INTERIM REPORT

HJR 105 Joint Subcommittee to Study the Level of the Commonwealth's Assistance to Localities Necessary for Developing Adequate K-12 School Infrastructure

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

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Authority and Study Objectives

Adopted by the 2004 Session of the General Assembly, HJR 105 establishes a two-year, 16-member joint subcommittee to "study the level of the Commonwealth's assistance to localities that is necessary for developing adequate K-12 school infrastructure." The joint subcommittee is to examine, among other things, (i) the physical and technical infrastructure needs of K-12 schools throughout the Commonwealth; (ii) availability of local funding sources to meet those needs; (iii) public-private partnerships that may be available to meet a portion of those needs; (iv) the priority of each of those needs; (v) the level of commitment by the Commonwealth needed and appropriate to supplement local efforts in meeting those needs; (vi) the level of the Commonwealth's debt capacity available over the next 10 years to assist with capital projects for K-12 schools; (vii) the appropriate bond structure, including issuer, type of debt obligation, period of time over which the debt should be issued, and potential revenue sources for repayment; and (viii) the method for prioritizing and distributing the proceeds thereof.

Electing Delegate Beverly Sherwood and Senator Harry Blevins as chairman and vice chairman, respectively, the joint subcommittee met twice in 2004. Reviewed at these meetings were a 2002 survey of school construction needs in Virginia, the use of Virginia's Public-Private Education Facilities and Infrastructure Act (PPEA) in Stafford County, Ohio's school construction model, and Virginia's Literary Fund and current school construction methodologies. Anticipating its second year of work, the joint subcommittee made no recommendations for the 2005 Session, but files this interim report with the Governor and the General Assembly.

School Construction Challenges Nationwide

Overcrowding and Aging. America's 91,380 public schools will likely face a plethora of maintenance, expansion, and construction challenges in the coming years. Reports of overcrowding, school building health and safety issues, and aging or deteriorating school infrastructure have captured news headlines and prompted state law- and policymakers to grapple with difficult fiscal, educational, and long-range planning issues. Further compounding school construction concerns are smaller class-size initiatives, stressed state and local budgets, and the infrastructure requirements of ever-evolving educational technology. America's public schools are also aging, with a nationwide average age of 42 years. About one-fourth of all public schools were built before 1950, and about half built between 1950 and 1969.

Deterioration and Disrepair. In 1995, one-third of all public school buildings required "extensive repair or replacement of one or more buildings." In 2003, the American Society of Civil Engineers found that "75% of our nation's school buildings remain inadequate to meet the needs of school children." "Building disrepair" may encompass features such as roofing, walls, and foundations; plumbing, sewage, and water systems; and environmental concerns, such as ventilation, heating and cooling, and lighting. The demands of modernization—whether accommodating educational technology or enhancing school security in a post-Columbine era—also figure prominently in school construction equation.

Impact on Education. The U.S. Department of Education has indicated that poorly maintained or deteriorating schools affect not only health and safety, but student academic performance as well. Student discipline and teacher morale may also suffer in neglected facilities. Other environmental factors—such as indoor air quality, temperature, lighting, and acoustics—also affect student and teacher performance.

Funding Constraints and Spiraling Construction Costs. While improper, deferred, or neglected maintenance may account for deterioration or disrepair of some school buildings, lack of funding and escalating construction costs may have deterred some school divisions in their maintenance and construction efforts. However, despite fiscal concerns, public school construction expenditures increased 39 percent nationwide between 1990 and 1997—a rate that outpaced a 12 percent increase in student enrollment during that period. The cost of new construction and additions to existing school facilities—rather than building, land, and equipment acquisitions—represented the greatest increase.

Responsibility for School Construction. While state and federal moneys may support public education programs, responsibility for constructing and maintaining public school facilities has traditionally and primarily rested with localities. In 2003, a record $29.2 billion was spent on public school construction and renovation, representing a four percent increase in the $28.1 billion expended in 2002; expenditures may reach $30.7 billion in 2006. Localities alone must foot this school construction bill in some states. Typically relying on local bond issues and property tax revenues for school construction, local governments may face particular challenges in times of fiscal stress or voter reluctance to support tax increases or bond referenda for school construction. Disparate property tax values and varying local effort have resulted in significant differences in the quality of school facilities. These disparities have prompted litigation in several states in recent years.

School Construction in the Commonwealth

As title to school property in the Commonwealth rests with the relevant local school board, so does primary responsibility for capital outlay and improvements. To support school construction, localities may pursue financing independently—perhaps through general obligation debt sold in public or private markets— or obtain assistance through the Literary Fund, the Virginia Retirement System, or the Virginia Public School Authority. In 1996, unmet school construction needs in Virginia stood at $2.2 billion, reflecting a 147 percent increase in only three years.

Lottery Proceeds. The 2004-2006 budget appropriates $145 million and $147.9 million in lottery proceeds each year directly to school divisions; at least 50 percent of these moneys must be expended on nonrecurring costs. The 2000 Session of the General Assembly authorized local governing bodies to establish escrow accounts from lottery proceeds designated for nonrecurring costs as described in the budget—school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the past 10 years. Although similar in concept to the School Construction Grants escrow accounts, these accounts must be clearly separate.

Maintenance Supplement. The 2001-02 Appropriation Act allotted $9.5 million for a maintenance supplement, calculated to fund a state share of $15 per pupil in average daily membership, to be matched by the locality on the basis of the composite index of local ability-to-pay. While the 1998 Session adopted legislation citing the maintenance supplement program, the 2002, 2003, and 2004 Appropriation Act did not include this initiative.

School Construction and Educational Technology Grants. The Virginia Public School Construction Grants Program provides grants for school nonrecurring costs such as

construction, additions, infrastructure, site acquisitions, renovations, technology, escrow payments, and school safety equipment. Grants may also be used for debt service payments for projects completed within the past 10 years. A similar initiative, the Virginia Public School Educational Technology Grants Program, provides grants for educational technology, including infrastructure, software, and hardware acquisitions and replacement, and innovative programs to advance the effectiveness of educational technology.

Legislative Scrutiny and Recent Developments. The challenges of public school construction needs have not eluded the General Assembly, as numerous legislative studies have tackled the complex issue in recent years. In 1994, an 11-member select committee of the House Committee on Appropriations, the Senate Committee on Finance, and the Commission on Equity in Public Education recommended, and the 1995 Session restored, the maintenance supplement and increased the total Virginia Public School Authority outstanding debt issuance cap. The Commission on Educational Infrastructure recommended, and the 1997 Session of the General Assembly passed, legislation authorizing local school boards to create nonstock, nonprofit educational technology corporations to facilitate the implementation of public-private partnerships to enhance access to and the quality of educational technology.

The 1998 Session of the General Assembly linked car tax relief and school construction funding within the 1998-2000 biennial budget, providing approximately $533 million for these initiatives "pursuant to such legislation as may be adopted by the 1998 or subsequent sessions of the General Assembly." A special session resulted in legislation providing for personal property tax relief as well as detailing the distribution of funds through the Virginia Public School Construction Grants Program. In 2002, the General Assembly enacted the Public-Private Education Facilities and Infrastructure Act, authorizing private entities to "acquire, design, construct, improve, renovate, expand, equip, maintain or operate qualifying projects" upon approval by a public entity, such as a local school division, "that has the power to take such actions with respect to such projects."

Issues for Further Study

HJR 105 provides specific directives to the committee; the identification of the physical and technical infrastructure needs of K-12 schools throughout the Commonwealth will figure prominently in the committee's work, as will consideration of funding sources. In addressing a variety of complex fiscal and policy concerns, the committee may also wish to consider (i) preservation or renovation of existing facilities as well as new construction; (ii) the impact of education reforms on school facility design; and (iii) such other issues as it deems appropriate.

Interim Report

HJR 105 Joint Subcommittee to Study the Level of the Commonwealth's Assistance to Localities Necessary for Developing Adequate K-12 School Infrastructure

I. Authority and Study Objectives

Adopted by the 2004 Session of the General Assembly, HJR 105 establishes a two-year, 16-member joint subcommittee to "study the level of the Commonwealth's assistance to localities that is necessary for developing adequate K-12 school infrastructure." Citing the 1998 report of the Commission on Educational Infrastructure (HD 75) and a then-approximate $9 billion in unmet school construction needs, the resolution notes that localities will require state assistance to address increasing construction and maintenance costs as well as necessary capital projects.

Comprised of eight legislators, four nonlegislative citizen members (including a licensed architect specializing in school design, two citizens with "expertise in school design and construction, or funding public school and capital construction," and a nationally recognized bond lawyer), the Secretary of Education, the President of the State Board of Education, the Superintendent of Public Instruction, and the Attorney General (or their designees), the joint subcommittee is to examine, among other things:

(i) The physical and technical infrastructure needs of K-12 schools throughout the Commonwealth;

(ii) Availability of local funding sources to meet those needs;

(iii) Public-private partnerships that may be available to meet a portion of those needs;

(iv) The priority of each of those needs;

(v) The level of commitment by the Commonwealth needed and appropriate to supplement local efforts in meeting those needs;

(vi) The level of the Commonwealth's debt capacity available over the next 10 years to assist with capital projects for K-12 schools;

(vii) The appropriate bond structure, including issuer, type of debt obligation, period of time over which the debt should be issued, and potential revenue sources for repayment; and

(viii) The method for prioritizing and distributing the proceeds thereof.

The resolution contemplated no more than four meetings in each year of the study. The joint subcommittee was to submit an executive summary of its findings and recommendations to the Governor and the 2005 Session of the General Assembly no later than the first day of the 2005 Session, and to complete its work by November 30, 2005, and submit a executive summary of its final written findings and recommendations no

later than the first day of the 2006 Session of the General Assembly.

Electing Delegate Beverly Sherwood and Senator Harry Blevins as chairman and vice chairman, respectively, the joint subcommittee met twice in 2004. Reviewed at these meetings were a 2002 survey of school construction needs in Virginia, the use of Virginia's Public Public-Private Education Facilities and Infrastructure Act (PPEA) in Stafford County, Ohio's school construction model, and Virginia's Literary Fund and current school construction methodologies. Anticipating its second year of work, the joint subcommittee made no recommendations for the 2005 Session, but files this interim report with the Governor and the General Assembly.

II. School Construction Challenges Nationwide

Overcrowding and Aging

America's 91,380 public schools[1] will likely face a plethora of maintenance, expansion, and construction challenges in the coming years. Reports of overcrowding, school building health and safety issues, and aging or deteriorating school infrastructure have captured news headlines and prompted state law and policymakers to grapple with difficult fiscal, educational, and long-range planning issues.[2] Expected enrollment increases—reflecting the "baby boom echo" as well as migration and immigration trends—will likely exacerbate school construction and renovation challenges. In 1998, public elementary and secondary schools housed 52.7 million students; by 2008, a projected 54.3 million students will require public school classroom space.[3] While studies indicate that three-quarters of public schools are not overcrowded, approximately 10 percent of public schools address enrollments that exceed permanent building capacity by more than 25 percent.[4] Further compounding school construction concerns are smaller class-size initiatives, stressed state and local budgets, and the infrastructure requirements of ever-evolving educational technology.[5]

America's public schools are also aging, with a nationwide average age of 42 years. Public schools in the Southeast fared a bit better than those in some other regions of the United States, with a mean age of 37 years. About one-fourth of all public schools were built before 1950, and about half were built between 1950 and 1969. Older schools enroll a higher percentage of children eligible for free or reduced school lunch.[6]

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[1]Education Week, Education Issues, *School Construction*, last updated May 19, 2004 <http://www.edweek.org/context/topics/issuespage.cfm?id=21> [hereinafter referred to as EdWeek].

[2]U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Statistical Analysis Report, *Condition of America's Public School Facilities: 1999* at iii-vii; 1-3 (June 2000)[hereinafter referred to as *Condition*]; *see also*, EdWeek, *supra*.

[3]National Governors Association, *Building America's Schools: State Efforts to Address School Facility Needs* at 1 (June 14, 2000)[hereinafter referred to as NGA]; *Condition*, *supra*, at vi, 4.

[4]*Condition*, supra note 2, at vii,

[5]*Condition*, *supra* note 2 at vi; EdWeek, *supra* note 1.

[6]U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Issue Brief, *How Old Are America's Schools?* (January 1999) <http://nces.ed.gov/surveys/frss/ publications/1999048/>

Aging Schools Nationwide

U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Issue Brief, *How Old Are America' Schools?* (January 1999) <http://nces.ed.gov/surveys/frss/ publications/1999048/>

Table 1.—Year of school construction and mean age of school, by school characteristics

School characteristic	Year built: Before 1950	1950–1969	1970–1984	1985 or after	Mean age
	(Percent of schools)				
All public schools	28	45	17	10	42
Instructional level					
Elementary	29	46	15	11	43
Secondary	24	46	23	8	40
Size of enrollment					
Less than 300	40	39	14	8	48
300 to 999	24	48	17	11	40
1,000 or more	23	44	22	11	39
Locale					
City	34	44	13	9	46
Urban fringe	20	53	17	10	40
Town	24	47	20	9	40
Rural	32	38	17	12	42
Region					
Northeast	30	49	15	6	46
Southeast	23	43	20	14	37
Central	33	46	14	8	46
West	25	44	19	13	39
Percent of students eligible for free or reduced-price school lunch					
Less than 20 percent	20	48	20	11	39
20 to 49 percent	29	44	16	11	41
50 percent or more	34	42	14	10	44

NOTE: Percentages may not sum to 100 due to rounding.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, "Survey on Advanced Telecommunications in U.S. Public Schools, Fall 1996," FRSS 61, 1996; "Survey on Advanced Telecommunications in U.S. Public Schools, K–12," FRSS 57, 1995; "Survey on Advanced Telecommunications in U.S. Public Schools, K–12," FRSS 51, 1994.

Calculating school facility age may combine consideration of maintenance and renovation as well as original construction date; a school's "functional age"—based on the most recent renovation year or, in the case of a school in which no renovation has occurred, the construction year of its primary instructional facility—may arguably present a "more accurate indication of a school's age...." In 1999, the average functional age of all schools—those that had and had not undergone renovation—was 16 years (11 years for schools that had experienced renovation).[7]

[7] *Condition*, *supra* note 2, at vi, 37.

Functional Age of Schools Nationwide

U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Statistical Analysis Report, *Condition of America's Public School Facilities: 1999* < http://nces.ed.gov/pubs2000/2000032.pdf>

Table 17.—Age of public schools based upon years since construction of the main instructional building(s), years since most recent major renovation, and functional age of the school, by school characteristics: 1999

School characteristic	Years since construction	Years since most recent renovation	Functional age of the school*
All public schools	40	11	16
School instructional level			
Elementary school	40	11	16
High school	40	11	15
Combined	41	8	12
School enrollment size			
Less than 300	43	15	20
300 to 599	42	11	15
600 or more	35	9	14
Locale			
Central city	42	12	17
Urban fringe/large town	37	10	14
Rural/small town	41	12	16
Region			
Northeast	43	13	14
Midwest	44	13	18
South	36	10	15
West	37	8	15
Percent minority enrollment			
5 percent or less	42	12	16
6 to 20 percent	39	12	15
21 to 50 percent	35	8	13
More than 50 percent	42	11	18
Percent of students in school eligible for free or reduced-price school lunch			
Less than 20 percent	38	11	14
20 to 39 percent	38	11	16
40 to 69 percent	40	11	14
70 percent or more	44	11	19

*Functional age is defined as the age of the school based on the year of the most recent renovation or the year of construction of the main instructional building(s) if no renovation has occurred.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, Survey on the Condition of Public School Facilities, 1999.

Deterioration and Disrepair

About 15 years ago, one in four school buildings was described as "inadequate"; disrepair and poor maintenance accounted for the poor condition of about 60 percent of these facilities.[8] By 1995, the General Accounting Office (GAO) had found that one-third of all public school buildings required "extensive repair or replacement of one or more buildings."[9] Five years later, the National Center for Education Statistics reported that about 24 percent of public schools—18,700 schools enrolling about 11 million students—had at least one building in "less than adequate condition."[10] Today, these dismal assessments remain essentially unchanged. In 2003, the American Society of

[8] *Condition*, *supra* note 2, at 1.
[9] U.S. General Accounting Office, *School Facilities: Condition of America's Schools* (GAO/HEHS-95-61) at 2 (February 1, 1995)[hereinafter referred to as *1995 Condition*].
[10] *Condition*, *supra* note 2, at 11.

Civil Engineers found that "75% of our nation's school buildings remain inadequate to meet the needs of school children."[11]

U.S. Department of Education, Office of Educational Research and Development,
National Center for Education Statistics, Statistical Analysis Report,
Condition of America's Public School Facilities: 1999 (June 2000) < http://nces.ed.gov/pubs2000/2000032.pdf>

Scale used to rate overall condition of onsite buildings and physical condition of various building features: 1999

Excellent: new or easily restorable to "like new" condition; only minimal routine maintenance required.
Good: only routine maintenance or minor repair required.
Adequate: some preventative maintenance and/or corrective repair required.
Fair: fails to meet code and functional requirement in some cases; failure(s) are inconvenient; extensive corrective maintenance and repair required.
Poor: consistent substandard performance; failure(s) are disruptive and costly; fails most code and functional requirements; requires constant attention, renovation, or replacement. Major corrective repair or overhaul required.
Replace: Non-operational or significantly substandard performance. Replacement required.
SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, Survey on the Condition of Public School Facilities, 1999.

Percent of public schools with each type of building, and the percentage distribution of ratings of the overall condition of the building types: 1999

		Overall Condition							
Type of bldg.	School has bldg. type	Adequate or Better				Less than Adequate			
		Total	**Excellent**	**Good**	**Adequate**	**Total**	**Fair**	**Poor**	**Replace**
Original Buildings	[2]100	81	16	38	26	19	13	5	2
Permanent Additions	67	84	24	36	24	16	11	4	[3]1
Temporary Buildings	39	81	11	37	33	19	12	6	1

[1]Based on schools with that type of building.
[2]Rounds to 100 percent for presentation in the table.
[3] Coefficient of variation greater than 50 percent.
NOTE: Details may not sum to totals because of rounding.
SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, Survey on the Condition of Public School Facilities, 1999.

The range of school infrastructure challenges is broad. "Building disrepair" may encompass features such as roofing, walls, and foundations; plumbing, sewage, and water systems; and environmental concerns, such as ventilation, heating and cooling, and lighting.[12] The demands of modernization—whether accommodating educational technology or enhancing school security in a post-Columbine era—also figure prominently in the school construction equation.[13]

While descriptions of "deteriorating" or "decrepit" school buildings conjure clear mental pictures, images of an "adequate" or "inadequate" school facility may be less easily defined. One court defined "decent facilities" as "structurally safe, contain[ing] fire safety measures, sufficient exits, an adequate and safe water supply, an adequate sewage disposal system, sufficient and sanitary toilet facilities and plumbing fixtures,

[11]American Society for Civil Engineers, *Report Card for America's Infrastructure: 2003 Report Card* (2003) <http://www.asce.org/reportcard/pdf/fullreport03.pdf>
[12]*1995 Condition*, *supra* note 9, at 2.
[13]*See generally*, U.S. General Accounting Office, Report to Congressional Requesters, *School Facilities: America's Schools Not Designed or Equipped for 21st Century* (GAO/HEHS-95-95) at 1, 2, 5 (April 1995).

adequate storage, adequate light, ... in good repair and ... attractively painted as well as containing acoustics for noise control..."[14]

Standards for school facilities vary among the states. In New Jersey, square footage is specified, while Vermont dictates school facilities that "meet the needs of educational programs." School facility acreage requirements exist in 23 states.[15] In Virginia, no public school "shall be allowed in a building which is not in such condition and provided with such conveniences as are required by a due regard for decency and health." The division superintendent must close any building that is "unfit for occupancy."[16] Education policy experts have recommended flexibility in state standards to accommodate "the varying needs of local school divisions."[17]

Impact on Education

Citing "[d]ecaying environmental conditions such as peeling paint, crumbling plaster, nonfunctioning toilets, poor lighting, inadequate ventilation, and inoperative heating and cooling systems," the U.S. Department of Education has indicated that poorly maintained or deteriorating schools affect not only health and safety, but student academic performance as well. Several studies, including ones conducted in the District of Columbia and in small rural and larger urban Virginia high schools, demonstrated lower student test scores, when adjusted for socioeconomic status and other variables, in substandard school facilities. Interestingly, one study found that superficial or cosmetic, rather than structural, conditions more profoundly affected student achievement. Student discipline and teacher morale may also suffer in neglected facilities.[18]

Other environmental factors—such as indoor air quality, temperature, lighting, and acoustics—also affect student and teacher performance. One study has linked poor indoor air quality to increased asthmatic reactions and student absenteeism. Additional research has targeted ventilation concerns and "sick building" syndrome to poor concentration and student health issues. Proper acoustics are also deemed "fundamental to good academic performance." Finally, while smaller school size has been clearly linked to improved academic performance, data addressing the benefits of smaller class size remains the focus of debate among researchers and scholars.[19]

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[14]*See 1995 Condition*, *supra* note 9, at 3, referencing and quoting *Pauley v. Kelly*, 255 SE.2d 859, 877 (W. Va. 1979) and *Edgewood Indep. Sch. Dist. v. Kirby*, rev'd. 761 S.W.2d 859 (Ct. App. Tx. 1988); rev'd. 777 S.W.2d 391 (1989); 804 S.W.2d 491 (TX 1991).

[15]The Rural School and Community Trust, Policy Brief, *Rural School Facilities: State Policies that Provide Students with an Environment to Promote Learning* at 5, 13 (June 2004) <http://images.sumag.com/files/34/305as21.pdf>[hereinafter referred to as *Rural*].

[16]Va. Code §§ 22.1-135; 22.1-136 (2003).

[17]*Rural*, *supra* note 15, at 11-12.

[18]U.S. Department of Education, Archived Information, *Impact of Inadequate School Facilities on Student Learning* (last updated April 3, 2000)<http://www.ed.gov/offices/OESE/archives/inits/construction/impact2.html>; *see generally*, L.M. Frazier, ERIC Clearinghouse on Educational Management, "Deteriorating School Facilities and Student Learning (1993) <http://www.ericdigests.org/1993/school.htm>[hereinafter referred to as Frazier].

[19]M. Schneider, National Clearinghouse for Educational Facilities, "Do School Facilities Affect Academic Outcomes?" at 1-3; 16 (November 2002).

Funding Constraints and Spiraling Construction Costs

While improper, deferred, or neglected maintenance may account for deterioration or disrepair of some school buildings, lack of funding and escalating construction costs may have deterred some school divisions in their maintenance and construction efforts.[20] Higher steel prices have affected school construction projects in the Northwest; other factors driving school construction costs are "more expensive plywood, a tighter labor market, higher insurance costs, and rising fuel costs."[21] Approximately $848 million additional funds are required to address the 10- to 15-year planned modernization efforts in District of Columbia public schools; this increase is attributed to higher construction costs, expanded project scope, and historic building redesign. Potentially resulting construction delays are expected to add further costs to the initiative.[22]

And yet, despite these complex fiscal concerns, public school construction expenditures increased 39 percent nationwide between 1990 and 1997—a rate that outpaced a 12 percent increase in student enrollment during that period. Attributing this increased spending to expanding public school enrollment, deteriorating facilities, and a robust economy, the GAO reported that the cost of new construction and additions to existing school facilities—rather than building, land, and equipment acquisitions—represented the greatest increase.[23]

Federal Action

Direct federal support for school construction can be traced to 1950 and the adoption of Impact Aid statutes; however, some New Deal public works initiatives had encompassed some aid for school construction. In the past two decades, the publication of numerous studies and reports—conducted by the public and private sectors—detailing school facility deficiencies and the impact of school conditions on learning has arguably stimulated additional examination of the potential federal role in school construction. In addition, the GAO and the U.S. Department of Education have examined public school building conditions repeatedly in the past 10 years, providing data for possible federal action. [24]

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[20]Frazier, *supra* note 18.

[21]D. Anderson, *The Oregonian*, "Schools Pinched as building costs rise: Northwest districts lose millions as demand in China fuels an increase in the cost of steel and other construction materials (July 6, 2004)<http: //www. oregonlive. om/news/oregonian/index.ssf?/base/front_page/108911492924350.xml>

[22]U.S. General Accounting Office, Testimony Before the Subcommittee on the District of Columbia, Committee on Appropriations, House of Representatives, *District of Columbia: D.C. Public Schools' Modernization Program Faces Major Challenges* at 2-4(Statement of David E. Cooper, Director, Acquisition and Sourcing Management)(April 25, 2002)(GAO-02-628T).

[23]U.S. General Accounting Office, Report to the Chairman, Committee on Education and the Workforce, House of Representatives, *School Facilities: Construction Expenditures Have Grown Significantly in Recent Years* (GAO/HEHS-00-41) at 4 (March 2000).

[24]Library of Congress, *CRS Report for Congress*, "School Facilities Infrastructure: Background and Legislative Proposals in the 106th Congress" (September 22, 2000)< http://www.senate.gov/~budget/ democratic/crsbackground/schoolfacil.pdf>[hereinafter referred to as CRS]; IPM in Schools, "No Buildings Left Behind" (March 10, 2004)<http://schoolipm.tamu.edu/resources/News?IntheNews_Details.asp.? ID_Key=147>

The 1994 Education Infrastructure Act provided the first example of a possible federal partnership with state and local school authorities to address school construction. While declining to define specifically what constitutes "adequate" school facilities, Congress included in its legislative findings that "one of every four public school buildings...is in inadequate condition" and stated that school facility improvements "will help our Nation meet the National Education Goals." The Act's provisions authorizing moneys for school construction and renovation were not funded and the Act was repealed in 2002.[25]

While the Goals 2000: Educate America Act included some provisions addressing school facilities, the 1997 Taxpayer Relief Act created a more direct benefit for school construction through the use of qualified zone academy bonds. Supporting repair and renovation, but not new school construction, this mechanism afforded low- or no-interest borrowing for qualifying high-poverty schools.[26] In 2000, Congress again considered school construction initiatives, including the expansion of federal tax credits for school construction bonds and grants for school improvements.[27] While the 2001 reauthorization of the Elementary and Secondary Education Act ("No Child Left Behind") included no funding for school renovation or construction, Congress again pursued tax credit initiatives in 2003, with the America's Better Classrooms Act of 2003.[28] The Expand and Rebuild America's Schools Act of 2003, also under consideration by the 108th Congress, would create a new category of school construction bonds; proposed amendments to the Elementary and Secondary Education Act (ESEA) would provide grants for school construction, repair, and renovation.[29]

[25]20 U.S.C. §§ 8502, 8503-8513 (repealed. Pub. L. 107-110, Title X, Sec. 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986) < http://caselaw.lp.findlaw.com/casecode/uscodes/20/chapters/70/subchapters/xii/sections/section_8511.html>; *see also*, *CRS*, *supra*.

[26]U.S. Department of Education, *Fixing Our Schools Now!* (April 2000)< http://www.ed.gov/pubs/fixschools/facts.html>; U.S. Department of Education, Archived Information, "Riley Issues Profile of Schools Using Qualified Zone Academy Bonds" (April 27, 2000)< http://www.ed. gov/PressReleases/04-2000/0427.html>

[27]*CRS*, *supra* note 24.

[28]IPM, supra; Bill Summary and Status for the 108th Congress, <http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN00008:@@@L&summ2=m&>

[29]H.R. 740 (108 Cong.)< http://thomas.loc.gov/cgi-bin/query/z?c108:H.R.740.IH:>; H.R. 1840 (108th Cong.)< http://thomas.loc.gov/cgi-bin/bdquery/z?d108:h.r.01840:>

School Construction Data

National Clearinghouse for Educational Facilities, *Construction Data*, F.W. Dodge Forecast and Historical Data < http://www.edfacilities.org/cd/dodge0405.pdf>

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		TWO YEARS AGO - 2002				LAST YEAR - 2003				YTD MAY 2004			
		Dollar Value ($1,000s)	Sq Footage (1,000s)	Sqft Cost ($/sqft)	Number of Projects	Dollar Value ($1,000s)	Sq Footage (1,000s)	Sqft Cost ($/sqft)	Number of Projects	Dollar Value ($1,000s)	Sq Footage (1,000s)	Sqft Cost ($/sqft)	Number of Projects
Primary Schools	Additions	3,176,904	21,982	145	1,281	3,174,175	19,361	164	1,086	996,117	6,052	165	380
	Alterations	1,850,220	0	0	1,708	2,173,991	0	0	1,707	901,079	0	0	639
	New	4,898,525	46,937	104	824	5,207,085	45,505	114	800	2,208,662	17,523	126	287
	Subtotal	9,925,649	68,918		3,813	10,555,251	64,866	0	3,593	4,105,858	23,575		1,306
Mid/Jr High Schools	Additions	1,172,004	7,654	153	209	1,423,992	8,122	175	284	587,892	3,668	160	95
	Alterations	536,148	0	0	223	594,529	0	0	311	353,713	0	0	152
	New	2,752,113	25,930	106	265	2,771,847	24,481	113	238	946,469	7,880	120	75
	Subtotal	4,460,265	33,584		697	4,790,368	32,602	0	833	1,888,074	11,547		322
Senior High Schools	Additions	5,164,169	31,488	164	1,164	5,070,037	28,425	178	953	1,879,760	10,589	178	305
	Alterations	2,536,642	0	0	1,719	2,677,704	0	0	1,604	1,094,509	0	0	538
	New	5,432,853	46,803	116	489	5,532,139	44,658	124	465	1,729,928	12,795	135	131
	Subtotal	13,133,664	78,290		3,372	13,279,880	73,083	0	3,022	4,704,197	23,384		974
Vocational Schools	Additions	144,436	877	165	59	137,568	813	169	41	152,822	964	159	25
	Alterations	96,756	0	0	115	95,739	0	0	115	50,262	0	0	39
	New	284,405	2,581	110	88	205,787	1,550	133	76	61,074	473	129	21
	Subtotal	525,597	3,458		262	439,094	2,363	0	232	274,158	1,436		85
	TOTAL	28,045,175	184,261		8,144	28,084,693	172,916	0	7,880	10,972,287	68,842		2,887

		Forecast Year 2004		Forecast Year 2006		Forecast 2008	
		Dollar Value ($1,000s)	Sq Footage (1,000s)	Dollar Value ($1,000s)	Sq Footage (1,000s)	Dollar Value ($1,000s)	Sq Footage (1,000s)
Primary Schools	Subtotal	10,174,297	59,811	11,018,663	61,843	11,631,591	63,246
Mid/Jr High Schools	Subtotal	4,552,467	28,674	4,883,015	29,218	5,254,015	30,471
Senior High Schools	Subtotal	12,236,749	62,449	13,458,384	66,803	14,047,230	67,984
Vocational Schools	Subtotal	482,739	2,625	532,361	2,631	588,255	3,004
	TOTAL	27,446,252	153,560	29,892,424	160,696	31,531,091	164,705

School Construction: Who's Responsible?

While state and federal moneys may support public education programs, responsibility for constructing and maintaining public school facilities has traditionally and primarily rested with localities.[30] In 2003, a record $29.2 billion was spent on public school construction and renovation, representing a four percent increase in the $28.1 billion expended in 2002. Expenditures are expected to drop slightly in 2004, but may reach $30.7 billion in 2006.[31] In 2003, elementary schools garnered about one-third of construction expenditures, while high schools and middle schools claimed about 40 and 25 percent, respectively.[32]

Localities alone must foot this school construction bill in some states. Typically relying on local bond issues and property tax revenues for school construction, local governments may face particular challenges in times of fiscal stress or voter reluctance to support tax increases or bond referenda for school construction. Disparate property tax

[30]EdWeek, *supra* note 1; U.S. General Accounting Office, Report to the Chairman, Committee on Education and the Workforce, House of Representatives, *School Facilities: Construction Expenditures Have Grown Significantly in Recent Years* (GAO/HEHS-00-41) at 3, 5, 6 (March 2000); U.S. U.S. General Accounting Office, Report to Congressional Requesters, *School Facilities: States' Financial and Technical Support Varies* (GAO/HEHS-96-27) at 2 (November 28, 1995); *Rural, supra* note 15, at 5; F. Crampton & D. Thompson, *School Business Affairs*, "The Condition of America's Schools: A National Disgrace" (December 2002).

[31]J. Sacks, Education Week, "School Construction Defies Fiscal Doldrums" (March 17, 2004) <http:// www.edweek.org/ew/ewstory.cfm?slug=27Construct.h23>

[32]P. Abramson, School Planning & Management, *Ninth Annual School Construction Report* (February 2004)<http:// www.peterli.com/global/pdfs/SPMConstruction2004.pdf>

values and varying local efforts have resulted in "stark differences in the quality and funding of school facilities..."[33]

Largest Local School Construction Bonds Passed in 2003

J. Sacks, *Education Week*, "School Construction Defies Fiscal Doldrums" (March 17, 2004)
<http://www.edweek.org/ew/ewstory.cfm?slug=27Construct.h23>

School District	Amount
Wake County, N.C.	450 million
North East, Texas*	449 million
Denver	311 million
Guilford County, NC	300 million
Fort Bend, Texas*	230 million
San Francisco**	295 million
Fairfax County, VA	291 million
Jordon, Utah	281 million
Phoenix Union High	205 million
Leander, Texas*	190 million

Source: The Bond Buyer
*Independent School District
**Unified School District

Disparities in school buildings have provided fodder for litigation in recent years, often within the context of public school funding formulas. In 1994, the **Arizona** Supreme Court found wide disparities in elementary and high school facilities, and ultimately struck down the state's school funding mechanism that was heavily reliant upon property values. Citing the school funding formula's "particularly profound effect on capital needs," the Court noted that the state funding mechanism itself, and not local effort, was the root of the "enormous disparities" among school facilities that were to be part of a constitutionally-mandated "general and uniform school system." The Court was clear, however, in noting that the "general and uniform" requirement did not mandate school facilities that were "the same, identical, or equal."[34] Four years later, the Arizona legislature revised its funding system, through the enactment of Students FIRST (Fair and Immediate Resources for Students Today), creating funding for building renewal, correction of facility deficiencies, and new construction. The state's School Facilities Board subsequently adopted school facility adequacy standards.[35]

Similarly, the **New Jersey** Supreme Court has found that "[d]eteriorating physical facilities relate to the State's educational obligation, and we continually have noted that adequate physical facilities are an essential component of that constitutional mandate…"[36] In examining its state education funding formula, the **Ohio** judiciary has

[33]*Rural*, *supra* note 15, at 5.
[34]*Roosevelt Elem. Sch. Dist. No. 66 v. Bishop*, 179 Ariz. 233, 877 P.2d 806 at 809, 810, 814-816 (1994).
[35]Arizona School Facilities Board, *Students FIRST Overview*
<http://www.sfb.state.az.us/sfbmain/core_home.asp>
[36]*Abbott v. Burke*, 693 A.2d 417 at 437 (1997).

acknowledged that the constitutionally mandated "efficient" system of public schools requires "'sound buildings that are in compliance with state building and fire codes.'"[37]

Table 2.—Percent of public schools with each type of building, and the percent rating each building type in less than adequate condition, by school characteristics: 1999

School characteristic	Original buildings		Permanent additions		Temporary buildings	
	School has building type	Less than adequate condition[1]	School has building type	Less than adequate condition[1]	School has building type	Less than adequate condition[1]
All public schools	[2]100	19	67	16	39	19
School instructional level						
Elementary school	[2]100	19	64	17	40	18
High school	99	21	74	14	37	21
Combined	100	[3]10	92	[3]11	27	—
School enrollment size						
Less than 300	99	22	64	16	21	—
300 to 599	100	19	70	17	39	22
600 or more	[2]100	18	65	14	50	20
Locale						
Central city	100	20	62	18	45	19
Urban fringe/large town	100	18	66	17	44	18
Rural/small town	99	19	71	14	29	19
Region						
Northeast	100	17	55	11	20	—
Midwest	100	20	67	12	19	22
South	100	16	71	17	49	19
West	99	25	69	22	65	20
Percent minority enrollment						
5 percent or less	99	19	68	11	25	12
6 to 20 percent	[2]100	18	70	14	39	22
21 to 50 percent	100	16	62	16	44	14
More than 50 percent	100	23	67	24	51	24
Percent of students in school eligible for free or reduced-price school lunch						
Less than 20 percent	99	20	63	8	35	17
20 to 39 percent	100	18	64	13	36	16
40 to 69 percent	100	16	74	16	42	19
70 percent or more	100	25	65	30	43	25

— Too few cases for a reliable estimate.

[1]Based on schools with that type of building. Ratings of less than adequate encompass the ratings of fair, poor, and replace.

[2]Rounds to 100 percent for presentation in the table.

[3]Coefficient of variation greater than 50 percent.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, Survey on the Condition of Public School Facilities, 1999.

U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Statistical Analysis Report, *Condition of America's Public School Facilities: 1999* (June 2000) <http://nces.ed.gov/pubs2000/2000032.pdf>

[37]*DeRolph v. Ohio*, 89 Ohio St.3d 1, 728 N.E.2d 993 (2000).

In 2003, a **West Virginia** circuit court upheld the state's school funding system, bringing to a close a 27-year case and its progeny (initially *Pauley v. Kelly*) that addressed school funding and facility disparities.[38] In February 2004, the **Arkansas** Supreme Court directed an evaluation of legislative and executive branch efforts to comply with its 2002 ruling in *Lakeview Sch. Dist. No. 25 v. Huckabee*. Specifically, the court-appointed masters were to examine the state's efforts "to assess and evaluate public school buildings and educational equipment across the state...[and] to implement measures to assure that substantially equal school buildings and school equipment are available to all school children in this state..." Consistent with these actions and directives, state legislators will wrestle with defining an "adequate" school facility and seeking ways of funding needed improvements.[39]

School facilities litigation has prompted at least 11 states—Alaska, Arizona, Arkansas, Colorado, Idaho, New Jersey, New York, New Mexico, Ohio, West Virginia, and Wyoming—to provide some sort of subsidy for school construction. Six states have created school construction oversight agencies.[40] Acknowledging the variety of state education funding requirements, the National Governor's Association has recommended that states determine the appropriate respective roles for the states and localities as well as "what funding mechanism will meet the state's needs."[41]

Where states have assumed a greater role in school construction, a range of funding options has been employed, such as direct aid, matching grants, loans, general obligation bonds, certificates of participation, general fund appropriations, lottery proceeds, and local option sales taxes.[42] Legislation effective July 1, 2004, allows **Maryland** public schools to enter into partnerships with private entities for school construction and joint use endeavors.[43] In 1996, **North Carolina** voters authorized $1.8 billion in state school construction bonds[44] Addressing the joint subcommittee at its December meeting, Robert D. Kelly, CEO, Summit Consulting Services, LLC, Alexandria, Virginia, stated that the **Ohio** General Assembly created the seven-member (three voting) Ohio School Facilities Commission in 1997. The Ohio model employs state appropriations, state bond issues, and tobacco settlement revenues. The initiative also incorporates a school design manual, an assessment and master plan process, and a

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[38]The Rural School and Community Trust, *In the Courts*, "After 27 Years, Case Closed in West Virginia" (February 2003) < http://www.ruraledu.org/rpm/rpm502b.htm>

[39]Arkansas News Bureau, D. Robinson, "Lawmakers to look for money to fund school improvements" (June 9, 2004) <http://www.arkansasnews.com/archive/2004/06/09/News/229253.html>; *see also*, *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002); Order Appointing Masters (No. 01-836)(February 3, 2004) <http://courts.state.ar.us/opinions/2004a/20040203/01-836.html>; The Rural School and Community Trust, Coming Soon: Rural Trust Guide for State School Facilities Programs (February 2004) http://www.ruraledu.org/rpm/rpm602d.htm>

[40]*Rural*, *supra* note 15, at 6; NGA, *supra* note 3.

[41]NGA, *supra* note 3.

[42]*Rural*, *supra* note 15, at 9-11; Education Commission of the States, ECS StateNotes, *Finance—Capital Construction* (Finance: School Facility Policies)(1995)<http://www.ecs.org/clearinghouse/15/01/1501.htm>

[43]B. Zongker, Associated Press, WTOP Radio, "Maryland Looks to Private Funding for School Construction" (July 19, 2004)<http://www.wtopnews.com/index.php?nid=316&sid=230197>

[44]North Carolina Department of Public Instruction, School Planning, The State Bond for Public School Facility Needs <http://www.schoolclearinghouse.org/right.asp#State_Bond>[last updated September 2, 2003]

ranking of Ohio's 600-plus school divisions according to need level. The state has appropriated $3.6 billion since the program's inception; $2.8 billion was spent between 1998 and 2003. Projects may take two to three years to complete within this initiative.[45]

III. School Construction in the Commonwealth*

*portions of this material previously appeared in the Division's 2002 publication, A Legislator's Guide to Public School Finance, and have been updated for this report where appropriate.

Prior to the comprehensive 1997 revision, the Standards of Accreditation for Public Schools included provisions addressing public school facilities and grounds. School buildings were to provide "adequate and properly equipped classroom space," "suitable space" for student personnel services, appropriate library and media center space, and other amenities.[46]

While the Virginia Constitution addresses shared funding for "an educational program meeting the prescribed standards of quality," the framers did not contemplate the challenges of aging school buildings, increased enrollments, and rapidly evolving educational technology.[47] Although legislative appropriations and sales tax revenues support operating costs for public schools, school construction and other capital costs in the Commonwealth are financed through other sources.

In 1997, the National Conference of State Legislatures noted that "[d]eteriorating schools in Virginia have some of the worst problems in the country," with building improvements for the then-next five years reaching $6.5 billion.[48] In 2001, the American Society of Civil Engineers (ASCE) deemed three-quarters of America's schools "inadequate," based on overcrowded conditions or old or outdated facilities.[49] Sixty percent of the Commonwealth's public schools were rated as having "at least one inadequate building feature," and 58 percent had "at least one unsatisfactory environmental condition."[50] Responses to a 1996 Virginia Department of Education school facility status survey indicated that unmet school construction need stood at $2.2 billion, reflecting a 147 percent increase in only three years.[51]

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[45]Meeting summary, December 1, 2004 meeting.

[46]8VAC 20-130-370 (<http://www.pen.k12.va.us/VDOE/VA_Board/Standards/OLDSOAS/finlsoa4.htm>' *see also*, Virginia Department of Education, *Regulations Establishing Standards for Accrediting Public Schools in Virginia*, Frequently Asked Questions <http://www.pen.k12.va.us/VDOE/VA_Board/Standards/OLDSOAS/finlsoa4.htm>[last updated November 14, 1997].

[47]Va. Constitution, Art. VIII, § 2 (2001).

[48]L. Dahlkemper, "Rundown Schools: Whose Responsibility?" *State Legislatures* 14 at 15 (September 1997).

[49]American Society of Civil Engineers (ASCE), *2001 Report Card for America's Infrastructure, Full Report Card for 2001* < http://www.asce.org/reportcard/index.cfm?reaction=full&page=2>

[50]American Society of Civil Engineers (ASCE), *2001 Report Card for America's Infrastructure, Infrastructure by State—Virginia* <http://www.asce.org/reportcard/index.cfm?reaction=states &state=virginia >

[51]Virginia Department of Education, *Superintendent's Memo No. 130* (July 19, 1996).

School Building Conditions ~ Virginia

ASCE's 2001 School Report Card for America's Infrastructure

School Building Conditions[1] (%)

	A	B	C	D	E	F	G	H	Enrollment Growth 1996-2000[2]
Virginia	60	27	58	32	17	32	22	29	110,000

A = at least one inadequate building feature (roofs, farming, floors, foundations, exterior walls finishes, windows, doors, interior finishes and trims, plumbing, heating, ventilation, air conditioning, electrical power, electrical lighting and life-safety codes)
B = at least one building needing extensive repair or replacement
C = at least one unsatisfactory environmental condition
D = crumbling roofs
E = inadequate plumbing
F = bad plumbing
G = poor ventilation
H = lacking enough power outlets and wiring to accommodate computers and multimedia equipment in classroom

[1]Source: School Facilities, Profiles of School Conditions by State, U.S. General Accounting Office, 1996.
[2]Projected enrollment growth, 1996-2000. Source: U.S. Department of Education, National Center for Education Statistics, Common Core of Data Surveys
Source: *ASCE's 2001 School Report Card for America's Infrastructure, School Building Conditions* <http://www.asce.org/reportcard/pdf/statechartsschools.pdf>

2002 School Construction Needs Survey

In 2002 and as requested by Governor Warner, Secretary of Education Belle Wheelan created a workgroup to explore unmet public education needs in the Commonwealth. The nine-member workgroup, comprised of representatives of the legislative and executive branches, local school boards, and education organizations, retained the Survey and Evaluation Research Laboratory (SERL), Center for Public Policy, Virginia Commonwealth University, to develop and conduct a survey of Virginia school divisions that would identify school construction needs. Addressing the joint subcommittee at its December 1, 2004 meeting, James M. Ellis, Director, Technical Division, SERL, stated that 116 of 132 school divisions responded to the survey questionnaire, producing an 88% response rate. Nonresponding divisions were typically smaller school divisions.

Challenges in interpreting survey responses included blank fields, unclear responses, and responses that did not produce logical sequences or disagreement in totals. However, follow-up telephone conversations with various school divisions permitted clarification of some responses, and the survey has been deemed "accurate and useful" as an aggregate compilation of school construction needs in Virginia. School divisions responded to inquiries regarding the apportionment of 2002 debt service between the school division and the locality, capital improvement plans (CIP), the top construction needs and the circumstances prompting those needs, funding sources for capital projects, and other school construction concerns.

Among the survey's key findings were:

- As of June 30, 2002, reported outstanding debt for school construction totaled $5.3 billion; local governments and school divisions were responsible for $2.97 billion and $2.36 billion, respectively.

- In fiscal year 2002, total debt service equaled about $607 million, or about 11 percent of the reported $5.3 billion. Local governments carried $337 million of this amount; local school divisions, $270 million.

- Capital improvement plans exist in 77 percent of the responding school division localities; 21 percent indicated no CIP exists, while 2 percent did not offer a response to this item.

- School construction projects appear in 65 percent of the local CIPs; 12 percent of localities with CIPs do not include school construction in the plan; 23 percent indicated there was no CIP or left the item blank.

- School construction projects are included in listings other than the locality's CIP in 43 percent of responding school divisions; of this group, the majority indicated that the school board itself has a CIP or specific school construction budget.

- School construction needs in fiscal plans for 2003 through 2008 total $4.76 billion. Of this amount, 86 percent, or $4.07 billion, will likely be financed through debt; cash or direct appropriations will support the remaining $0.68 billion.[52]

- An anticipated $2.6 billion in school construction needs will remain "unfunded and unmet."

- While a variety of circumstances contribute to school construction needs, over three-quarters of responding school divisions (77 percent or 85 divisions) cited maintenance and repairs. Other primary concerns were obsolescence (66 percent), technology demands (63 percent), programmatic changes (48 percent), and increased or shifting enrollments (47 and 31 percent, respectively).

- Nearly three-quarters (72 percent) of school divisions indicated instructional initiatives, such as the expansion of preschool programs and lower pupil-teacher ratios, that remain unmet due to construction needs.

- The mean percentage of locally-generated revenues supporting debt service for school construction was 8.75 percent. Actual percentages are as follows:

[52]Meeting summary, December 1, 2004 meeting.

Debt service as % of local revenues	Divisions	Pct.
0%	3	3%
> 0% to < 2%	9	8%
2% to < 5%	25	23%
5% to < 10%	37	35%
10% to < 20%	28	26%
20% or more	5	5%
Total	107	100%

The survey also indicated that $829 million in new debt for school construction was expected to be incurred in fiscal year 2003, while about $345 million principal debt was expected to be retired that same year. Total outstanding principal debt for 2003 was estimated at $5.33 billion.

Building capacity was a recurring theme in the survey responses, as 3,810 portable structures were reported in use; 2,259 temporary classrooms—other school space converted for classroom use—were also in use.

Capacity at which schools operate	Schools	Pct.
< 80% school capacity	271	16%
> 80% - 89%	320	19%
90% - 104%	676	40%
105% - 115%	230	14%
> 115%	176	11%
Total	1,673	100%

More than three-quarters of school divisions use portable classrooms (sometimes trailers), while 61% of responding divisions use temporary instructional space. Combining classes serve 52% of school divisions.

Percentage of total instructional space composed of portable structures	Divisions	Pct.
0% of total instructional space	26	23%
> 0% to < 5%	43	38%
5% to < 10%	31	27%
10% or more	13	12%
Total	113	100%

The most commonly employed strategy to address overcrowding, however, was the use of staggered lunch schedules (90 percent of school divisions employ this practice to some extent; 52 percent utilize it in all schools).

Percentage of total instructional space composed of temporary space	Divisions	Pct.
0% of total instructional space	43	41%
> 0% to < 5%	38	36%
5% to < 10%	14	13%
10% or more	11	10%
Total	106	100%

Portable space is not without issue, however; members cited security concerns when students must walk between outdoor classrooms and main school facilities. Other potential concerns include air conditioning, water access, compliance with the federal Americans with Disabilities Act (ADA), and technology access. Members also noted that school demographics, such as numbers of special education students requiring classroom space, also affect building capacity issues in different school divisions.

The survey also indicated that while the age of school buildings across Virginia varies widely, 46 percent of schools were built before 1970.[53]

Year in which most buildings at the school were built or substantially upgraded/renovated	Schools	Pct.
1949 or earlier	181	10%
1950-59	267	15%
1960-69	374	21%
1970-79	239	13%
1980-89	166	9%
1990-99	448	25%
2000-02	123	7%
Total	1,798	100%

Funding School Construction in Virginia

As title to school property in the Commonwealth rests with the relevant local school board, so does primary responsibility for capital outlay and improvements.[54] Minimum standards for school facilities construction, set by the Board of Education, supplement Uniform Statewide Building Code requirements and are designed to address additional instructional, health, and safety issues pertinent to school buildings.[55] Local school boards are directed to establish programs for "ongoing school maintenance" of school facilities.[56] Local school boards are to notify the Superintendent of Public Instruction before entering into contracts for the expenditure of school construction moneys. Division superintendent approval of school construction plans and specifications is required before any advertising for bids, contracting, or acquisition can

[53]Meeting summary, December 1, 2004 meeting.
[54]Va. Code § 22.1-125 (2003).
[55]Va. Code § 22.1-138 (2003).
[56]Va. Code § 22.1-138.1 (2003).

occur. A statement by an architect or engineer, indicating compliance with Board of Education regulations and Uniform Statewide Building Code requirements, must accompany these materials. Copies of the superintendent approval, architect statement, and final plans and specifications must be submitted to the Superintendent of Public Instruction.[57]

To support school construction, local school boards may pursue financing independently. Three routes for general obligation debt—backed by taxing authority and typically boasting low interest rates—are available to localities; localities may (i) sell debt directly, either in public or private markets (an option that may require voter approval); (ii) seek Literary Fund loans at below-market interest rates; or (iii) obtain funding through the Virginia Public School Authority (VPSA).

An alternative to the general obligation bond is the revenue bond, typically issued through a local industrial development authority (IDA) and secured by a pledge of revenues. These bonds may include a "relatively high cost of financing," as additional legal counsel, underwriter, and ratings and other fees may increase costs. In addition, interest rates are typically less favorable than those available for general obligation debt. In the revenue bond model, the IDA borrows the funds to construct the school, then leases the project to the school division.[58]

Literary Fund

One source for school construction funding is the Literary Fund, a "permanent and perpetual school fund" detailed in Article VIII, § 8 of the Virginia Constitution, and initially established by the General Assembly in 1810. The Literary Fund has grown from a modest fund comprised of the proceeds of escheated property to a major funding source, combining not only escheated property sale proceeds but also sale proceeds of public lands donated by Congress for public school purposes, waste and unappropriated lands, forfeited lands, fines collected by the Commonwealth, donations, and annual interest accrued on the Fund.[59] Proceeds from the sale of abandoned property, as well as unclaimed State Lottery prizes, are also directed to the Literary Fund.[60]

Once the principal in the Fund reaches $80 million, the General Assembly may set aside additional moneys for "public school purposes," including the teacher retirement fund.[61] As administrator of the Literary Fund, the Board of Education may make low-interest loans from additional Fund moneys to local school divisions for the construction, alteration, or enlargement of school buildings; for the purchase and installation of educational technology infrastructure and equipment; for equipping school buses for alternative fuel conversions; for the construction of school bus alternative fuel facilities;

[57]Va. Code §§ 22.1-139; 22.1-140 (2003).
[58]Senate Finance Committee Staff, *The Role of the Commonwealth in Public School Construction* at 3 (July 16, 1996); Va. Code §§ 22.1-142 *et seq*.; 22.1-161.1 *et seq*.; 22.1-162 *et seq*. (2003 and 2004 Supp.); see also, Meeting summary, September 21, 2004 meeting.
[59]Va. Code § 22.1-142 (2003); *see also*, A.E. Dick Howard, *Commentaries on the Constitution of Virginia* at 880, 881; 937-945 (1974).
[60]Va. Code §§ 58.1-4020 (2000); 55-210.19 (2003).
[61]Va. Constitution, Art. VIII, § 8 (2001).

and for the refinancing or redemption of debt incurred by a locality while awaiting Board of Education approval for a Literary Fund project. Subject to the approval of the General Assembly, the Board of Education may also make loan interest rate subsidy payments from the Literary Fund. The Board is statutorily directed to distribute Fund moneys equitably among applicant school divisions and must cap loans at $7.5 million.[62] In addition, the General Assembly may authorize the Board to use the Literary Fund as collateral for other borrowings; however, these borrowings are not secured by the full faith and credit of the Commonwealth.[63]

Literary Fund of Virginia 2002-03

A. Securities Belonging to the Literary Fund In the Hands of the State Treasurer Under the Control of the Board of Education as of June 30, 2003

Cash in Bank and Investments, June 30, 2003	38,086,025
School Loan Bonds	21,162,333
Total	**59,248,358**

B. Statement of Principal

Balances as of July 1, 2002		95,996,133
Revenues		
Fines and Forfeitures	49,568,873	
Unclaimed Property	44,000,000	
Interest Earned	12,143,341	
Virginia Public School Authority (Repayments)	48,455,163	
Unclaimed Lottery Prizes	12,304,583	
Subtotal		**166,471,960**
Transfers		
General Fund	—	
Virginia Supplemental Retirement System	112,804,700	
Virginia Public School Authority	51,688,016	
Interest Rate Subsidy	8,090,527	
Loan Disbursements	33,569,734	
Misc. Disburs.	—	
Subtotal		**206,152,977**
Balance as of June 30, 2003		**56,315,116**

Source: Virginia Department of Education, *Superintendent's Annual Report 2002-2003, Table 10* <http://www.pen.k12.va.us/VDOE/Publications/asrstat/2002-03/Table10.pdf>

In fiscal year 2004, Literary Fund revenues stood at $209.1 million. These revenue sources included (i) $63.8 million from fines, fees, and forfeitures; (ii) $68.4

[62]Va. Code § 22.1-146; 22.1-147 (2003).
[63]Va. Constitution, Art. VIII, § 8 (2001).

million from Literary Fund repayments; (iii) $50.0 million from unclaimed property; (iv) $13.0 million from unclaimed lottery winnings; and (v) $13.9 million in interest earnings. As of June 30, 2004, Literary Fund principal totaled $502.9 million.[64]

Literary Fund Loans. Since 1983, local school divisions have claimed $882.9 million in direct Literary Fund loans.[65] Evidenced by bonds or notes payable to the Commonwealth, loans from the Literary Fund are repayable in annual installments from five to 30 years; interest rates may be fixed between two and six percent by the Board of Education. Board regulations, however, indicate that the Board may calculate interest for a Literary Loan based on the school division's composite index of local ability-to-pay, effective at the time the Board places the particular project on the loan waiting list. Construction loans may not exceed 100 percent of the cost of the project.[66] Although a local referendum is not required to approve a loan from the Literary Fund, these loans are considered a debt of the locality, and the local governing body must appropriate to the school division sufficient funds for repayment.[67]

Direct Literary Fund Loans Released by Fiscal Year

Fiscal Year	Projects Funded
1983	$41,917,922
1984	13,090,500
1985	40,425,600
1986	32,768,391
1987	64,951,999
1988	36,212,656
1989	68,865,889
1990	22,158,479
1991	16,374,400
1992	-0-
1993	-0-
1994	-0-
1995	23,186,074
1996	48,888,628
1997	67,163,679
1998	78,254,001
1999	111,271,391
2000	99,576,079
2001	117,794,506
2002	-0-
2003	-0-
2004	-0-

Source: Daniel S. Timberlake, Assistant Superintendent for Finance, Virginia Department of Education, STATUS REPORT ON THE LITERARY FUND PRESENTED TO HJR 105 JOINT SUBCOMMITTEE TO STUDY THE LEVEL OF THE COMMONWEALTH'S ASSISTANCE TO LOCALITIES NECESSARY FOR DEVELOPING ADEQUATE K-12 SCHOOL INFRASTRUCTURE (September 21, 2004).

[64] Meeting summary, September 21, 2004 meeting.
[65] Meeting summary, September 21, 2004 meeting.
[66] Va. Code § 22.1-151; 22.1-152; 22.1-150; 22.1-148 (2003); 8 VAC 20-100-150 (last modified June 3, 2002). A 1988 opinion of the Virginia Attorney General supported the Board's authority to use the composite index in calculating Literary Fund loan interest rates. Op. Atty. Gen. 323, 1988 WL 408818, (February 29, 1988).
[67] Va. Constitution Art. VII, § 10 (b) (2001); Va. Code § 22.1-161; 22.1-158 (2003).

Board regulations dictate that first priority will be given to Literary Fund applications on the waiting list for school divisions having a composite index less than .6000, coupled with outstanding debt to the Literary Fund of less than $20 million, followed by applications from divisions having a composite index of .6000 or above, or outstanding debt to the Literary Fund exceeding $20 million.[68]

Literary Fund loan amounts must be no less than $50,000. While the loan term may range from five to 20 years, most loans have a 20-year term. The interest rate is based on the school division's composite index of local ability-to-pay. Localities with a composite index less than or equal to 0.2999 receive a 2 percent interest rate; those from 0.3000 to 0.3999, a three percent interest rate; from 0.4000 to 0.4999, four percent; from 0.5000 to 0.5999, five percent; and at 0.6000 and above, six percent. Projected revenues for 2005 are $177.4 million, to be added to an expected $36.8 million in unspent revenues from fiscal year 2004. For 2006, projected revenues are $190.7 million, to be added to an anticipated $12.8 million in unspent revenues from 2005. No direct loans are expected to be issued for 2005 or 2006.

Literary Fund Transfers. Transfers of Literary Fund moneys for teacher retirement, a common practice for over 30 years, affords greater flexibility in the application of general fund appropriations. These transfers have increased over time, reaching $100 million in 1992. For several years in the mid-1990s, these transfers claimed nearly 90 percent of Literary Fund revenues, resulting in delays for school construction project funding. These transfers ceased in fiscal years 2000 and 2001; however, since fiscal year 2002, the bulk of Literary Fund revenues have again supported teacher retirement.

In fiscal year 1999, $9.0 million was transferred to the School Construction Grants Program. Based on estimated revenue from unclaimed lottery prizes, this transfer totaled $8.4 million that year, with $10.2 million, $ 8.2 million, and $ 9.2 million transferred in fiscal years 2000, 2001, and 2002, respectively. These transfers ceased in the 2002-2004 biennium.[69]

Beginning in 1988, Literary Fund revenues were used to support the purchase of computers and educational technology for public schools; the revenues have supported debt service on equipment notes issued by the Virginia Public School Authority. About $232.9 million in VPSA bonds have been issued since fiscal year 2001 to support "… a computer-based instructional and testing system for the Standards of Learning…" The current fiscal biennium will include about $118.5 million in additional bond proceeds.[70]

[68]8VAC20-100-170 (updated through 20:20 Va.R. June 14, 2002).
[69]Meeting summary, September 21, 2004 meeting.
[70]Meeting summary, September 21, 2004 meeting.

Literary Fund Transfer History - Since 1980

Since 1980, approximately $1.4 billion (49%) has been transferred from Literary Fund revenues for teacher retirement or school construction.

($ in millions)

Fiscal Year	Total Revenues	Teacher Retirement Transfer	School Construction Transfer	Total Percent Transferred
1980	$33.2	$1.5		4.5%
1981	$34.1	$3.3		9.7%
1982	$41.3	$8.4		20.3%
1983	$45.7	$31.7		69.4%
1984	$48.4	$44.4		91.7%
1985	$51.1	$10.0		19.6%
1986	$58.8	$22.0		37.4%
1987	$64.4	$15.0		23.3%
1988	$67.8	$32.1		47.3%
1989	$80.1	$10.0		12.5%
1990	$85.1	$60.0		70.5%
1991	$102.1	$36.8		36.0%
1992	$102.8	$101.1		98.3%
1993	$100.9	$84.5		83.7%
1994	$101.5	$93.9		92.5%
1995	$119.0	$82.3		69.2%
1996	$108.6	$35.0		32.2%
1997	$124.1	$41.1		33.1%
1998	$127.0	$15.5		12.2%
1999	$140.3	$7.8	$8.4	11.5%
2000	$138.6	0	$10.2	7.4%
2001	$162.0	0	$8.2	5.1%
2002	$154.2	$110.0	$9.2	77.3%
2003	$166.5	$112.8		67.7%
2004	$209.1	$118.5		56.7%
2005 - estimate	*$177.4*	*$131.9*		*74.4%*
2006 - estimate	*$190.7*	*$135.9*		*71.3%*

Source: Meeting Summary, September 21, 2004 HJR 105 meeting.

Interest Rate Subsidies. The Literary Fund may also be used for interest rate subsidies, which support school construction projects on the Literary Fund's First Priority Waiting List through the Virginia Public School Authority (see following table). The subsidies are designed to reduce principal amount of debt financed "in a manner that produces debt service payments equivalent to what the school division would have paid for a direct Literary Fund loan."

Interest Rate Subsidy Program:
Summary of Total Projects Funded; Costs to Literary Fund

Year	Value of Projects Funded	Total Cost to the Literary Fund	Ratio of Projects Funded to Literary Fund Cost
1988	$23,757,500	$8,446,500	2.8
1990	43,405,770	11,033,560	3.9
1991	106,806,799	27,898,774	3.8
1992	42,872,037	10,611,971	4.0
1994	40,689,574	10,069,683	4.0
1995	64,733,441	12,266,988	5.3
1996	43,675,000	8,652,972	5.0
1997	59,795,100	9,963,749	6.0
1998	42,978,700	5,596,579	7.7
1999	51,811,589	9,967,509	5.2
2000	102,923,607	18,824,375	5.5
2001	104,628,220	11,324,309	9.2
2002	51,082,187	5,000,000	10.2
2003	35,253,087	2,921,438	12.1
2004 -estimated	*30,479,95**	*4,952,349**	*6.2**
Total	$844,892,562	$157,530,756	**Average Ratio 5.4**

Source: Meeting Summary, September 21, 2004 HJR 105 meeting (Daniel S. Timberlake, Assistant Superintendent for Finance, Virginia Department of Education, STATUS REPORT ON THE LITERARY FUND PRESENTED TO HJR 105 JOINT SUBCOMMITTEE TO STUDY THE LEVEL OF THE COMMONWEALTH'S ASSISTANCE TO LOCALITIES NECESSARY FOR DEVELOPING ADEQUATE K-12 SCHOOL INFRASTRUCTURE)

*In a letter to the joint subcommittee, Deputy Secretary of Finance Pamela Currey indicated that actual 2004 figures stood at $37,353,634 for value of projects funded, $4,870,341 for total cost to the Literary Fund, and 7.7 for the average ratio of projects funded to Literary Fund cost. (Meeting summary, December 1, 2004 meeting).

This subsidy program has funded an average of $5.4 of projects for every $1 of Literary Fund revenue. Among the advantages of this funding route, according to Deputy Secretary of Finance Pamela H. Currey, are below market interest rates and greater flexibility in spending (under VPSA capital project expenditure guidelines). In addition, the subsidy loan does not count toward the $20 million Literary Fund cap. Deputy Secretary Currey indicated that, between November 1996 and November 2003, the interest rate subsidy program funded a total of $489,172,501 of projects for 89 localities on the Literary Fund waiting list.[71]

The 2004-2006 budget directs the Board of Education and the Authority to provide a program of funding for school construction and renovation through the Literary Fund loans and subsidies and VPSA bond sales. The program is to fund a portion of the projects on the Literary Fund waiting list or "other critical projects which may receive priority placement" by the Board of Education. The VPSA is to provide interest rate subsidies in fall 2004 and 2005 for projects that are on the Board's First Priority Waiting List. These subsidies are not to exceed $5 million in each year.[72]

[71]Meeting summary, September 21, 2004 meeting.

[72]2004 Acts of Assembly, Spec. Sess. I, c. 4, § 1-50, Item 158 A, B. Responding to inquiries from the joint subcommittee's initial meeting, Deputy Secretary of Finance Pamela A. Currey submitted a letter setting forth the relationship between "the value of projects funded from the First Priority Waiting List, the associated costs to the Literary Fund to provide the interest rate subsidy grants, and the effective ratio for

Board of Education: First Priority Waiting List

BOARD OF EDUCATION - FIRST PRIORITY WAITING LIST

Attachment A

he initial release/commitment of Literary Funds for the following projects was deferred by the Board at its previous meetings, with a waiting list established as follows:

Placed on Waiting List	Priority	County, City or Town		School	Interest Rate	Amount Deferred	Cumulative Total
March, 2003	1	Smyth County		North Middle/Rich Valley Elementary	2%	150,000	150,000
April, 2001	2	Augusta County		Wilson Middle	3%	7,500,000	7,650,000
September, 2001	3	Hanover County		New Hanover High School	4%	7,500,000	15,150,000
September, 2001	4	Nelson County	*	New Nelson Middle	5%	7,500,000	22,650,000
September, 2001	5	Nelson County	*	Nelson High Addition	5%	7,500,000	30,150,000
October, 2001	6	Patrick County		Hardin Reynolds Elementary	2%	403,000	30,553,000
January, 2002	7	Patrick County		Stuart Elementary	2%	110,669	30,663,669
January, 2002	8	Patrick County		Patrick High School	2%	1,000,000	31,663,669
February, 2002	9	Orange County		Locust Grove Middle	4%	7,500,000	39,163,669
February, 2002	10	Pittsylvania County		Chatham Middle	2%	7,500,000	46,663,669
February, 2002	11	Pittsylvania County		Dan River Middle	2%	5,000,000	51,663,669
February, 2002	12	Pittsylvania County		Tunstall Middle	2%	7,500,000	59,163,669
February, 2002	13	Nottoway County		Blackstone Primary	2%	307,000	59,470,669
February, 2002	14	Nottoway County		Crewe Primary	2%	1,223,780	60,694,449
March, 2002	15	Hopewell City		Carter G. Woodson Middle	2%	1,100,000	61,794,449
March, 2002	16	King William County		King William High	3%	7,500,000	69,294,449
March, 2002	17	Buckingham County		Buckingham Middle	2%	7,500,000	76,794,449
April, 2002	18	Shenandoah County		Strasburg High	3%	4,535,000	81,329,449
April, 2002	19	Shenandoah County		Stonewall Jackson High	3%	4,535,000	85,864,449
April, 2002	20	Shenandoah County		Central High	3%	4,535,000	90,399,449
April, 2002	21	Fluvanna County		Fluvanna High	3%	7,500,000	97,899,449
April, 2002	22	Orange County		Orange County High	4%	7,500,000	105,399,449
May, 2002	23	Amelia County		Amelia High	3%	2,500,000	107,899,449
May, 2002	24	Amelia County		Amelia Middle	3%	5,000,000	112,899,449
June, 2002	25	Prince George County		South Elementary	2%	5,911,575	118,811,024
June, 2002	26	Prince George County		Harrison Elementary	2%	7,044,000	125,855,024
July, 2002	27	Newport News City		General Stanford Elementary	2%	7,500,000	133,355,024
March, 2003	28	Salem City		Andrew Lewis Middle	4%	7,500,000	140,855,024
March, 2003	29	Franklin County		Windy Gap Elementary	3%	7,500,000	148,355,024
March, 2003	30	Lynchburg City		E. C. Glass High	3%	7,500,000	155,855,024
March, 2003	31	Lunenburg County		Lunenburg Middle	2%	7,500,000	163,355,024
June, 2003	32	King George County		King George Elementary	3%	7,500,000	170,855,024
June, 2003	33	Galax City		Galax Elementary	3%	2,000,000	172,855,024
June, 2003	34	Roanoke City		Lincoln Terrace Elementary	3%	1,300,000	174,155,024
June, 2003	35	Sussex County		Sussex Central Middle	3%	7,500,000	181,655,024
June, 2003	36	Floyd County		Check Elementary	3%	2,160,800	183,815,824
June, 2003	37	Floyd County		Floyd Elementary	3%	1,123,737	184,939,561
June, 2003	38	Floyd County		Indian Valley Elementary	3%	2,030,933	186,970,494
June, 2003	39	Floyd County		Willis Elementary	3%	1,820,531	188,791,025
June, 2003	40	Floyd County		Floyd High	3%	4,863,998	193,655,023
June, 2003	41	Alleghany County		Falling Springs Elementary	2%	2,000,000	195,655,023
June, 2003	42	Alleghany County		Callaghan Elementary	2%	1,000,000	196,655,023
June, 2003	43	Alleghany County		Sharon Elementary	2%	1,000,000	197,655,023
June, 2003	44	Stafford County		New Elementary 2004	3%	7,500,000	205,155,023

each year's transaction." Her letter indicated that "[a]lthough the structure has remained the same the ratio changes from year to year as a function of three basic factors that vary with each financing transaction." The factors include the prevailing market interest rate the day the Virginia Public School Authority (VPSA) sells its interest rate subsidy bonds, the composition of the portfolio of loans eligible for funding, and impact of the amount of fixed appropriation form the Literary Fund on participation. Meeting summary, December 1, 2004 meeting.

Board of Education: First Priority Waiting List ~ cont'd.

BOARD OF EDUCATION - FIRST PRIORITY WAITING LIST

Attachment A

The initial release/commitment of Literary Funds for the following projects was deferred by the Board at its previous meetings, with a waiting list established as follows:

Placed on Waiting List	Priority	County, City or Town	School	Interest Rate	Amount Deferred	Cumulative Total
September, 2003	45	Patrick County	Blue Ridge Elementary	2%	725,000	205,880,023
February, 2004	46	Mecklenburg County	South Hill Elementary	3%	7,500,000	213,380,023
February, 2004	47	Manassas Park City	Manassas Park High	3%	7,000,000	220,380,023
February, 2004	48	Rockingham County	Montevideo Middle	3%	6,600,000	226,980,023
February, 2004	49	Rockingham County	Elkton Middle	3%	7,000,000	233,980,023
April, 2004	50	Patrick County	Woolwine Elementary	2%	367,000	234,347,023
April, 2004	51	Patrick County	Patrick County High	2%	1,205,467	235,552,490
April, 2004	52	New Kent County	New Kent Primary	4%	2,487,946	238,040,436
April, 2004	53	New Kent County	G. W. Watkins Elementary	4%	6,912,054	244,952,490
June, 2004	54	Page County	Page County High	2%	7,500,000	252,452,490
June, 2004	55	Page County	Luray High	2%	7,500,000	259,952,490

* Nelson County has requested that their interest rate be reduced by 1% in accordance with 8 VAC 20-100-150 of the Literary Fund Regulations. This request cannot be considered until the Board of Education is ready to release funds for each project.

September, 2004

Source: Meeting Summary, September 21, 2004 HJR 105 meeting.

As of June 30, 2004, the costs of the 55 projects on the First Priority Waiting List—those for school divisions having a composite index of less than .6000, coupled with outstanding debt to the Literary Fund of less than $20 million—stood at $260 million.[73]

Virginia Public School Authority

Also supporting capital construction for public schools is the Virginia Public School Authority (VPSA), established in 1962 to provide below-market interest rate borrowing to localities.[74] Governed by a Board of Commissioners consisting of the State Comptroller, the State Treasurer, the Superintendent of Public Instruction, and five gubernatorial appointees, the Authority is often described as a "bond bank" and is authorized to purchase general obligation local school bonds through funds set aside to it from the Literary Fund and other funds appropriated by the General Assembly. In practice, the VPSA typically purchases these local bonds from the proceeds of the sale of its own bonds. School bonds purchased by the VPSA do not require approval by the voters of the borrowing locality.[75] In addition, the Authority may make loans and loan interest rate subsidy payments to local school boards for capital projects for which Literary Fund moneys are not immediately available. Grants for the purchase of capital projects for school purposes are also authorized.[76]

The VPSA has also issued Qualified Zone Academy Bonds through the federal taxpayer Relief Act of 1997, which provides bond financing using a tax credit to the lender—rather than an interest rate—for certain eligible schools (those in a federal enterprise community or within a school division with 35 percent of its student population eligible for free or reduced lunch). Finally, the VPSA has also issued various bonds and notes to support educational technology since 1989.

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[73]Meeting summary, September 21, 2004 meeting.

[74]Va. Code § 22.1-162 *et seq*. (2003); Hullihen W. Moore, "In Aid of Public Education: An Analysis of the Education Article of the Virginia Constitution of 1971," 5 *U. Rich. L. Rev*. 263 at 295-297 (1971).

[75]Va. Constitution, Article VII, § 10(b) (2001); Va. Code §§ 22.1-164; 22.1-166 (2003).

[76]Va. Code §§ 22.1-166; 22.1-166.1; 22.1-166.2 (2003).

On January 1 and July 1 of each year and at such other times as the Authority may request, notes representing permanent loans from the Literary Fund to local school boards are transferred to the VPSA.[77] Income from these notes, as well as from the purchase and sale of local school bonds and from other funds as may be transferred or appropriated by the General Assembly, enables the Authority to issue its own bonds to finance other grants, loans, and bond purchases. Aided by several factors, including the full faith and credit of the issuing locality pledged to the bonds and transferred notes, the VPSA may pass along a favorable interest rate.

The Authority's bonds, like borrowings from the Literary Fund, are not considered state debt and are therefore not secured by the Commonwealth's full faith and credit. However, payments on Authority bonds may be secured through a mechanism commonly referred to as the "state aid intercept," which allows the Governor to redirect state aid to the defaulting locality and to the bondholders until the default is cured. Exempt from state and local taxation, Authority bonds must mature within 30 years of their issuance and may be sold publicly or privately.[78] Issuance of VPSA bonds may also be based on debt service payments payable from appropriations from the General Assembly.[79] Legislation adopted in 2001 authorized the Authority to pledge to certain bonds and notes issued for grants to local school boards any general funds appropriated for such purpose; however, the Governor's annual budget bill must include an appropriation to address any shortfall on any debt service payment date.[80]

The VPSA assists localities through pooled and stand-alone bond initiatives. School bonds purchased by the VPSA through its pooled bond program do not require approval by the voters of the borrowing locality. Localities initiate the VPSA funding process; unlike the Literary Fund route, there is no project waiting list. As of June 30, 2004, total VPSA indebtedness on behalf of local school construction surpassed $2.3 billion. The VPSA also provides a "stand-alone" bond program, with bonds featuring a rating equal to the locality's general obligation rating and secured by the local school general obligation bond purchased.

The VPSA enjoys a “double-A plus” bond rating by the three major rating agencies (Moody's, Standard and Poor's, Fitch) and is able to offer favorable interest rates for participating localities. The VPSA supports its various costs by charging localities a 10 basis point surcharge (0.10%) over what it pays on its bonds.[81] In recent years, the VPSA has issued school equipment financing notes to support grants for school division purchases of educational technology as well as qualified zone academy bonds for capital projects in Northampton (2001) and Accomack (2002) County public schools. In

[77]Va. Code § 22.1-175 (2003).
[78]Va. Code § 22.1-167; 22.1-168; 22.1-172 (2003); 15.2-2659 (2003). *See also*, Moore, *supra* note 61, at 296.
[79]Va. Code § 22.1-167.2 (2003).
[80]Va. Code § 22.1-167.3 (2003).
[81]Meeting summary, September 21, 2004 meeting.

November 2003, the Authority issued nearly $190.6 million in school financing bonds to purchase local school bonds for capital projects.[82]

Virginia Retirement System (VRS) Borrowing

School boards, with the consent of the local governing body, may borrow funds from the Virginia Retirement System to support "capital projects for school purposes." Detailing resolution, bond issuance, sales, and investment procedures, the statute also authorizes the local governing body to assess and collect local property taxes to support principal and interest payments.[83]

Lottery Proceeds

The 2004-2006 budget appropriates $145 million and $147.9 million in lottery proceeds in each year directly to school divisions; at least 50 percent of these moneys must be expended on nonrecurring costs. The 2000 Session of the General Assembly authorized local governing bodies to establish escrow accounts from lottery proceeds designated for nonrecurring costs as described in the budget—school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the past 10 years. Although similar in concept to the School Construction Grants escrow accounts, these accounts must be clearly separate.[84]

Maintenance Supplement

Support for school facilities maintenance or local debt service payments was also found in the maintenance supplement set forth in the 2001-02 Appropriation Act; the General Assembly allotted $9.5 million, calculated to fund a state share of $15 per pupil in average daily membership, to be matched by the locality on the basis of the composite index of local ability-to-pay. While the 1998 Session adopted legislation citing the maintenance supplement program, the 2002, 2003, and 2004 Appropriation Acts did not include this initiative.[85]

School Construction and Educational Technology Grants

The Virginia Public School Construction Grants Program, initially created in 1995 and administered by the Board of Education, provides grants for school "nonrecurring costs"—construction, additions, infrastructure, site acquisitions, renovations, technology, escrow payments, and school safety equipment. Grants may also be used for debt service payments for projects completed within the past 10 years. Board of Education guidelines delineate eligibility criteria for school divisions

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[82]Auditor of Public Accounts, *Virginia Public School Authority, Richmond, Virginia: Report on Audit for the Year Ended June 30, 2003* at 20-22; 6 (2003).
[83]Va. Code § 22.1-161.1 *et seq*. (2003).
[84]Va. Code § 22.1-100.1 (2003); 2000 Acts of Assembly, cc. 635, 693; 2004 Acts of Assembly, Spec. Sess. I, c. 4, § 1-50, Item 147 B 4, B 5.
[85]2002 Acts of Assembly, c. 814, § 1-52, Item 143 C 9; 1998 Acts of Assembly, c. 73; Va. Code § 22.1-138.1 (2003).

demonstrating need as evidenced by the local ability to pay for public school construction, as well as eligibility criteria based on population growth rates and the availability and pledge of local matching funds.[86] Subsequent amendments to the Grants Program directed the apportionment of grants in 1998-1999 and 1999-2000 to distribute (i) equally to each school division individual grants of $200,000 and (ii) the remaining balance on a pro rata basis to every school division based on the respective divisions' average daily memberships adjusted by the relevant composite index of local ability to pay. Local governing bodies may establish a separate escrow fund for the deposit of such funds. The 2004 Appropriation Act provided $ 27.5 million in each year of the 2004-06 biennium for this initiative.[87]

A similar initiative, the Virginia Public School Educational Technology Grants Program, provides grants for "educational technology, including infrastructure, software, and hardware acquisitions and replacement, and innovative programs to advance the effectiveness of educational technology." By statute, grants from this fund must be matched by local moneys calculated on the basis of the locality's composite index of ability to pay; however, the 2004 Appropriation Act requires a 20 percent local match, with exceptions for less affluent school divisions. In administering the program, the Board of Education is not only to consider additional awards or grants the locality might have received for the relevant project, but must also assist school divisions in applying for additional grants. Again, Board-developed guidelines govern division eligibility and the apportionment of funds.

The 2004 Appropriation Act details transfers of moneys from the Literary Fund to support debt service for the conduct of the education technology grants program initiatives through the VPSA.[88]

Legislative Scrutiny and Recent Developments

Select Committees

The challenges of public school construction needs have not eluded the General Assembly, as numerous legislative studies have tackled the complex issue in recent years. In 1994, an 11-member select committee of the House Committee on Appropriations, the Senate Committee on Finance, and the Commission on Equity in Public Education was established "to study alternative methods of school construction and renovation funding for the Commonwealth's school divisions." The study was to examine, among other things, "the feasibility of the state's providing technical assistance to school divisions on structuring and handling school construction debt."[89] Continued by the 1995 and 1996

[86]Va. Code § 22.1-175.1 *et seq*. (2003).
[87]Va. Code § 22.1-175.4; 22.1-175.5 (2003); 2004 Acts of Assembly, Spec. Sess. I, c. 4, § 1-50, Item 146 C 13.
[88]Va. Code § 22.1-175.6 *et seq*. (2003); 2004 Acts of Assembly, Spec. Sess. I, c. 4, § 1-50, Item 147 C 9. Overriding the Code requirement, the 2004 Appropriation Act provided that the local match equal 20 percent of the grant amount. The Superintendent of Public Instruction may reduce the required local match for localities with a composite index lower than 0.2000. 2004 Acts of Assembly, Spec. Sess. I, c. 4. § 1-50, Item 147 C 9 f 5.
[89]HJR 250 (1994); SJR 131(1994); 1995 Acts of Assembly, c. 853, Item 164 C 8.

Sessions, the select committees contended "only a formal commitment to a long-range solution will be effective in resolving a reported $1 billion unmet capital financing need in school construction." In response to a recommendation by the select committee, the 1995 Session restored the maintenance supplement and increased the total VPSA outstanding debt issuance cap from $500 million to $800 million. A committee-proposed constitutional amendment limiting the use of the Literary Fund to school construction and renovation failed. [90]

Commission on Educational Infrastructure

Recognizing that "many of Virginia's public schools were constructed in the 1950s, necessitating millions of dollars for extensive repairs, renovations, and retrofitting to comply with current state building, health, fire, and safety codes"[91] and the need for adequate infrastructure to accommodate advances in educational technology, the 1996 Session of the General Assembly established the 23-member Commission on Educational Infrastructure to evaluate current—and estimate future—physical and technical school infrastructure needs, explore funding sources and options, and develop, with the Select Committee on Public School Construction and the Select Committee on Educational Technology, "an educational technology master plan which incorporates current networking and funding initiatives and provides a vision for meeting future school construction and educational technology needs as Virginia embarks upon the 21st century."

The Commission recommended, and the 1997 Session of the General Assembly passed, legislation authorizing local school boards to create nonstock, nonprofit **educational technology corporations** to facilitate the implementation of public-private partnerships "to expand access to and improve the quality of educational technology in a school division." School boards may advance or contribute funds to these foundations and create escrow funds to support educational technology projects. The statute exempts these purchases from various portions of the Virginia Public Procurement Act. The 1999 Session of the General Assembly broadened the statute to authorize the creation of public school foundations to support public school improvement projects, defined as a "project designed to achieve an educational purpose that may be identified in Title 22.1."[92]

In addition, the Commission recommended, and the 1997 Session of the General Assembly approved, legislation (i) authorizing the use of Literary Fund moneys for educational technology and infrastructure; (ii) granting local school boards the power to create educational technology foundations; and (iii) directing the State Council of Higher Education to coordinate with the Board of Education in the development of the Board's Six-Year Technology Plan for Virginia. In addition, a Commission-recommended

[90]SJR 88 (1996); HJR 117 (1996); HJR 562 (1995); SJR 380 (1995); 1995 Acts of Assembly, c. 188; SJR 381 (1995).
[91]HJR 135 (1996).
[92]Va. Code § 22.1-212.2:2 (2003); 1997 Acts of Assembly, c. 863; 1999 Acts of Assembly, c. 735; HJR 135 (1996);

amendment to the 1997 Appropriations Act was adopted increasing the per pupil amount for school maintenance supplement funding.[93]

Car Tax Relief and School Construction

The 1998 Session of the General Assembly linked car tax relief and school construction funding within the 1998-2000 biennial budget, providing approximately $533 million for these initiatives "pursuant to such legislation as may be adopted by the 1998 or subsequent sessions of the General Assembly."[94] Anticipating the possibility that legislation may not be in place by the July 1, 1998, effective date of the Appropriation Act, then-Governor Gilmore issued Executive Order #6 on April 14, 1998, to be effective July 1, 1998, detailing the mechanisms whereby the executive branch would implement these initiatives. Issued that same day, an opinion from then-Attorney General Mark Earley acknowledged the Governor's authority to implement these initiatives via executive order in the absence of "further direction regarding the particulars of the car tax relief or school construction programs..."[95]

Also that day was Executive Order #7, establishing the Governor's Commission on Local School Construction. The Commission was to assess, among other things, (i) each locality's total school construction project costs as a percentage of total revenues over the last decade, (ii) local effort to use efficiently or consolidate existing facilities; and (iii) actual and projected enrollments, and make recommendations for action.[96]

Obviating the need for the Governor's plan was a special session held in April 1998. The General Assembly passed SB 4005, providing for personal property tax relief as well as detailing the distribution of funds through the Virginia Public School Construction Grants Program. Signed by the Governor on May 26, 1998, the measure also created the 12-member Commission on State Funding of Public School Construction to recommend a statewide method for assessing and quantifying the public school construction and renovation needs" and criteria for the apportionment of Virginia Public School Construction Grants to local school divisions. The Commission was directed to develop "a statewide method for assessing and quantifying the public school construction and renovation needs of local governments" and eligibility criteria governing the disbursement and apportionment of Virginia Public School Construction Grants. The Commission, however, did not meet, and no additional criteria were developed.[97]

Model School Design Plans

Pursuant to SJR 400 (2001), the Department of Education was to "study the feasibility of providing model school design plans for elementary, middle, and high schools." The Department's resulting report, Senate Document No. 8, questioned the

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[93]Report of the Commission on Educational Infrastructure Pursuant to HJR 135 of 1996, *House Document No. 75* at 10-11(1998).
[94]1998 Acts of Assembly, c. 464, § 1-129, Item 554;
[95]Commonwealth of Virginia, Office of the Governor, Ex. Order No. 6 (April 14, 1998); Va. Op.Att.Gen. (April 14, 1998).
[96]Commonwealth of Virginia, Office of the Governor, Ex. Order No. 7 (April 14, 1998).
[97]1998 Acts of Assembly, Spec. Sess., c. 2, cl. 2.

utility and economy of "multiple use of architectural plans." Citing differing school sizes, unique and varying local educational needs, and the need for community involvement in new school planning, the Department concluded that while the creation of model plans might well be feasible, these plans might not in practice be used by school divisions. Finally, the Department stated that any savings realized might be minimal.[98]

2003-04 Number of PK-12 Schools in Virginia

School/Center Type - Local	Number of Schools
Alternative Center	46
Alternative School	16
Career and Technical Center	37
Charter School	6
Combined School	39
Elementary School	1177
Governor's School	1
High School	293
Middle School	304
Special Education Center	14
Special Education School	8
Total Schools	1844
Total Centers	97
Total	1941

Source: Virginia Department of Education, Number of Schools in Virginia <http://www.pen.k12.va.us/VDOE/Publications/schcnt_lcl.htm>[last updated March 11, 2004]

Public-Private Education Facilities and Infrastructure Act

Acknowledging "public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of education facilities and other public infrastructure and government facilities within the Commonwealth," the 2002 Session adopted the Public-Private Education Facilities and Infrastructure Act, authorizing private entities to "acquire, design, construct, improve, renovate, expand, equip, maintain or operate qualifying projects" upon approval by a public entity, such as a local school division "that has the power to take such actions with

[98]SJR 400 (2001); Report of the Department of Education" A Feasibility Study for Model School Design Plans, *Senate Document No. 8* at (2002).

respect to such projects." Included within the Act's definition of a "qualifying project" is "any facility that is operated as part of the public school system or as an institution of higher education." [99]

In describing the use of the PPEA in Stafford County Public Schools at the joint subcommittee's December meeting, Kathleen Langan, Vice President, Hess Construction, cited cost-savings for the construction of Margaret Brent Elementary School of $275,941, with savings on the construction of Mountain View High School of $2,189,405. She also cited the "built-in efficiencies" of the Act's design-build model, the shift of risk from public to private entities, and a streamlined design and construction process.[100]

IV. Issues for Further Study

HJR 105 provides specific directives to the committee; the identification of the physical and technical infrastructure needs of K-12 schools throughout the Commonwealth will figure prominently in the committee's work, as will consideration of funding sources, including bond financing to meet immediate capital needs. In addressing a variety of complex fiscal and policy concerns, the committee may also wish to consider (i) preservation or renovation of existing facilities as well as new construction; (ii) the impact of education reforms on school facility design; and (iii) such other issues as it deems appropriate.

Having received testimony from the Deputy Secretary of Finance as well as representatives of the Department of Education, school construction organizations, and having reviewed the 2002 school construction needs survey, the joint subcommittee recognizes the many challenges facing school divisions in meeting school construction needs. Many complex issues necessitate careful examination in this two-year study. Anticipating its second year of work and the opportunity to more carefully examine many complex issues, the joint subcommittee makes no specific recommendations for the 2005 Session, but files this interim report with the Governor and the General Assembly as a record of its pursuits in 2004.

Respectfully submitted,
HJR 105 Joint Subcommittee to Study the Level of the Commonwealth's Assistance to Localities Necessary for Developing Adequate K-12 School Infrastructure

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[99]Va. Code §§ 56-575.1; 56-575.2 (2003); 2002 Acts of Assembly, c. 571.
[100]Meeting summary, December 1, 2004 meeting.

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HOUSE JOINT RESOLUTION NO. 105

Establishing a joint subcommittee to study the level of the Commonwealth's assistance to localities that is necessary for developing adequate K-12 school infrastructure. Report.

Agreed to by the House of Delegates, March 10, 2004
Agreed to by the Senate, March 9, 2004

WHEREAS, the 1998 report of the Commission on Educational Infrastructure (HD 75) found that localities estimated investing $4.1 billion for school construction over a five-year period, which would remedy less than two-thirds of the known construction deficiencies estimated at $6.2 billion; and

WHEREAS, the same report found that localities underreported K-12 capital needs by 54 percent, increasing the actual unmet capital needs of Virginia's school divisions to in excess of $8.9 billion; and

WHEREAS, Virginia's local governments are struggling to make even a portion of the necessary capital investments required for K-12 school construction; and

WHEREAS, school maintenance and construction costs continue to rise and the gap between school construction needs and actual construction required continues to grow; and

WHEREAS, Virginia's local governments need assistance from the Commonwealth to obtain sufficient funds for the next five to 10 years to pursue capital building projects for K-12 school infrastructure; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the level of the Commonwealth's assistance to localities that is necessary for developing adequate K-12 school infrastructure. The joint subcommittee shall consist of 16 members that include eight legislative members, four nonlegislative citizen members, and four ex officio members.

Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; two nonlegislative citizen members, of whom one shall be a licensed architect who specializes in school design and one shall have expertise in school design and construction, or funding public school and capital construction to be appointed by the Speaker of the House of Delegates; two nonlegislative citizen members, of whom one shall be a nationally recognized bond lawyer and one shall have expertise in school design and construction, or funding public school and capital construction to be appointed by the Senate Committee on Rules; and the Secretary of Education, the President of the State Board of Education, the Superintendent of Public Instruction, and the Attorney General or their designees to serve ex officio with voting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. The joint subcommittee shall elect a chairman and vice chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall consider, among other issues it may deem relevant: (i) physical and technical infrastructure needs of K-12 schools throughout the Commonwealth; (ii) availability of local funding sources to meet those needs; (iii) public-private partnerships that may be available to meet a portion of those needs; (iv) the priority of each of those needs; (v) the level of commitment by the Commonwealth needed and appropriate to supplement local efforts in meeting those needs; (vi) the level of the Commonwealth's debt capacity available over the next 10 years to assist with capital projects for K-12 schools; (vii) the appropriate bond structure, including issuer, type of debt obligation, period of time over which the debt should be issued, and potential revenue sources for repayment; and (viii) the method for prioritizing and distributing the proceeds thereof. Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates.

Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. The Office of the Attorney General shall provide additional assistance for staff support and other services, as needed. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2004 interim and four meetings for the 2005 interim, and the direct costs of this study shall not exceed $17,200 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings for the first year by November 30, 2004, and for the second year by November 30, 2005, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during both the 2004 and 2005 interims.

U.S. Department of Education, Condition of America's Public School Facilities (1999)

Table 2.—Percent of public schools with each type of building, and the percent rating each building type in less than adequate condition, by school characteristics: 1999

School characteristic	Original buildings		Permanent additions		Temporary buildings	
	School has building type	Less than adequate condition[1]	School has building type	Less than adequate condition[1]	School has building type	Less than adequate condition[1]
All public schools	[2]100	19	67	16	39	19
School instructional level						
Elementary school	[2]100	19	64	17	40	18
High school	99	21	74	14	37	21
Combined	100	[3]10	92	[3]11	27	—
School enrollment size						
Less than 300	99	22	64	16	21	—
300 to 599	100	19	70	17	39	22
600 or more	[2]100	18	65	14	50	20
Locale						
Central city	100	20	62	18	45	19
Urban fringe/large town	100	18	66	17	44	18
Rural/small town	99	19	71	14	29	19
Region						
Northeast	100	17	55	11	20	—
Midwest	100	20	67	12	19	22
South	100	16	71	17	49	19
West	99	25	69	22	65	20
Percent minority enrollment						
5 percent or less	99	19	68	11	25	12
6 to 20 percent	[2]100	18	70	14	39	22
21 to 50 percent	100	16	62	16	44	14
More than 50 percent	100	23	67	24	51	24
Percent of students in school eligible for free or reduced-price school lunch						
Less than 20 percent	99	20	63	8	35	17
20 to 39 percent	100	18	64	13	36	16
40 to 69 percent	100	16	74	16	42	19
70 percent or more	100	25	65	30	43	25

— Too few cases for a reliable estimate.

[1]Based on schools with that type of building. Ratings of less than adequate encompass the ratings of fair, poor, and replace.

[2]Rounds to 100 percent for presentation in the table.

[3]Coefficient of variation greater than 50 percent.

SOURCE: U.S. Department of Education, National Center for Education Statistics, Fast Response Survey System, Survey on the Condition of Public School Facilities, 1999.

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Virginia Profile: School Facilities

United States General Accounting Office, GAO Report to Congressional Requesters, *SCHOOL FACILITIES: Profiles of School Condition by State*, State Profile: Virginia (Appendix L, Figure L1) (June 1996) < http://www. gao.gov/archive/1996/he96148.pdf>

General Context

Number of schools	1,785
Total enrollment on or about Oct. 1, 1993	1,045,000
State revenue for K-12 education, 1993-94	
Total	$1,884,648,000
Per student	$1,803
State funding for K-12 school facilities, 1993-94	
Total	$108,800,000
Per student	$104
Number of SEA facilities-related staff (FTEs)	4
Other state agencies involved in school facilities:	
Department of the Treasury	

Percent of schools reporting at least one on-site building in indequate condition	
Original building	21
Attached or detached permanent addition	16
Temporary building	11
Percent of schools reporting a need to upgrade or repair on-site buildings to good overall condition	81
Reported range of amounts needed to upgrade or repair a school to good overall condition	$1,000 to $26,128,000

Virginia Department of Education, *Summary for 2002-03 Public Schools Facilities Cost Data*

http://www.pen.k12.va.us/VDOE/Finance/Facilities/cost2000.pdf

New Elementary Schools Put Under Contract in Fiscal Year 2002-2003

Name/Grades	Division	Contract Award Date	SOL Max. Op. Capacity[2]	Total Const. Cost[1]	Site Dev.	Total Sq. Ft.	Sq.Ft/ Pupil	Total Cost/Sq. Ft.	Building Only Cost/Sq/Ft/	Total Cost/Pupil
Arrowhead K-5	Virginia Beach	4/03	616	9,348,670	1,481,823	80,971	131	115.46	97.16	15,176
Ashton K-5	Prince William	3/03	616	8,869,000	1,206,000	76,724	125	115.60	99.88	14,398
Blackburn 1-6	Prince William	3/03	600	8,945,000	1,529,440	71,245	119	125.55	104.09	14,908
Brighton PK-5	Portsmouth	3/03	472	5,469,000	473,255	58,352	124	93.72	85.61	11,587
Four Yr. Tl. K-5	Prince William	3/03	839	12,570,000	4,520,205 [3]	83,084	99	151.29	96.89	14,982
Hermitage	Virginia Beach	2/03	782	9,176,122	1,209,900	95,324	122	96.92	83.57	11,734
King George	King George	5/03	952	11,674,300	1,604,200	102,838	108	113.52	97.92	12,263
North Elem.K-5	Henrico	2/03	788	9,502,630	1,906,000	75,000	95	126.70	97.83	12,059
Pulaski K-5	Pulaski	12/03	772	8,408,374	1,671,550	77,823	101	108.04	86.57	10,892
Reid K-5	Loudoun	7/03	877	9,444,354	1,666,234	84,142	96	112.24	92.44	10,769
Roanoke Acad.	Roanoke City	1/03	644	11,007,000	755,828	89,000	138	123.67	109.00	17,092
Totals	--	--	7,958	$104,151,814	$18,024,435	894,503	--	--	--	--
Statewide Avg.	--	--	--	--	--	--	112	$116.73	$96.58	$13,121

[1]Usually includes construction, site development, water system, sewage disposal, built-in equipment and demolition.
A & E fees, value engineering, construction management fees, cost of site, loose equipment, and furniture are excluded.
[2] Division operating capacity may differ from the SOL maximum capacity. Pre-kindergarten classrooms counted at 16 students, grades K-3 classrooms counted at 24:1, Grades 4-5 counted at 25:1.
[3] Includes site preparation work and building paid for a middle school.

New Combined, Technical Schools or Special Education Centers Put Under Contract in Fiscal Year 1998-99

Name/Grades	Division	Contract Award Date	SOL Max. Op. Cap[2]	Total Const. Cost[1]	Site Dev.	Total Sq. Ft.	Sq.Ft/ Pupil	Total Cost/Sq. Ft.	Bldg Only Cost/Sq/Ft/	Total Cost/Pupil
Riverview PK-8	Buchanan	9/99	1,157	16,839,500	2,507,603	162,714	141	103.49	88.08	14,554
Totals	--	--	1,157	$16,839,500	$2,507,603	162,714	--	--	--	
Statewide Avg.	--	--	--	--	--	--	141	$103.49	$88.08	$14,554

[1]Usually includes construction, site development, water system, sewage disposal, built-in equipment and demolition. A & E fees, value engineering, construction management fees, cost of site, loose equipment, and furniture are excluded.

New Middle Schools Put Under Contract in Fiscal Year 2002-2003

Name/Grades	Division	Contract Award Date	SOL Max. Op. Capacity[2]	Total Const. Cost[1]	Site Dev.	Total Sq. Ft.	Sq.Ft/ Pupil	Total Cost/Sq. Ft.	Building Only Cost/Sq/Ft/
Arcadia 6-8	Accomack	7/03	650	11,144,446	1,698,304	97,620	150	114.16	96.76
Auburn 6-8	Fauquier	3/03	608	12,625,695	1,963,026	115,215	189	109.58	92.55
Lunenburg 6-8	Lunenburg	3/03	511	8,907,000	1,016,116	82,082	161	108.51	96.13
Mercer 6-8	Loudoun	8/03	1,125	17,914,000	1,600,979	158,341 02	141	113.14	103.02
Nandua 6-8	Accomack	6/03	650	10,890,554	1,411,429	97,620	150	111.56	97.10
N.W. No. 1 6-8	Henrico	8/03	900	13,941,438	2,050,800	113,427	126	122.91	104.83
Prospect Hts. 6-8	Orange	5/02	600	9,340,000	1,178,306	94,981	158	98.34	85.93
Smart's Mill 6-8	Loudoun	7/02	1,125	19,388,681	3,382,960	158,342	141	122.45	101.08
Totals	--	--					--	--	--
Statewide Avg.	--	--	--	--	--	--			

[1]Usually includes construction, site development, water system, sewage disposal, built-in equipment and demolition.
A & E fees, value engineering, construction management fees, cost of site, loose equipment, and furniture are excluded.
[2] Division operating capacity may differ from the SOL maximum capacity. State SOL capacity based on a pupil-teacher ratio of 25:1 in core classrooms
[3] Includes site preparation work and building paid for a middle school.

New High Schools Put Under Contract in Fiscal Year 1999-00

Name/Grades	Division	Contract Award Date	SOL Max. Op. Cap.[2]	Total Const. Cost[1]	Site Dev.	Total Sq. Ft.	Sq.Ft/ Pupil	Total Cost/Sq. Ft.	Bldg Only Cost/Sq/Ft/	Total Cost/Pupil
Buena Vista 9-12	Buena Vista	11/99	555	9,537,725	1,800,025	81,310	146	117.30	95.16	17,185
Sussex 9-12	Sussex	8/99	765	12,584,722	1,068,000	116,536	152	107.99	97.73	16,451
Wesr Area 9-12	Henrico	7/00	1,885	31,289,600	3,200,000	254,325	135	123.03	110.45	16,559
Totals	--	--	3,205	$53,412,047	$6,068,025	452,171	--	--	--	
Statewide Avg.	--	--	--	--	--	--	141	$118.12	$104.70	$16,665

[1]Usually includes construction, site development, water system, sewage disposal, built-in equipment and demolition.
A & E fees, value engineering, construction management fees, cost of site, loose equipment, and furniture are excluded.