Yes.

Q And when the Richmond legislator looked at that, did he look at it unadjusted or adjusted for the annexation figure?

A He looked at it unadjusted.

Q When the Chesterfield legislator looked at it, did he look at it adjusted or unadjusted?

A They were all unadjusted.

Q When he looked at the dollars his locality was expected to get under this formula, he looked at dollars calculated on an unadjusted ADM; is that correct?

A Yes, Sir.

SENATOR GRAY: No further questions.

MR. MATTOX: I have a couple, your Honor.

THE COURT: Yes.

BY MR. MATTOX:

Q In the Appropriations Act, as ADM is defined in the Act, does it say anyplace about the number of students on the rolls at a particular time?

A As I recall it, no.

Q Look at A-1, and see if there is anything in there about that?

A The definition of Average Daily Membership ADM, average day of membership for the first seven months for an equivalent period of that school year in which State funds are distributed from this Appropriation.

Q So, in the Act, it doesn't say anything about the number of students on the rolls?

A No.

Q In defining ADM, if you were explaining in terms of where they were going to school, how would you explain the ADM for the purposes of where you were allocating students?

A Well, the way I would explain it, it would be the number of pupils for whom they have educational

responsibility this year. And those children -- unless they have some sort of agreement or contract with some other school division, then those children will appear on their own rolls. But if there were some agreement of that kind, then they will be somewhere else.

Q Doctor, if you look at the Appropriations Act on page 1356, under number five, would you read the first sentence of the third paragraph?

A You said number five?

Q Yes.

A 1358?

Q Correct. The first sentence of the third paragraph.

A Any sum --

Q No.

A In any event --

Q Yes.

A In any event --

Q The next. Third, under number five.

A The State Board of Education shall make equitable adjustments in the computations of indexes of wealth for localities affected by annexation, unless a Court of competent jurisdiction makes such adjustment. Also, the true valuation applied for a locality shall include the true

value of any real estate donated by private company to the locality in the calendar year 1972. If the true value of such donation exceeded one-half of the total true valuation of real estate and public service corporation's property reported for the locality in the calendar year 1971.

Q Did you make the statement that the Board of Education made an adjustment as a result of annexation?

A Yes. We made several adjustments of annexation.

Q In 74-75 was Richmond's composite index figured by using 71 valuation of land in the annexation area?

A Yes.

Q And in the other formula of composite index ADM?

A Yes. All those other factors were adjusted.

Q What would be the effect of not including the ADM when you have adjusted the rest of the figures?

A Well, the effect is to use a different divisor than you had. It would raise the index in the locality in which you used -- in which you were not credited with the pupils and it would lower it in the place that was credited with the pupils, which means the people with the higher index would get less State money and the people in the lower index

would get more State money.

THE COURT: Dr. Cochran, suppose you had County A and County B and suppose the number of pupils in County B were actually being taken care of in the schools in County A, but there is no contract -- you may have answered this before but I am not sure I am clear on it -- suppose your department knew of that situation, if you will -- well, of the true facts, when it came to the time for payment, did you pay to County B, whose pupils were taken care of in County A because there was no contract, although you knew the pupils were actually being educated in County A?

THE WITNESS: In all probability, your Honor, we would pay the people who were educating the children. But the problem, you know, that I have in understanding this question is, I can't imagine one County assuming those costs, because there is always local costs in excess of payment, you see, and I just can't conceive of one County accepting another County's obligation, and discharging that obligation, and asking for no compensation.

THE COURT: I guess that gets back to the

question of your objection. It never happened.

SENATOR GRAY: I have one further question.

BY SENATOR GRAY:

Q Is ADM an index of wealth?

A No, Sir. It's one of five factors that is utilized in a composite index, but only three of those -- three factors are indexes of wealth.

Q So, the matter that you read, that the State Board may make equitable adjustments in computation of indexes, as well, does not include adjustments in ADM; does it?

A Let me qualify that to this extent: if you have got an X number of dollars in value and you have more people to provide for with those dollars, then it has quite an impact on that wealth. Now, you're changing -- see, you are dealing here with a unit cost.

Q You're not getting on my side.

A I don't have a side.

Q You don't want to say the ADM for that particular year ought to be used to compute this thing?

A No. I think it would distort it.

Q Look at your definition of composite index now, and tell me what in there are indices of wealth?

A You want me to read the entire thing?

Q No, just tell me what are the indices of wealth in there?

A The index says the sum of one-third is the index of wealth per pupil. That is simply converting wealth to a unit value of wealth.

Q What are the indices of wealth?

A The indices of wealth are determined by combining the following constituents --

MR. RYLAND: Your Honor, I think I have to object to this. The Section speaks for itself and I don't see any point in his reading from it.

THE COURT: He has been testifying all morning that in actuality what he does is what his Department does. I will overrule the objection. Go ahead.

THE WITNESS: All right. The indexes of wealth are determined by combining the following constituents 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 1971 - 50%; (2) individual income level for the calendar year 1971 as determined by Tayloe Murphy Institute at the

University of Virginia - 40%; (3) the sales for the calendar year 1971 which are subject to the State general sales and use tax - 10%. Each constituent index element for a locality is its sum per ADM no periods, or per capita, expressed as a percentage of the State average per ADM, or per capita for the same element.

BY SENATOR GRAY: (Continuing)

Q In indexes, as well, are real estate value, sales tax value, personal income in indexes; is that right?

A Those are the measures of wealth, yes.

Q All added together give you the index of wealth?

A Relative to the number of children and the population.

Q Does the index of wealth have anything to do with ADM?

A I don't see how you can count it as index of wealth if you don't convert to it what has been done with the wealth.

Q You don't see how a man's income is without determining how much he has to spend?

A Well, if you want to relate his affluence to

somebody elses, then you would determine -- you need to know what he needs to do with it.

Q All I am trying to get is, now that you have read -- if you can adjust the indices of wealth. All I am trying to get is for you to agree with me that ADM is not an index of wealth, it may be an index of cost relative to index of wealth as far as ability is concerned, but ADM is not an index of wealth; is that right?

A I do not consider it as an index but, rather, as a measure in this composite index.

SENATOR GRAY: No further questions.

THE COURT: Does anyone else have anything?

MR. HEFTY: That is all.

MR. MATTOX: Nothing.

THE COURT: Thank you, Dr. Cochran.

What do you want to do about the time?

SENATOR GRAY: 3:30 will be all right.

THE COURT: 3:30, if it's an agreeable time.

MR. MATTOX: I inquire as to the next witness. We still have Mr. Lemon someplace.

MR. RYLAND: We have no further witnesses. We can break for the convenience of counsel.

MR. MATTOX: I think, your Honor, we can

finish this afternoon, then.

THE COURT: We will put Mr. Lemmon on right after lunch.

MR. MATTOX: 3:30, then.

NOTE: There was a lunch break until 3:30 p.m.

WILLARD L. LEMMON, being first duly sworn, deposes and says, as follows:

DIRECT EXAMINATION

BY MR. EDWARDS:

Q Mr. Lemmon, will you state your name, please, and what is your residence?

A Willard L. Lemmon. I live in Marion, Virginia.

Q Mr. Lemmon, this case involves an Act of the assembly in 1971, with respect to the distribution by the State of Basic School Aid Funds for the various school divisions. Were you in the General Assembly at the time this 1974 Appropriations Act was adopted?

A I was.

Q How long have you been in the assembly?

A Since January, 1968.

Q January, 1968?

A Yes, Sir.

Q What are your committee assignments?

A I am a member of the Appropriations Committee, I am a member both in the House Education Committee and in the House Appropriations Committee and Mining and Mineral Resources.

Q As a member of the Appropriations Committee, was anything, was any specific assignment given regarding the Appropriations Act of the 1974 session?

A Yes, Sir. I was made chairman of the committee -- of the Appropriations Committee to look into the total school funding but, particularly, to look into that part that has to do with the funding Standards of Quality of the Basic School Funds.

Q Now, as a part of that assignment, were there any hearings -- let me ask you -- what part did you play in the Basic School assignment and in the distribution and appropriation of money as related to the schools in the State?

A To the schools in the State?

Q Yes?

A Well, I'm not certain I understand the question. I was chairman of the sub-committee of the Appropriations Committee. Prior to that I have been a member of the Task Force that drew up the suggestions for the new school formula. During my term on the assembly, I was chairman of the sub-committee on student funding.

Q Now, we have testimony in this case from Dr. Knapp, of the University of Virginia and Mr. Brown, Economist. There are employed in the State Department. You are familiar with those two, is that right?

A Yes, I am.

Q Were you on the Task Force Committee that Governor Holton had appointed to look into this matter?

A Yes, I was.

Q What explanation, if any, was given to you, and to your committee, with respect to this change in the method of distribution from ADA, which had changed from 1970 up until 1974 to ADM?

SENATOR GRAY: I object. That is hearsey.

MR. EDWARDS: I'm simply asking him what came before the committee with referecne to these changes.

THE COURT: You can ask him. I thought the question was, what was told him?

MR. EDWARDS: I beg your pardon?

THE COURT: I thought the question was, what had been told him?

I think you can ask him the things that the sub-committee considered or the Task Force considered.

MR. EDWARDS: I withdraw the question.

BY MR. EDWARDS: (Continuing)

Q What did the Appropriations Committee consider in making the Basic School Aid distribution law in the 1974 session?

A The entire law or the ADM?

Q Just the ADM changes?

A It was the feeling of the Task Force and the Appropriations Committee agreed with that feeling, that various school divisions have to be proposed for a total membership and we felt it was a much fairer way to fund on the basis of total membership which could or could not take advantage of schooling rather than actually daily attendance. So we went to ADM for better planning, for those eligible to go to those schools.

Q What year did you use for the ADM as far as related to the composite index to determine the ability, the financial ability, to pay?

A Well, speaking first of the Task Force, the Task Force was looking for a formula and did not specifically go into years. We were trying to propose a formula -- that sort of thing -- so we did not go into specific years. When the State Board of Education in effect adopted the report of the Task Force and when they suggested to the Governor that the new formula, as proposed by the Task Force, become a part of his budget program, that part of the budget having to do with schools, the State Board of Education used the year 1971 for all of the components. The government made the composite index, the Appropriations Committee accepted that proposition, and the House later accepted it.

BY MR. RUDY:

Q Now, there has been introduced into evidence here by Mr. Brown, a diagram relating to how the composite index was set up. I hand you the first two pages which purports to be a part of the presentation to your committee as testified to here by Mr. Brown. There is a reference to County of Wise?

A The new school funding formula was a very complex thing and any number of questions constantly arose as to just what is meant, how it worked, and this sort of thing. All of the members of the Appropriations Committee

were trying their best to understand this new formula. As a result of this, the Appropriations Committee specifically asked Mr. Brown to prepare an example of exactly how the formula would work for one particular County. He chose Wise County to make that presentation.

MR. RUDY: If it please the Court, I want to offer that as an exhibit. I think it's five.

THE COURT: Plaintiff's Exhibit Five.

NOTE: The above referred to document was marked as Plaintiff's Exhibit Five for identification.

THE COURT: Have you seen this?

SENATOR GRAY: I have seen it, your Honor. I would like to object to it at this point.

MR. RUDY: I cite as authority '73 Am Jur 2nd, Statute 174. The testimony is as to whattook place and as to what was looked at by the committee is not admissible where the Statute is unclear and unambiguous.

THE COURT: That is the same objection. There is an objection to this entire line of questioning.

SENATOR GRAY: I would like to state the

State's specific objection on the ground that the opinions of individual legislators as to the meaning of the statute is immaterial. The Court should not listen to the opinion of one legislator as to what was intended by all legislators. It would open the door for 195 legislators to testify.

THE COURT: That's assuming there is no ambiguity.

SENATOR GRAY: It doesn't matter whether it is ambiguous or not. It is peculiar that one particular legislator -- because there is no proof that the other legislators felt the same thing about this matter.

THE COURT: All right. I will overrule the objection. I didn't understand that to be the law when there was an ambiguity, but you may be correct. I will overrule the objection at this point.

BY MR. RUDY: (Continuing)

Q Mr. Lemmon, will you explain the exhibit as you understood it, that is before you?

A Yes, Sir. As relates to Wise County or the entire State?

Q Yes.

A All right. Of course, to understand Wise County, you have to look at the first two pages to see the written, sort of, the verbalizing of the formula. What this basically does is that the County of Wise does use the information, verbalizing of the formula, to try to work this situation out. I think the two things that would be important is if you look about the middle of the page -- not quite the middle of the page -- in a bracket, you will see a figure 9,287. That would be the ADM of Wise County.

Q For what year?

A 1971.

Q Right?

A If you look at the figure below that, a million sixty-seven thousand nine hundred and ninety-six, that was the ADM for the State, as a whole, for the year 1971.

Q Is that the ADM year, 1971, that the committee used in making the appropriation?

A We used the formula as it had been drawn by the State Board, using the 1971 ADM.

Q For the composite index?

A Yes.

Q Now, were calculations made using the formula of composite index of 1970-71 to show the committee or the

members of their legislature how much money they would get under that formula?

A Yes. As you can well imagine, this was such a new thing and so complicated that there were many times when new ideas were thrown out. So, I don't know how many printouts had been made. The computer had been programed with certain basic information and by changing dollar figures, something like this to mean a change in each school division allocation. So we had a number of printouts which came to us itself. We were even considering the possibility of a change in dollar amounts in the formula. To my memory, there was never a suggestion of a change in the formula, itself, only the dollar amount.

Q Were you given printouts?

A We were given printouts, yes.

Q Did you see the composite formula?

A Well, the entire formula, yes, Sir.

Q Was a change ever made with respect to the ADM at any time in the year 1970-71?

A No, Sir.

Q What part, if any, did this information play in the committee fixing an amount for the Appropriation year, the first and second year of the biennium for the Basic School Aid?

SENATOR GRAY: Objection, your Honor. I don't believe he can testify to what part this played in the committee's action.

THE COURT: Well, he was a member of the committee.

SENATOR GRAY: I don't believe he can testify as to the committee's actions.

THE COURT: Was he a member of the committee?

SENATOR GRAY: Yes, Sir.

THE COURT: I think he could. I will overrule the objection. Go ahead.

THE WITNESS: Well, the committee first of all, in effect, adopted the formula in theory. Then the question was to fit the dollars in the formula. But once the formula in theory is adopted, then the only thing you do from then on is the question of how much money you have got to put in. What I am trying to say is, the Appropriations Committee suggested to the Floor of the House that the formula as shown in the printout, which I understand has been introduced in evidence, be adopted. And that formula which they passed out to all the House of Delegates on the day we argued that, that printout resulted from the formula being in the machine. The formula which we

accepted, theoretically -- I don't know if that answers the question?

BY MR. RUDY: (Continuing)

Q And you handled the matter, this Section of the Appropriation Act, dealing with this Basic School Aid Fund, you handled this as spokesman of the committee on the Floor of the House?

A Yes, Sir.

Q Did you explain what had taken place before your committee and the amounts that were used?

A Yes, Sir.

Q Was each member of the House given a copy of how it would affect that particular committee?

A Yes, Sir.

THE COURT: Cross-examination, Mr. Hefty?

MR. HEFTY: I have none.

SENATOR GRAY: I have a couple.

THE COURT: Yes.

CROSS-EXAMINATION

BY SENATOR GRAY:

Q Bill, you have a copy --

A Yes.

Q Would you read a definition, Average Daily Membership, the first definition in that on the basis of the School Aid Fund?

A Yes. The definition, number one, reads: Average Daily Membership or ADM. The Average Daily Membership for the first seven (7) months (or equivalent.) of the school year in which state funds are distributed from this appropriation.

Q Now, would you look at the composite index definition?

A It says: The composite one-third, the sum per pupil in ADM.

Q What does that mean?

A I can only tell what it means to me. Being a non-lawyer, I will let the lawyers argue about the rest. I consider definition one, a definition. Definition three is a definition. Definition four is a definition. I consider definition four as a definition. However, we arrived at a composite index of local ability to pay.

Q How did you arrive at that when ADM means

definition four?

A The term is there, ADM.

Q Don't you look at number one as that being what you said that meant?

A As I say, not being a lawyer, I would consider them separate definitions.

Q Where did you get the definition of ADM in number four?

A Certainly. Where I got it -- all of the work I did on it was based on the printouts which were based on 1971. It would be an almost impossible situation to use the current year.

Q All right, Bill.

A I couldn't have a formula here.

Q Look at the printout, Defendant Exhibit Four, which was handed to the committee, as I understand, the legislature, to tell them about the amounts of money they are going to receive. I'm sorry, it's Exhibit Number Three.

Look at that, if you would, please. It talks about ADM, what ADM does it refer to in column two?

A In that particular column, it refers to ADM in the school year. That is the basis on which the money is apportioned. It is a basis of the formula.

Q Is there anything there that tells a different

ADM is being used in the formula?

A I don't believe that is in the printout.

Q Now, going back to the exhibit you had about Wise County, the figure you used -- you have that exhibit with you?

A Yes.

Q I don't seem to be able to find my copy. I have to look over your shoulder for a moment.

Does that tell you what year ADM you used?

A The exhibit was given to us as a whole. And if you will notice on page 2, it says: Date for the school year 1970-71 was compiled by the Board of Education, the statistics here in 1971, it goes on to say --

Q Well, let's talk about the other population. In other words, when you looked at the exhibit as a whole, you found 1971?

Would you look at the definition of Basic Operating Cost, which was number three definition?

A Yes.

Q Which ADM would you use in that one?

A That would be the school year for which you are apportioning the money.

Q Were you surprised to learn the Board of Education thinks that's a third ADM, that's 71-72?

A I will read it very quickly.

MR. MATTOX: 71-72.

THE WITNESS: I wasn't aware that the State Board considered that another ADM.

BY SENATOR GRAY: (Continuing)

Q Do you think it unreasonable for a member of the legislature, looking at this Act, trying to keep up with what is going on -- he reads the composite index which is a brand new thing and wants to know how it is going to affect his locality. He has got a growing locality and he reads this, he is going to use ADM as a basis. I wonder if they are going to have it updated? He says, we're going to use ADM and I wonder which one -- I see it's defined here on the first page. He reads the definition on the first page and he finds it says current ADM.

Would you think it is unreasonable for him to think that?

A What he is interested in is the apportioned amount of the money.

Q The composite index makes a big difference too?

A Yes.

Q When he reads the composite index in using ADM, and then turns to the very Act to find the definition of ADM, the current usage of ADM, is it unreasonable he thinks that that's what is being done then?

A To me, it would be unreasonable if he thought about it because it would be improper to have a formula based on the current year. A school division signs all its contracts in July or before the school year starts in September. If the school division didn't know until the composite index worked out, if he didn't know what the index was or funding was, I don't think he could operate.

Q What did you do about the sales tax you paid him, wait until the end of the year to let him know the sales tax?

A We did that for one year. It didn't work out.

Q Isn't it true, in September of that year, they could find out pretty close to what their ADM or what the State ADM is going to be?

A I can't give you the answer of that. I would doubt it or we wouldn't use seven months period. We could use the first of the year ADM if they knew that closely. As a practical matter, you have to have figures you can look at retrospectively rather than an unknown quantity.

Q Do you have to have figures that are five years

old?

A My understanding is the committee had a long debate over whether to use different years for income, sales tax and property tax. The committee came to the conclusion that the years should all be the same. It would prevent statistical aberrations. There was question on that and we decided they should all be the same.

Q But there is nowhere where I can read in this Act that tells me the ADM in a composite index is a different one, can I?

A I have -- in just reviewing it this morning, I have not found any, no.

Q Nowhere can I find ADM composite index means something different?

A This is true. I was looking real closely earlier today and neither can I find the Statewide ADM in here. In other words, we were relying on the printouts for the Statewide figure. We were relying on the printouts for certain information that didn't actually get into the Act.

Q Now, looking at what you have in the Bill, if I wanted to amend this Act to provide in that formula that the composite index would be 1974 index, what would I have to use in the language to say that?

A To make it say '74?

Q Yes?

A I would guess that right after the parenthesis and the semi-colon on the fifth line, that it would be specifically spelled out that it meant '74.

Q Go back and look at the definition of ADM in the first page. That one definition. If I wanted to amend this Act what do I have to do?

A Well, as I mentioned earlier, there are things that are in the printouts and in the formula in the IBM machine, if you will, that are not in the Act.

Q Yes, Sir?

A We used the printouts. It said 1971. I'll be completely honest with you, we ought to specify it.

Q You really think it ought to be changed?

A It probably should be.

Q But the citizens in Virginia who are interested in education and how it is being funded, they don't have access to the computer. They have access to the Acts. How do they know, in order to get you to amend this law, that ADM composite index paid a current ADM? Well, they read it, don't they think it is a current ADM?

A I can't say for the average person. I don't know what the others think.

Q There is nothing in the Act that tells them

ADM is anything but the current ADM?

A I agree with that.

SENATOR GRAY: No further questions.

THE COURT: Mr. Ryland, have you any more questions?

BY MR. RYLAND:

Q Mr. Lemmon, is it your testimony that the 1970-71 year was used to calculate the appropriation which appears in that Act?

A Yes, it was.

Q Exhibit One, to which we just made reference --

A Yes, that --

Q Is that the printout which was given to the legislators when the Act was discussed?

A I'm almost positive it is. It is dated 3/3/74. To the best of my memory, that is it.

Q Does that show a dollar figure from each locality -- that will show how much each locality will receive?

A Yes, it does.

Q Was 1970-71 used to calculate that dollar amount?

A Yes, it was.

MR. RYLAND: All right, Sir, thank you.

THE COURT: Anything further?

MR. MATTOX: Call Dr. Tyler.

DR. JAMES W. TYLER, called as a witness by the complainant, being first duly sworn, deposes and says, as follows:

DIRECT EXAMINATION

BY MR. MATTOX:

Q Will you please state your name, address and age for the record?

A My name is James W. Tyler, I live in the City of Richmond, and I am fifty-four years old.

Q What is your present position and assignment?

A I am Deputy Superintendent of Schools of the City of Richmond.

Q Dr. Tyler, I hand you a letter dated January 26, 1976, from Dr. Little.

MR. MATTOX: Your Honor, this is for the purpose of identification. These letters are all attached to the Bill of Complaint but haven't been put in the record as such.

BY MR. MATTOX: (Continuing)

Q Will you explain to His Honor what those letters represent?

A Your Honor, this letter of January 26, 1976 from Dr. Little, who was then Superintendent of Schools in the City of Richmond, requests the State Superintendent of Public Instruction to adjust the composite index for the City of Richmond, based on incorrect ADM figures that were used for the years 1970-71. It has three attachments, a letter from Mr. Adams to Dr. Kelly, who was Superintendent of Schools in Chesterfield County at that time. Attached is an enclosure with that letter giving some information regarding the cost, and on page 4, the number of pupils enrolled in ADM and ADA in City Schools that were residents of Chesterfield County.

MR. MATTOX: Your Honor, we offer that exhibit as Number Six, please.

THE COURT: All right, Sir.

NOTE: The above entitled document was marked and filed Complainant's Number Six.

THE COURT: Mr. Rudy, have you seen this?

MR. RUDY: Yes, Your Honor.

THE COURT: Mr. Gray?

SENATOR GRAY: Yes, no objection.

BY MR. MATTOX: (Continuing)

Q Now, we have a letter dated March 16, 1976, from Dr. Campbell to Dr. Hunter.

A Yes. This is a letter from the Superintendent of Schools to the State Superintendent of Public Instruction about the same matter, with four enclosures, calling attention to the same problem.

MR. MATTOX: Your Honor, I offer these exhibits as Number Seven.

THE COURT: All right.

NOTE: The above entitled documents were marked and filed as Complainant's Seven.

BY MR.MATTOX: (Continuing)

Q I hand you letter dated May 19, 1976, from Dr. Hunter to Dr. Campbell; can you identify this?

A Yes, this is letter from Dr. Hunter to Dr. Campbell, requesting an adjustment in the composite index.

MR. MATTOX: Your Honor, I offer that as Exhibit Number Eight.

THE COURT: All right.

NOTE: The above entitled document is marked and filed as Complainant's Number Eight.

BY MR. MATTOX: (Continuing)

Q Dr. Tyler, in the State Board of Education's answer to the City's petition -- the City's Bill of Complaint, rather -- they calculate that the City has been underpaid $1,071,391.00. Do you agree with that figure?

A Yes, we do.

Q Dr. Tyler, how many payments did the City School Board receive from the State Board in your school year 1974-75?

A 11 Payments.

Q How many have you received in the school year 74-76?

A 10.

Q Where is the 11th payment?

A It is my understanding it is being held by the Court in escrow.

Q Dr. Tyler, who had the responsibility for the education of all of the children within the area annexation from Chesterfield County, January 1, 1970?

A The City of Richmond.

Q Was there any agreement between the School Board of the City of Richmond and the School Board of Chesterfield County relative to who would get credit for the school children that were the responsibility of the City who were educated in the County as far as ADM is concerned?

A Yes, Sir, there was.

Q Would you give it to His Honor, please?

A The agreement was that the school division where the children resided would receive the payment on the basis of ADA for those children, it was --

SENATOR GRAY: Excuse me, Dr. Tyler, the question was whether there was an agreement with ADM?

THE WITNESS: There was an agreement with ADA. There was no agreement with ADM.

SENATOR GRAY: What was the agreement on ADA?

THE WITNESS: The agreement on ADA was that the school division wherein the children resided would receive the State aid for those youngsters.

BY MR. MATTOX: (Continuing)

Q Dr. Tyler, has the State Board of Education adjusted any payments to the School Board of the City of Richmond in the fiscal year 1975-76 for errors that occurred in 1974-75?

A Yes, Sir, they have.

Q Where were the adjustments made?

SENATOR GRAY: Objection. It's immaterial. If it is not an adjustment of ADM, it's immaterial to the proceedings.

THE COURT: I will overrule.

Go ahead.

BY MR. MATTOX: (Continuing)

Q Was an adjustment made?

A Yes, Sir. The net amount, as I recall, was $8,000.00. An adjustment for overpayment which was made last year.

Q There was an overpayment made in 1974-75, which was deducted from the School Board of the City of Richmond also for 75-76?

A Yes.

MR. MATTOX: That is all I have, Your Honor.

THE COURT: Mr. Ryland?

MR. RYLAND: We have no questions, Your Honor.

THE COURT: Mr. Gray?

CROSS-EXAMINATION

BY SENATOR GRAY:

Q Dr. Tyler, who in fact, did get paid in the calendar year or school year 70-71? Which locality in fact did get the money for these particular children who were in the annexed area?

A The City of Richmond.

Q So that if there was an agreement between Chesterfield County and the City of Richmond, Richmond did get it; didn't they?

A Yes, Sir.

Q Was there any agreement between them concerning the composite index?

A No, Sir.

Q Doctor, if Richmond obtained this extra million dollars, or so, that it is claiming in this proceeding, what will happen to that money?

A I don't know.

Q Will the School Board get it?

A It is my understanding that it would.

Q It will not go back to the City Council?

A No, Sir. It is my understanding since the money would be coming from the State Division of Education, it must be spent on education.

Q In the last fiscal year?

A No, it obviously can't be spent in the last fiscal year.

Q It will have to be re-appropriated?

A No, Sir.

Q Dr. Tyler, in one of the earlier documents that I think was filed with the Court, a statement was made that Richmond had fully paid Chesterfield County the sum for the education of all the children who attended County schools during the period that the children attended the calendar year.

A That is correct from the City's point of view but I am sure the matter is under litigation and whether or not in fact Chesterfield has been fully paid will be decided by the Court.

Q And the amount in issue is something in excess of a million dollars?

A Yes.

Q And one of the issues involved in that case is whether the County should be paid on the basis of ADA or on the basis of ADM: isn't it?

A Yes.

Q What was the nature of the $8,000.00 correction you made?

A It was due to an error in payment of the incentive fund for 1974-75.

Q It was not an error with respect to the calculations of the ADM, was it?

A No, Sir.

MR. MATTOX: I have a question?

THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MR. MATTOX:

Q Dr. Tyler, in answer to Gray's question, who got paid for the 3,000 odd students that were the City's responsibility, taught in the County schools, you answered the City got paid for the 3,000 students. Now, who got paid for the 515 students that were living in the County and educated in the City schools during the same period of time?

A The County got paid.

THE COURT: Any more questions?

SENATOR GRAY: No further questions.

THE COURT: You may step down.

Gentlemen, anything further?

MR. MATTOX: No, Sir.

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