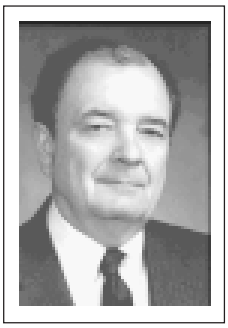
Joint Legislative Audit and Review Commission

2001 Report to the General Assembly

October 9, 2001

To the Honorable Members of the Virginia General Assembly
The State Capitol, Richmond, Virginia

My Dear Colleagues:



As Chairman of the Joint Legislative Audit and Review Commission, I am pleased to transmit to you JLARC's 2001 *Report to the General Assembly*. The statutes which empower the Commission also require this biennial report, as a means of keeping the full Assembly informed of the Commission's work. Herein you will find an explanation of our oversight role, summaries of some of our recent reports, and follow-up information on study impacts.

In reflecting on my experience as a member of the Commission, I take pride in the fact that, along with Delegate Lacey Putney, I was a founding member of JLARC in 1973 and have served continuously from the beginning of the Commission's long and distinguished history. My long tenure was good preparation for the challenge I faced in assuming the chairmanship. It fell to me to guide the Commission during a pivotal period in its history: the historic transition of leadership that has taken place in the General Assembly.

It has also been my privilege to preside over the Commission as it commenced some timely and important work. The JLARC staff has been directed to study the funding of the Standards of Quality, which are so critical to the success of elementary and secondary education in Virginia. Another topic much on the minds of Virginians — how our highways are funded and maintained — is being given the serious study it demands this year. The Commission is also looking long and hard at the very complex issues surrounding capital punishment in the Commonwealth, a topic in which I have had an abiding interest. Further, the JLARC staff has recently taken on the new and very important function of annually assessing State spending trends in order to better control them — a function I believe will prove to be the hallmark of my tenure as Chairman.

Through the years, JLARC's studies have regularly been recognized by our peer oversight organizations across the country. I am pleased to note that in the interim since our last biennial report, the Commission's work has received several significant honors. A recent JLARC study of the costs of raising children was awarded the *Excellence in Research Methods Award* for the year 2000 by the National Legislative Program Evaluation Society (NLPES) of the National Conference of State Legislatures. In addition, our recent study of Virginia's Medicaid reimbursements to nursing facilities was awarded NLPES' *Certificate of Recognition of Impact*. JLARC was also mentioned in a recent issue of *Governing* magazine as a significant factor in awarding Virginia high marks for "Managing for Results." *Governing* also cited the JLARC-recommended "Rainy Day Fund," the history of which is chronicled in a special article in this *Report to the General Assembly*.

Since JLARC's last biennial report, many new members have begun work in the General Assembly, as well as on the Commission. Hopefully this document will serve to inform them about the important work JLARC does in ensuring a strong legislative oversight function. I ask for the continuing support of both old and new members in helping us achieve our most important goal: ensuring that the taxpayers' money is spent wisely, efficiently, and effectively.

Respectfully Yours,

Vincent F. Callahan, Jr.

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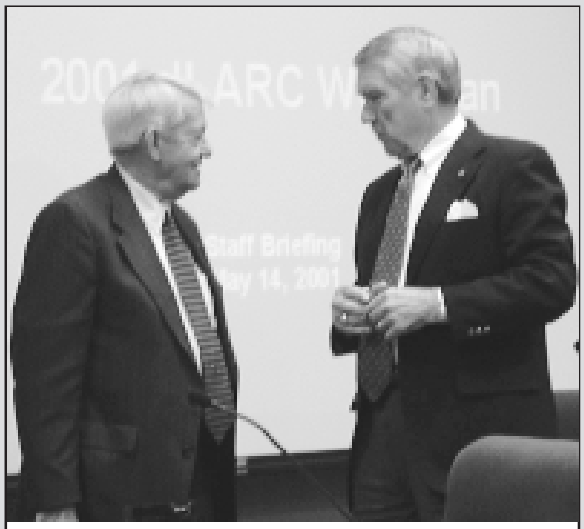


Delegate Parrish

Delegate Putney

Senator Chichester

JLARC's Organization, Role, and Resources

The Commission

The Joint Legislative Audit and Review Commission (JLARC) is an oversight agency for the Virginia General Assembly. It was established in 1973 to review and evaluate the operations and performance of State agencies, programs, and functions.

The Commission is composed of nine members of the House of Delegates, of whom at least five also serve on the House Appropriations Committee, and five members of the Senate, of whom two also serve on the Senate Finance Committee. Delegates are appointed by the Speaker of the House, and Senators by the Privileges and Elections Committee. The Chair is elected by a majority of Commission members and traditionally has rotated every two years between the House and Senate. The Auditor of Public Accounts is a nonvoting, *ex-officio* member.

The Commission has a full-time staff. A staff Director is appointed by the Commission and confirmed by the General Assembly for a six-year term of office.

The Statutory Mandate

Authority

The duties of the Commission and the nature of its studies are specified in Sections 30-56 through 30-63 of the *Code of Virginia*. Report findings and recommendations are to be sub-

Delegate Rollison

Senator Colgan Delegate Hargrove

Senator Norment

Delegate Dickinson Senator Stosch Delegate Cox Delegate Rust

Mr. Leone

Mr. Kucharski

mitted to the agencies concerned, the Governor, and the General Assembly. These reports are to address:

- areas in which functions of State agencies are duplicative, overlap, fail to accomplish legislative objectives, or for any other reason should be redefined or redistributed;
- ways in which agencies may operate more economically and efficiently; and
- ways in which agencies can provide better services to the State and to the people.

The Commission has also been assigned authority to make special studies and reports on the operations and functions of State agencies as it deems appropriate and as may be requested by the General Assembly. In addition, the Commission is authorized to prepare supplemental studies and reports relating to its evaluations. Once each biennium, the Commission conducts a systematic follow-up of its work. From time to time, usually coinciding with this biennial *Report to the General Assembly*, agencies are requested to file "status-of-action" reports on their efforts to address the Commission's findings and recommendations. Special follow-up studies are required in cases where the Commission has cited waste, extravagance, fraud, or misuse of public funds.

In Memoriam

Senator Richard J. Holland

Senator Holland was Chairman of the Commission at the time of his passing in 2000.

The Legislative Program Review and Evaluation Act

In 1978, JLARC embarked on a unique approach to oversight under the auspices of the Legislative Program Review and Evaluation Act. The Act provides for periodic review and evaluation of selected topics from among all seven program functions of State government: (1) Individual and Family Services, (2) Education, (3) Transportation, (4) Resource and Economic Development, (5) Administration of Justice, (6) Enterprises, and (7) General Government. While the principal function of the Evaluation Act is the scheduling of functional area reviews, it also encourages (1) coordination with the standing committees, (2) agency self-studies, and (3) committee hearings on JLARC reports. The Act does not require or restrict standing committee activities in any way.

Financial Audit Reports

Under authority of Section 2.1-155 of the *Code of Virginia*, the Commission also serves as the point of legislative focus for financial audit reports. The specialized accounting and audit resources of the Office of the Auditor of Public Accounts are available to the Commission. The ability of the Legislature to assess agency performance is enhanced by this combination of program and fiscal reviews.

Oversight of Internal Service Funds

Section 2.1-196.1 of the *Code of Virginia* gives JLARC authority to establish new internal service funds and to discontinue those no longer needed. JLARC can also authorize the transfer of excessive retained earnings from internal service funds to the State general fund. To carry out these responsibilities the Commission reviews, on a continuing basis, internal service funds for graphics, systems development, telecommunications, laboratory services, central warehouse, computer services, central garage, building maintenance services in the Capitol area, and State and federal surplus property. See page 43 for a fuller discussion of this function.

Above: The Commission in session. JLARC meets monthly to receive staff briefings.

Left: A work planning session in the JLARC conference room, with money committee staff also in attendance.

Right: Commission meetings often draw press and television news coverage, as well as the interested public.

A typical Commission meeting includes briefings and progress reports by JLARC staff on current studies.

VRS Oversight

The 1994 General Assembly approved the Virginia Retirement System Oversight Act (Section 30-78 through 30-84 of the *Code of Virginia*), which directs JLARC to oversee and evaluate the VRS on a continuing basis. This responsibilitiy of the Commission and its staff is described in detail on page 42 of this document.

Fiscal Impact Analysis

The 1999 Appropriation Act provided additional funds to expand the technical support staff of JLARC "to assist with legislative fiscal impact analysis" and "to conduct oversight of the expenditure forecasting process." A new staff unit dedicated to these function became fully operational prior to the 2000 legislative Session. A fuller description of this new function is provided on page 41 of this document.

The Audit and Review Process

To carry out its oversight responsibilities, JLARC issues several types of legislative reports. **Performance reports** evaluate the accomplishment of legislative intent and assess whether program expenditures are consistent with appropriations. **Operational reports** assess agency success in making efficient and effective use of space, personnel, or equipment. **Special reports** are made on State operations and functions at the direction of the Commission or at the request of the General Assembly. Many of these special reports require elaborate statistical applications to assess policy and program effectiveness.

To date, JLARC has issued about 275 reports. In addition, numerous letter reports and briefings have been prepared on specific topics of interest to the Commission. About 10 studies are currently in progress or planned.

A JLARC study begins when the Legislature identifies a topic for review. The Commission authorizes project initiation, and the project is assigned to a staff team. A workplan is then prepared which documents the research approach to be used.

After the team completes its research, it prepares a report which is reviewed internally and subjected to quality assurance standards. Subsequently, an exposure draft is distributed to appropriate agencies for their review and comment. A revised exposure draft, which also contains agency comments, is reported to the Commission.

The Commission or one of its subcommittees reviews the report, indicates any additional legislative concerns, and authorizes publication of the study as a legislative document. The printed report is distributed to all General Assembly members, the Governor, and other interested parties.

Dissemination of study findings to the public has been greatly enhanced in recent years through development of a JLARC internet site. A complete annotated bibliography of all JLARC reports, as well as full-length viewable and downloadable versions of recent reports, are available on the internet at http://jlarc.state.va.us (see page 45 for more details).

JLARC Staff Resources

The JLARC staff Director is responsible for preparing the budget, hiring personnel, managing research, and long-range planning.

The staff is organized into two research divisions, each headed by a division chief, and three support functions. Project teams, typically ranging from two to four people, are assigned to the divisions for administrative and research supervision. Team leaders have responsibility for managing projects and directing teams on a day-to-day basis. The teams are supported by specialists in research methods, computer applications, and publications services.

The varied education, training, and professional experience of JLARC's 37 research staff are important to the Commission. Since 1973, the composition of the staff has continued to evolve. Today, while the largest single group still comes into JLARC with backgrounds in public administration or policy analysis and a strong base of quantitative skills, many other academic disciplines are also represented. These fields include business administration, economics, education, English, phi-

losophy, planning, political science, psychology, and urban systems. Most members of the research staff have graduate degrees.

Only one JLARC staff position – that of the Director – is filled through legislative appointment. All other positions – from new entry-level recruits to senior management positions – are filled through a merit-based competitive selection process.

Staff titles reflect formal education, training, and experience at JLARC. The titles are assistant, associate, senior associate, senior, principal, and chief analyst. Promotions are based on merit. Salaries are competitive with those of similar types of executive and legislative employment, and each staff member participates in State-supported benefit programs.

Professional development is encouraged through membership in relevant associations. Training is carried out through on-campus credit instruction in fields related to the work of the Commission, and through in-service programs. Emphasis is placed on enhancing technical, communication, and team management skills.

JLARC's success over the past two decades has depended on the staff sharing a common body of institutional norms relating to such matters as standards of evidence, operating procedures, and rules of ethical behavior. Therefore, training and staff development efforts are designed to instill the JLARC ethic of accuracy, independence, and objectivity; an understanding of what these concepts mean in the JLARC environment; and a recognition of how to apply them in the day-to-day work of the organization.

JLARC is housed on the 11th floor of the General Assembly Building, adjacent to the State Capitol. The close proximity of the other legislative staffs and support services encourages communication and contributes to JLARC's research efforts.

Objectives of Legislative Oversight

Program and Agency Savings: Program cost savings are frequently the product of legislative oversight studies, and are usually the most visible of all possible outcomes. Just as important are the opportunities for savings which may result from the implementation of recommended efficiencies or adoption of program alternatives. In some instances, changes may result in more spending to achieve greater effectiveness.

Improved Efficiency and Effectiveness: JLARC is required by statute to make recommendations on ways State agencies may achieve greater efficiency and effectiveness in their operations. Achieving efficiency means finding ways to accomplish the same tasks at reduced cost; achieving effectiveness means findings ways to better accomplish program and agency objectives. The fact that a regular program of legislative oversight exists also stimulates agency self-evaluation, which may bring about improved operations.

An Informed Legislature: Oversight studies help inform citizen legislators about agencies, programs, and activities. A primary objective for JLARC is to gather, evaluate, and report information and make recommendations that can be used in legislative decisionmaking. Reports provide information that may be useful to legislators during deliberation on legislation, during committee hearings, and in responding to constituent questions or requests for assistance.

Compliance with Legislative Intent: The oversight function helps ensure that laws are being carried out as the Legislature intended. In some cases, intent may not have been clearly understood by program administrators; in other cases, statements of intent may have been ignored. In those instances where legislative intent is not explicit in statute, an oversight study can assess and report to the General Assembly on how an agency has decided to implement its mission.

Savings to the Commonwealth

JLARC staff track the actual savings reported by agencies in their status-of-action reports. Documented savings to date total over $311 million. Additional savings, anticipated from recent report recommendations, bring the **cumulative documented and anticipated savings to $365.5 million.**

JLARC-Recommended Revenue Stabilization Fund Accumulates Cash Reserves, Ensures Fiscal Fitness

As in previous editions of the Report to the General Assembly, *this article spotlights a JLARC study that has had long-term positive effects.*

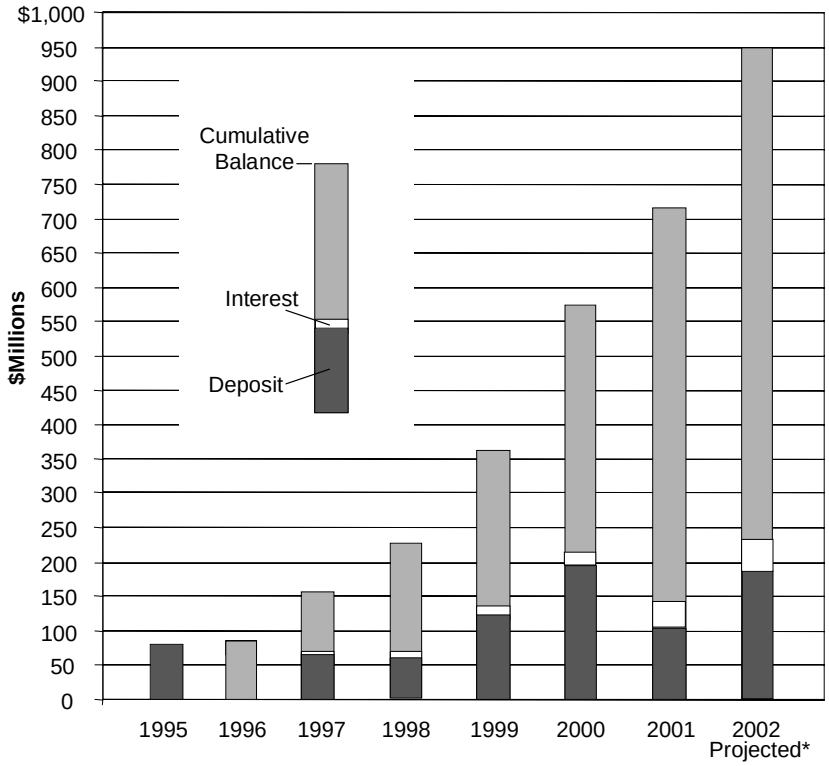
One of the bright spots in Virginia's current fiscal situation is the solid financial foundation provided by the growth of the State's Revenue Stabilization Fund. A JLARC initiative of the early 1990s, this "rainy day" fund will approach a billion dollars in deposits and interest. As a result, the fund is now the backbone of the Commonwealth's balance sheet, providing a large cash reserve that helps protect the State's coveted AAA bond rating and serves notice that the Commonwealth is prepared to weather economic downturns that are an inevitable part of the business cycle.

With scheduled deposits and predicted interest, the Revenue Stabilization Fund is estimated to reach approximately $950 million dollars at the end of fiscal year 2002. If this happens, the fund will actually exceed the maximum amount allowed in the fund, which for FY 2002 is estimated at $934.5 million. At that point, excess money in the Fund will be paid into the State General Fund after appropriation by the General Assembly.

The Revenue Stabilization Fund was an outgrowth of Commission interest in developing a fiscal strategy for confronting revenue shortfalls similar to the one encountered by the Commonwealth during the 1990 - 1992 recession. At that time, the State experienced unusually large revenue shortfalls that challenged the State's budget making process. JLARC was mandated by the 1990 Appropriation Act to study the executive budget process. Staff produced a series of reports, including the 1991 report, *Proposal for a Revenue Stabilization Fund in Virginia*. This report provided the foundation for Senate Joint Resolution No. 159 of the 1991 Session and House Joint Resolution No. 94 of the 1992 Session. Subsequent to the passage of these measures, the people of Virginia voted by a three to one margin in November of 1992 to amend the *Constitution of Virginia* to provide for the creation of the Revenue Stabilization Fund.

While the final vote on the fund was overwhelmingly positive, the road to passage was not preordained. A 1990 proposal put forward by JLARC member Senator William A. Truban failed. In 1991, a substantially revised proposal was developed by the Commission and JLARC

Accumulation of the JLARC-Recommended "Rainy Day" Fund



*$187.1million is required for deposit in FY 2002, based on FY 2000 revenues.

staff, with valuable assistance and advice provided by members and staff from the Senate Finance Committee, House Appropriations Committee, and Auditor of Public Accounts. This measure (SJR 159 of the 1991 Session) was sponsored by Senator John C. Buchanan, JLARC's Chairman at the time, and other Commission members. The measure was debated extensively and passed the House by only a 57 to 38 vote. As required by the *Constitution*, the passage of an identical resolution was required after an intervening election.

> "In general, the commonwealth does a good job with its fiscal practices. Virginia has a triple-A bond rating from all three agencies. Even with lower than anticipated revenues, it continues to add money to its rainy day fund."
> --*Governing Magazine,* February 2001

Subsequent to the 1991 election, the measure proposed by JLARC was better understood and passed both houses more comfortably with strong bipartisan support. JLARC's new Chairman, Delegate W. Tayloe Murphy, Jr. carried the new resolution, House Joint Resolution No. 94, again with the active support of the Commission, which provided its only co-patrons. Four of the JLARC co-patrons of these measures remain in the General Assembly today – JLARC's current Chairman, Delegate Vincent F. Callahan, Jr., Delegate Lacey E. Putney (like Callahan a member of JLARC from its inception) and Delegates Thomas W. Moss, Jr. and Jay W. DeBoer.

After legislative passage, the measure was put to the people of Virginia for ratification in the 1992 election. The rationale for the fund was simple and was expressed succinctly by the chairmen of the money committees (also JLARC members) in a letter to newspaper editors around the State. The letter stated:

> In plain English, a revenue stabilization fund is a savings account for the Commonwealth. Thirty-eight other states have similar measures, but Virginia's Constitution essentially requires that all revenues be spent as they are received. Consequently, in years of revenue surplus, there is tremendous pressure to spend every penny of tax

How the "Rainy Day" Fund Works

The provisions of the Revenue Stabilization Fund intentionally encourage deposits and discourage withdrawals. The Commission took this approach because while 38 states had rainy day funds in 1990, many of them had no money in them. JLARC wanted a fund that would grow to a level where it would provide meaningful relief in a major revenue crisis.

Putting Money In. The Revenue Stabilization Fund is a kind of State savings account. In years when revenues are growing at above-average rates, half of the revenues above a six-year average growth rate are deposited into the fund. This provides the State with some growth in revenues but discourages spending at unrealistically high levels. The money in the fund cannot exceed ten percent of the annual revenues (averaged over three years) from taxes on income and retail sales. The maximum fund balance for the fiscal year ending June 30, 2002, is estimated to be $934.5 million. Because the State's economy usually grows, the size of the fund also grows.

Taking Money Out. The General Assembly can withdraw and appropriate money from the fund when revenues fall short of forecasts. To allow the fund to accumulate to a level where it could make a meaningful difference in a recession, there are three major constraints on withdrawals. First, the amount of the shortfall must be more than two percent of the past year's revenues from income and retail sales. Second, only half of shortfall can be addressed by monies from the fund. The rest of the shortfall must be covered by budget cuts or other revenue measures. Third, only half of the fund can be used in any one year. That way, some reserve is available for a prolonged downturn.

revenue that is collected. In theory, taxes could be cut, but often the amount of surplus is so small that there is no practical way to do so. Further, experience tells us that needs are great and there is an equal chance of a comparable shortfall in a future year. So, each year all collected revenues are spent. Wouldn't it be better to save a small percentage of revenues in surplus years for use in shortfall years? We think so. We hope you agree that approval of this amendment would promote revenue stability and add to Virginia's heritage of fiscal responsibility.

(Source: October 7, 1992 letter by Senator Hunter B. Andrews and Delegate Robert B. Ball, Sr. to various Virginia Newspaper editors.)

The proposal received wide, but not unanimous, support in the press. One editorial argued, "Virginia doesn't need a savings account. It should raise the money it needs through taxes and return money it doesn't need through tax relief."

Yet, the Revenue Stabilization Fund has performed much as Commission members and the General Assembly expected it would. Approximately $800 million in deposits have been made or set aside from the boom years of the late 1990s. In FY 2001, when the economy turned downward, no deposit was required. Indeed, staff simulations of the fund have also proven to be remarkably accurate. Using a 20-year simulation, staff illustrated a possible fund balance of $805.58 million by the end of FY 2002. The actual balance will likely exceed that amount, though not by much.

Two current Commission members, Delegate Callahan (the current JLARC Chair) and Delegate Putney were co-patrons of the final joint resolution which, with public support, created the Revenue Stabilization Fund.

Many factors have led to the success of Virginia's Revenue Stabilization plan. Certainly, the support of Virginia's Governors and the effective administration of the fund by the executive branch have played a role. Also, the General Assembly has kept faith with the fund's purpose and intent. Hopefully, economic conditions will remain strong in Virginia, and the Revenue Stabilization Fund will reach its legal maximum and simply return interest to the General Fund of Virginia. More likely, as JLARC's members anticipated over a decade ago, there will be rainy days when the fund will need to be tapped. Fortunately, there will be money in the bank and the State should be able to meet its most pressing needs.

Follow-Up of Recent JLARC Studies

Summaries and Updates

This section addresses a provision in the Commission's enabling statutes requiring the follow-up of JLARC reviews. Summaries of still-active studies are provided, as well as the actions taken by the General Assembly and executive agencies to implement report recommendations.

Virginia's Medicaid Reimbursement to Nursing Facilities

Summary

The 1999 General Assembly Session required a JLARC review of Medicaid reimbursements to nursing facilities. The State's Medicaid program is administered by the Department of Medical Assistance Services (DMAS). Virginia's Medicaid budget for FY 1998 was $2.3 billion, of which about $410 million (18 percent) was for Medicaid payments to nursing facilities. The reimbursements, which are paid almost equally by federal and State funds, support the long-term care services that nursing facilities provide. Nursing facilities are the major providers of long-term care services in Virginia.

The study mandate reflected legislative concern that State reimbursements to nursing facilities might not be adequate. The mandate required JLARC to examine a number of issues regarding the State Medicaid program's methodology for determining nursing facility reimbursements, including "the adequacy of reimbursement levels for providing quality care." Nursing facilities had indicated their belief that they had legitimate, approved costs for services that were not being recognized by the State's reimbursement methodology. In total, the nursing facilities indicated a need for an additional $104 million in FY 2001.

The conclusions of this JLARC study included the following:

- The State had controlled Medicaid reimbursements to the nursing facilities over the years, and a number of concepts used to achieve that control promoted efficiency and were consistent with nationally-recognized procedures.

- However, a review of the DMAS reimbursement methodology also indicated that certain components of the methodology had not been adequately updated and appeared to be excessively restrictive.

- Evidence considered during the review indicated that one of the impacts of unduly restricting the Medicaid reimbursements was that private pay residents appeared to subsidize some of the costs of the Medicaid patients. The equity of this situation was questionable.

- The factors that related to controlling nursing facility costs were not the same as those that promoted quality. For example, while an analysis indicated that higher-quality care tended to be available more often in small and non-profit facilities, lower-cost care tended to be available more often in large and for-profit facilities.

- There appeared to be opportunities available through a DMAS review of best management and operational practices to obtain additional value for the dollars spent at some facilities.

- Some approaches to achieve greater methodological simplicity were discussed in the report. Among these were the development of one payment system to include specialized care residents, the movement of indirect care costs to a price-based system, and the reduction of some cost settlement activities.

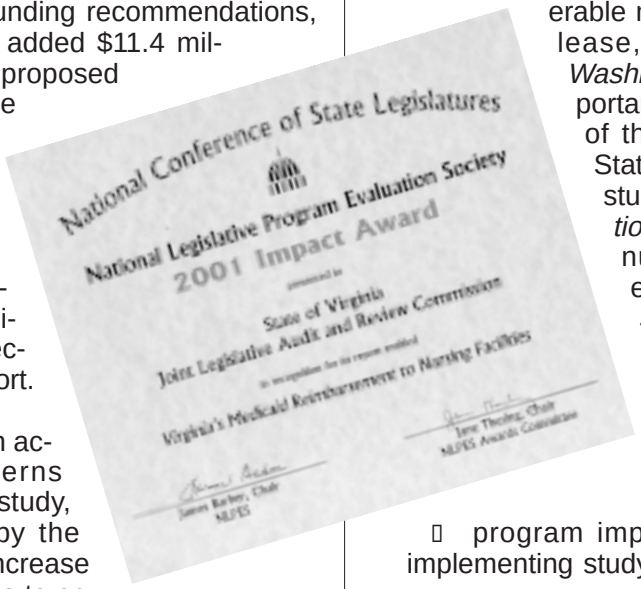
- JLARC staff options indicated that a range of from $1.7 to $31.8 million in additional funding could be provided to address shortcomings in the State's reimbursement approach, including nursing and certified nursing assistants' salaries. About half of these costs would be federal costs and half would be State costs.

Update

A number of the study recommendations called for funding and policy actions by the General Assembly. The 2000 Session was responsive to this need, directing DMAS to make several significant changes regarding the Virginia's nursing facility reimbursement system. The General Assembly

relied on the JLARC study to provide a balanced perspective on the issue of Medicaid-funded nursing facility reimbursement, including whether there was a need for increased funding, the amount of funding needed, and where the increased funding should be targeted.

In support of JLARC funding recommendations, the General Assembly added $11.4 million to the 2000-2002 proposed budget funding increase of $16.6 million, for a total of $28 million. In addition, the General Assembly directed that the entire funding increase should be targeted to reimbursing direct care costs, a key recommendation in the report.



More specifically, and in accordance with concerns raised by the JLARC study, DMAS was directed by the General Assembly to increase the reimbursement rates to accomplish the following:

- restoration of funding for the negative impact of the case mix adjustment resulting from the Patient Intensity Rating system;
- reduction of the occupancy standard to 90 percent for indirect and plant costs, and removal of the standard entirely from the determination of direct care rates;
- adjustment of the direct care cost ceilings to 112 percent of the peer group median and subsequently every two years; and
- elimination of the direct care incentive payment.

DMAS adopted emergency regulations to accomplish these changes, effective July 1, 2000, and the department reports that the process of adopting permanent regulations is well under way. The transition period is intended to end in January 2002.

Another study recommendation called for DMAS to develop a plan for implementing quality of care incentives. DMAS reports that a work group (which includes the Department of Health) has developed a plan to recognize nursing facilities that have shown exceptional performance during a given year. Information on innovative processes and best practices will be disseminated to the public and to the nursing facility industry.

Study Receives Award

This JLARC study received considerable media attention upon its release, including a high-profile *Washington Post* article. More importantly, The evaluation section of the National Conference of State Legislatures awarded the study a *Certificate of Recognition of Impact*. This award annually recognizes superior evaluation studies by JLARC's national peer group of oversight organizations.

The criteria for this award included:

- program improvements as a result of implementing study recommendations,
- documented impacts from the Legislature's perspective, and
- public impacts, such as those demonstrated by media attention and/or advocacy group support.

Air Medevac Services in Virginia

Summary

Item 16I of the 1998 Appropriations Act directed JLARC to study the air medevac system in Virginia. The study was prompted by concerns about the adequacy of funding for air medevac providers and about continued availability of the service statewide.

This study noted that air medevac coverage is adequate in most areas of the State. However, the review found some inconsistencies in service that needed addressing. Most notably, the location of the helipad for MCV Hospitals was unsatisfactory, requiring patients to be transferred to an ambulance and driven several blocks through downtown traffic. The report recommended that the helipad be moved to a more appropriate site closer to the emergency room. Additionally, the review noted

MCV's new hospital-based helicopter pad -- a JLARC study recommendation -- began operation this past summer.

that the Department of State Police should arrange for two medical crew members, the industry standard, upon acquiring a larger helicopter for its MedFlight I service.

In terms of the adequacy of funding, this review found that although commercial providers reported operating at a loss, it appeared unnecessary for the State to subsidize the commercial providers. However, because of a concern as to whether all programs could remain in operation over the long term, the Department of Health and Department of State Police were advised to develop a contingency plan for the continuation of air medevac services in any part of the State which lost services.

Further, the Department of Health needed to strengthen planning and coordination activities for the air medevac system. Reviewing the regulations governing the air medevac providers would be a necessary step, as well as updating the statutorily-required statewide emergency medical services plan.

Update

In accord with a study recommendation, the State Police have acquired three of four replacement helicopters, and a fourth is imminent. These new helicopters will have sufficient space inside for two medical personnel, as recommended by the JLARC study. In addition, the State Police report that they have established an ongoing dialogue with the Chesterfield Fire and EMS concerning the feasibility of providing additional paramedics to the MedFlight I program. The State Police are establishing in September 2001 the MedFlight III program in Lynchburg, in cooperation with the Centra Health System. This new medevac service will be directed toward the U.S 29 corridor and south toward Danville.

The implementation of one study recommendation has recently had a visible result in downtown Richmond. A new helipad has been constructed on the roof of the main hospital of the Medical College of Virginia. The photograph above provides a close view of the new helipad in operation. Helicopters bearing patients needing emergency treat-

ment can now be seen from the windows of the General Assembly building, as they utilize this new heliport on a regular basis.

An issue discussed in the JLARC review was the fairness of State Police medevac operations being primarily publicly funded, whereas patients receiving similar kinds of ground-based emergency medical assistance, or medevac services from private providers in Virginia, are often billed for those services. The study recommended that Virginia consider an approach used by several other states, wherein the hospital supplying the medical crew bills the flown patient for medical services, but not for the air transport itself.

In response to this recommendation, the State Police initiated correspondence with the Federal Aviation Administration to clarify the issue. As hoped, the FAA approved charges made for medical services that are the same as the charges that would be made for the same services in an ambulance or other surface vehicle. Thus, it would appear prudent that reimbursement for the associated medical costs be included on the patient's billing by the appropriate medical facility without reference to charges for air transport. If this new approach is successfully implemented, it should partly offset at least some of the losses incurred through operating medevac services.

As recommended in the report, the State Police have considered the need for contingency plans for the continuation of air medevac services in any part of the State which loses services. As a short-term solution, the State Police would, within its aviation assets, provide a helicopter and pilots to the affected area, and the health care system in that area would continue to provide the medical crew, supplies, and equipment. A long-term solution, however, would require additional funding and the acquisition of an additional helicopter, issues which the General Assembly may wish to consider.

State Oversight of Commercial Driver-Training Schools in Virginia

Summary

House Joint Resolution 470, approved by the 1997 Session of the General Assembly, directed JLARC to conduct a study of the effectiveness of State oversight of commercial driver-training schools, including the licensing and monitoring of these schools. The oversight of commercial driver-training schools is a responsibility of the Department of Motor Vehicles (DMV).

This study found that, systemwide, most commercial driver-training schools were complying with DMV's standards and training drivers as required. However, despite the increasing role of commercial schools in training and licensing young drivers, graduates of commercial driver-training schools were more likely to be involved in accidents than were graduates of public or private school driver education programs.

In terms of DMV's oversight, this review found that selected existing standards needed to be strengthened. Further, there was a need for additional standards to ensure uniformity and consistency of instruction statewide, and compliance with of the *Code of Virginia* and DMV's *Curriculum Guide for Driver Education in Virginia*.

The review also identified other areas in DMV's oversight process for commercial driver-training schools that needed improvement. For example, DMV needed to focus on increasing several factors:

- the consistency of its reviews of student training documentation and course curricula,
- the comprehensiveness of the audits of commercial school training vehicles,
- the use of monitoring visits between annual audits, and
- the training given DMV staff who conduct audits.

Update

As recommended, DMV has proposed regulatory changes and/or changed its commercial school audit forms to:

- toughen requirements for the safe mechanical condition of training vehicles and to require specific safety equipment,
- require commercial schools to provide standardized documentation of the subject areas covered for each period of in-car driving instruction, and enforce compliance with all subject areas required by the *Curriculum Guide for Driver Education in Virginia*,
- change the periodicity of the commercial school annual audit to 12 months rather than each calendar year, in order to ensure a one-year maximum gap between audits,

- limit commercial schools' use in their advertisements of misleading references about certification or licensing by other State agencies or boards,

- require that classroom instruction on aggressive driving be provided in classroom instruction,

- verify commercial school compliance with local fire regulations,

- clarify how driving demerit points and safe driving points are to be calculated in considering instructor driving records,

- require a State Police (as opposed to local law enforcement) background check for all applicants seeking to operate or teach in a commercial school, and

- revise background check provisions to include convictions for illegal drugs and for sexual exploitation crimes.

Audit-related improvements were implemented in September 1998 through revisions to the audit forms. However, a majority of these improvements require promulgation and approval of regulations. A notice of Intended Regulatory Action (NOIRA) was published in April 2001, and the proposed regulations were published in May.

In accord with other JLARC recommendations, two additional program improvements have been implemented by DMV:

- all commercial schools are now required to post DMV-furnished signs advising students of their right to notify DMV of any concerns about the quality of instruction, and

- DMV has developed a standardized and automated database for use in analyzing and tracking results of commercial school audits.

In response to study recommendations, the 1999 General Assembly passed House Bill 2499, which increases and clarifies the DMV Commissioner's authority over commercial driver-training schools, including the authority to issue sanctions for violations of standards. This new authority allows the Commissioner to place limits on the types of driver education training provided, or restrict the use of a school's vehicles. It also allows the Commissioner to immediately suspend a commercial school's license to operate if the school's conduct violates the *Code of Virginia* or promulgated regulations and is a danger to public safety.

JLARC Study Series on Health Regulatory Boards

Summary

House Joint Resolution 139 and the Appropriation Act, approved by the 1998 General Assembly, directed JLARC to study the effectiveness of Virginia's health regulatory boards and the Department of Health Professions (DHP). DHP and the 12 health regulatory boards for which the department provides staff support have the responsibility for ensuring the safe and competent delivery of health care services through the regulation of health professions.

This review was conducted in two phases. The first phase included a review of licensing and rulemaking functions of the boards, composition and structure of the boards, financial responsibilities of the boards and DHP, and the role of the Board of Health Professions. The findings from the first phase were presented in an interim report.

The second phase review focused on the disciplinary system used by the boards and the department. The review found that aspects of the disciplinary process were working well. The quality of the work by DHP and board staff was generally good, and the system developed to process and adjudicate cases was effective. However, there were some areas in which policy and statutory changes were needed to improve the process. In addition, the inspection program did not meet stated goals and might not provide for adequate drug control. The report contained recommendations to address these concerns.

The study identified several concerns regarding the time required to process disciplinary cases. Most boards took in excess of one year on average to resolve disciplinary cases, and the Boards of Medicine and Psychology took in excess of two years on average. The report also found that many of the cases that took too long to resolve involved serious misconduct by a practitioner, and the delay in resolving these cases created unreasonable and unacceptable risks to public protection and public safety. Recommendations to improve case processing time were provided.

The study also found that the Board of Medicine did not adequately protect the public from substandard care by physicians. With the existing gross negligence standard for taking action, the Board of Medicine rarely sanctioned physicians

for standard of care violations. In addition, the Board of Medicine did not adequately handle medical malpractice payment reports.

Update

The 2000 General Assembly enacted a significant recommendation of the JLARC study. The new statute requires all mental health service providers to advise their patients of their right to report misconduct by another mental health provider to DHP. The licensee is further required to document the alleged misconduct in the patient record, and to provide relevant information on how to file a complaint. Further, the complainant is provided immunity from criminal or civil liability resulting from the complaint.

Of particular concern during JLARC's review was DHP's handling of medical malpractice cases and an observed tendency to close these cases without appropriate information upon which to make the decision. As recommended, DHP re-evaluated its policies in this area. Subsequently, the Enforcement Division and the Board of Medicine developed a new protocol for handling medical malpractice cases, which is now in effect.

In accord with study recommendations about timeliness in processing disciplinary cases, DHP has developed new time-frame standards for case resolution. Agency enforcement staff monitor all disciplinary cases through an improved tracking system. It is hoped that the new approach will ensure expeditious resolution of cases in which serious misconduct is alleged.

A serious budget deficit in Certified Nurse Aide program, and the resulting impact on necessary disciplinary actions, were study concerns. DHP reports that this deficit is being eliminated by fee increases that became effective in April 2000, and that disciplinary decisions are now being addressed by the Board of Nursing.

The study recommended removing the prohibition in the *Code of Virginia* against the practice of dentistry under a firm name. This recommendation appears to have been judicially supported in one Fairfax Circuit Court case in August 2000, which declared the statute an unconstitutional deprivation of the practitioner's First Amendment commercial speech right.

Through a new departmental policy directive, DHP has addressed a study concern about making the process for license or certificate reinstatement uniform across all health regulatory boards, particularly the scheduling of fees.

The review noted a serious pharmacy inspection backlog. DHP reports it has been proactive in this area, eliminating the backlog by establishing dedicated pharmacy inspector positions and hiring additional inspectors.

In accord with another study recommendation, DHP now requires that all routine inspections of veterinary facilities be unannounced.

Review of the State Board of Elections

Summary

House Joint Resolution No. 51 (1998) directed JLARC to study the State Board of Elections (SBE), including the relationship of the Board with the local registrars, and the automated system used to maintain the registered voters list. The study also examined the important role played by the Division of Motor Vehicles (DMV) in processing voter registration applications, as required by the National Voter Registration ("motor voter") Act of 1993. The review raised a number of serious concerns:

- The State Board had not provided training to local elections officials and had failed to approve new voting equipment. As a result, the registrars reported being dissatisfied with the support provided by the Board.

- The review found cause for concern about the maintenance of the registered voters list. Information from the State Police and the Department of Health used by the State Board appeared to be inaccurate in some instances, and the process used by the State Board to remove felons and the deceased appeared inadequate.

- The automated Virginia Voter Registration System being used was inadequate to support the State Board and the local registrars. A new system which used modern equipment, a high-speed network, and an improved database design would enhance the registrars' ability to keep an accurate list of registered voters.

- The review found both SBE internal management and external support of the registrars to be weak. This was having a significant impact on operations, as evidenced by poor internal communications, a lack of discipline, and the failure of the State Board to carry out its statutory duties.

- Various procedural modifications and technical improvements were needed to improve DMV's role in the voter registration process.

Update

A number of significant actions have been completed or are under way in response to the JLARC study. These initiatives have involved a range of actors, including the General Assembly, the State Board of Elections, the Division of Motor Vehicles, the Department of Health, the Department of Information Technology, the State Police, and the general registrars. Selected accomplishments include the following:

- In response to a study recommendation, the General Assembly amended the *Code of Virginia* to create a National Voter Registration Act Coordinating Committee. The Committee, which is composed of representatives from the State Board of Elections, DMV, three other State agencies providing voter registration opportunities, and general registrars, reports to the Secretary of the State Board of Elections.

- To address a study concern about the level and timeliness of training provided to election officials, the General Assembly amended the *Code of Virginia* to specify that annual training of registrars and electoral boards is the responsibility of the State Board. In response, the Board appears to have taken significant steps to provide more and better training opportunities for registrars and electoral board members, as well as in-house staff.

- The General Assembly amended the *Code of Virginia* to explicitly allow the transfer of data between DMV, SBE, and each of the general registrars.

- In accordance with a study recommendation, the General Assembly amended the *Code of Virginia* to authorize pilot projects for consolidation of the pollbook with the registered voter list. The results of pilot testing in Henrico County and the Town of Vienna appear promising. A new front-end system utilizing the combined list information reduces the risk of error and also speeds the flow of persons through the check-in process. However, there appears to be a need for the General Assembly to address several FOIA-related issues, which will likely be studied by the Election Reform Task Force this year.

- In support of a JLARC recommendation, the General Assembly provided emergency funding to allow deployment of personal computers and desktop printers, along with standard software and training, to all 135 general registrars' offices. This deployment, including a new telecommunications network and email, is substantially completed.

- Per a study recommendation, the General Assembly required electronic linkage between SBE and Virginia State Police, effective April 1, 2000. Subsequently, staff of SBE, the State Police, and the Department of Information Technology began working on this linkage, which SBE reports is now fully implemented. The new approach allows the transfer of the complete list of felons in Virginia and monthly updates. SBE is also pursuing the feasibility, as recommended, of verifying voter registrations against national sources of felony records. These approaches should assist SBE in maintaining the accuracy and integrity of the voter registration list.

- Per another recommendation, the State Board has established an electronic linkage with the Virginia Department of Health. This linkage increases registration accuracy by allowing timely removal of deceased persons from the voter lists. Development of linkage to allow matches between the Social Security Master Death Record File and the Virginia Voter Registration System (VVRS) is also under way, as recommended.

- The report noted that SBE had not complied with a statutory mandate to review and certify new types of voting equipment. In response, the Board reports that new certification procedures have been implemented, and several vendor submissions are expected in the near future.

- The study noted that the "bail-out" provisions of the Voting Rights Act might be useful for certain jurisdictions. This provision frees localities which can demonstrate a high level of compliance with the Act from some of the cumbersome requirements. SBE reports it has been encouraging jurisdictions in this regard. To date five localities have been approved and several others are actively considering this option. It is believed that Virginia is the only state to have any localities completing the bail-out process.

- A number of study recommendations addressed the possible development of a new voter registration system. SBE reports it is in the final stages of development of a new statewide system, which is scheduled for implementation this fall.

- The study found that Division of Motor Vehicle employees could do a better job of notifying customers that they could register to vote at DMV offices. DMV reports that in response, it has developed a training manual for the DMV customer service centers, which contains a voter registration component and is now being used as part of new employee training. DMV also reports it has changed its procedures so that its customers are now notified at two different points of contact — at the information counter and at the transaction window — that they may register to vote.

- The JLARC study expressed some concerns about the application form used by DMV to register voters. DMV's recent status-of-action response notes that the agency has worked with members of the 2001 General Assembly and registrars to revise the voter application for better understanding and increased likelihood of validation.

- In addition, working together, the Division of Motor Vehicles and the State Board of Elections have developed a service allowing citizens to verify that they are registered to vote. By accessing the SBE website, individuals can determine their voting registration status, voting location, and their State and federal elected officials.

Child Support Enforcement: Interim and Final Reports

Summary

The 1999 General Assembly Session directed JLARC to evaluate the State's child support enforcement activities, including the caseload, management, employment levels, and workload of the Division of Child Support Enforcement (DCSE). DCSE is the largest division in the Department of Social Services in terms of staff and budget, and is responsible for collecting and enforcing child support in the State. DCSE serves about one-fourth of Virginia's children, and its caseload comprises over 390,000 cases. DCSE is funded primarily with federal funds.

The first phase of this study was completed in December 1999. The interim report found that DCSE's reported caseload size, while substantial, appeared to be somewhat overstated because some cases could be closed or could be excluded from the caseload figure due to minimal work activity. In response to this finding, DCSE initiated a case closure project, which resulted in the closure of more than 69,000 cases. The interim report also found that the dramatic decline in the welfare caseload and several federal funding changes were causing DCSE, for the first time, to experience a budget deficit and increased budget instability. The 2000 General Assembly allocated funds to cover most of the projected deficits through 2002, but it is likely more funds will be needed.

The second phase of the study examined the child support enforcement program in more detail, and addressed such issues as district office performance, the adequacy and appropriateness of staffing levels, and management of the program. In addition, the study provided recommendations as to "how the program can be improved to better meet the needs of our children," as required by the mandate.

The study found that while Virginia's program has enjoyed a good national reputation over the years, the federal performance expectations are becoming more demanding. In order to maintain or improve overall performance, Virginia will need to improve staffing levels. Of the 105 additional staff recommended in the report, 74 positions were to replace DCSE's recent elimination of federally funded contract positions.

The major finding of the two-year review was that additional resources are needed, especially staff resources, in order to improve the State's ability to collect child support on behalf of Virginia's children. The larger policy question, however, is to what extent the State desires to improve the child support enforcement program and whether the necessary resources can be found.

Update

While DCSE has not received the additional staff resources required to fully address the JLARC recommendations, DCSE has implemented several important changes which will improve the collection of child support payments for Virginia's children. In accord with a study recommendation, DCSE developed district performance goals, which are in effect for this fiscal year. The Division appears to have improved it data collection and distribution efforts in this regard. DCSE also appears to be committed to more rigorous self-assessment at all levels: district, team, and individual employee.

A study concern was that DCSE's lengthy hiring process for filling vacancies added to the prob-

lem of understaffing. The division reports that it has taken several important steps to correct this situation, including increasing staff commitment to processing applications, posting position announcements on the internet, and streamlining the interview and approval processes.

In accord with other recommendations, DCSE has recently completed a workload analysis to develop caseload standards. These standards will be used to determine the number of caseworkers needed per functional area. It is hoped that this analysis will also provide guidance concerning the necessary number of support staff to achieve maximum efficiency.

In response to training concerns, the division has developed an annual training plan, which has been distributed to all managers. As recommended, the plan is based on a needs assessment, and includes modules on frequently asked questions and case closure procedures. DCSE has also placed an increased focus, as recommended, on sharing best practices among the districts.

As recommended, DCSE has centralized contract management activities to improve ongoing oversight of its many contractors.

The report identified a number of technological improvements that could result in increased federal funding for Virginia's child support enforcement program, as well as improved services to clients. DCSE appears to be making significant progress in these areas. Although the full range of division activities in this area is beyond the scope of this summary, a few examples follow:

- expanding the capabilities of the Automated Program to Enforce Child Support (APECS), while re-engineering the system to a more modern and flexible database structure,
- piloting a new database program called PRISM (Performance Results Information Systems Manager) which will be integrated with APECS to afford easy access to critical reports,
- improving the APECS worklist feature so that caseworkers can more easily reconcile new information from financial institutions against their individual case list,
- automating the case closure process,
- achieving more efficient access to wage and withholding information from other states,
- through outreach efforts, tripling the number of employers submitting employee child-support payments through electronic fund transfers,
- enhancing the telephone voice-response system so that clients are more likely to remain on the line until they can be assisted, and
- exploring the potential for a comprehensive, fully interactive web site, through which clients could access everything from application forms and frequently asked questions to timely information on their individual cases.

Per another JLARC recommendation, DCSE has begun developing a strategic plan to guide all activities of the division and ensure that they meet the established federal and State performance standards and legislative requirements.

Child Support Enforcement and the Judicial Process

Summary

When JLARC staff briefed the Commission on the final child support enforcement study, the Commission directed the staff to conduct an additional analysis. The new study was to evaluate the status and development DCSE partnerships with local courts, local sheriffs' offices, and other entities in the collection of child support payments. The Commission requested this additional review to determine whether additional partnerships could decrease caseloads, increase federal incentives, and reduce the amount of delinquent child support owed to children in Virginia.

The special inquiry focused on the primary partners in the collection of child support through the judicial process: DCSE, the courts, and the sheriffs. In addition, the inquiry focused on a private company, known as Restitution and Inmate Development or RAID, which provides one alternative to incarceration for noncustodial parents that are not meeting their child support obligations. Five major conclusions emerged from this evaluation:

- In Virginia, most child support actions can be performed administratively by DCSE without judicial intervention. When judicial action is required, DCSE appears to be referring the appropriate type of delinquent cases to court.

- DCSE appears to have good working relationships with the local courts. Judges utilize a variety of methods to encourage delinquent parents to pay child support. They welcome alternatives to incarceration, and the RAID program is one alternative. In addition, the judges do not feel that they should determine which cases are sent to court.

- The level of coordination between DCSE and sheriffs' offices varies, and there may be an opportunity to increase the role of sheriffs through cooperative agreements with DCSE.

- The RAID program, a private for-profit company, has been implemented successfully in several localities and should be encouraged to expand in areas where the localities determine that they need such a program. However, the appropriate role for programs such as RAID is as an alternative to incarceration, not as a catalyst for determining which child support cases should be sent to court. In addition, it is inappropriate for State officials to endorse this program over others.

- Federal funds are available for additional partnerships, especially with sheriffs' offices, if these entities are providing enhanced child support services that are above and beyond their normal duties and prove to be cost-effective in the overall collection of child support.

Update

In response to a concern about how cases are selected for enforcement action, DCSE is conducting a study (to be completed in 2002) of historical information on the automated case management system to identify significant relationships between collections and the use of particular enforcement tools.

In accord with a study recommendation, DCSE is providing presentations to the Virginia Sheriff's Association on issues related to child support enforcement.

As recommended, DCSE has initiated efforts to determine whether federal child support funds can be used to form cooperative agreements with selected sheriffs' offices. DCSE is currently conducting a pilot program with the Chesapeake Sheriff's Association to improve child support enforcement services.

The Costs of Raising Children

Summary

Child support guidelines in Section 20-108.2 of the *Code of Virginia* are used to calculate the amount of child support a non-custodial parent is required to pay. The guidelines were established to provide those who determine child support awards with a uniform, objective, and economically-based method of establishing fair, adequate, and consistent child support awards. The extent to which existing guidelines are fair and adequate has been the subject of considerable debate.

The *Code* also requires the Secretary of Health and Human Resources to convene a panel to review periodically the child support guidelines. According to the review panel's 1999 report, the panel had concerns regarding the reliability and validity of the data and studies upon which the guidelines were based. Because of these concerns, the panel questioned the equity and validity of the current guidelines but felt that no preferable alternative approach was currently available. Therefore, the panel recommended that the current guidelines be retained as an interim decision, but that the General Assembly should authorize and fund a Virginia-specific study of the cost of raising children in "non-intact families," to be used as the basis for the next review of the guidelines.

Senate Joint Resolution 192 of the 2000 General Assembly session was prompted by the review panel's 1999 report. The resolution directed JLARC to include in its study of child support enforcement "an examination of the costs of raising children in Virginia when parents live in separate households." The resolution further directed JLARC to develop data that could be "used to determine appropriate child support amounts."

However, the General Assembly would probably have had to spend millions of dollars to collect the desired expenditure data, which would have required a large sample of custodial parents in Virginia, and then locating the corresponding non-custodial parents to collect valid expenditure data from them. Before embarking on such an ambitious and problematic data collection effort, the Legislature found it prudent to examine the currently available data more closely, and then to determine whether collecting the additional data would be cost-effective. Accordingly, the JLARC

study focused on what could be learned from existing, recently-collected data and applied to the evaluation of Virginia's child support guidelines.

After analyzing currently available nationwide data on household expenditures (including data from single-parent households), JLARC staff concluded that it would not be cost-effective for the General Assembly to attempt a new, Virginia-specific data collection effort. The study demonstrated how current nationwide data could be used to estimate expenditures on children, and how these estimates could be used to evaluate the current guidelines or to help determine new, alternative guidelines.

Three findings from this analysis were particularly salient:

- Among households earning less than $30,000 annually, estimated spending on children generally appears to exceed the amounts that are in the current guidelines.

- A key policy decision affecting the expenditure estimates is whether housing and transportation costs should be attributed to children on the basis of the per capita or the average use approach (or some combination of the two).

- Having a set of expenditure estimates alone would not be sufficient to determine appropriate child support amounts, because there is a need for additional policy decisions and adjustments to be made as well. However, using expenditure estimates as one of many components may help ensure that child support amounts realistically reflect the costs of raising children.

Update

The JLARC study has been provided to all members of the current review panel. According to the Department of Social Services (DSS), "It should prove to be a very valuable resource for the panel….Panel members should be better able to understand the basic questions and principles involved in constructing a state's child support guideline, and to address each of the basic factors that must be considered in recommending a viable methodology for determining child support award amounts." DSS also notes that the report should reduce much of the disagreement among panel members, thereby reducing meeting time and increasing efficiency of deliberations.

In addition to questions solely of support amounts, the study recommendations may well affect the operating procedures of the Division of Child Support Enforcement, particularly relating to establishment or review and adjustment of administrative support orders.

As the study is expected to serve as a primary resource for the next guideline review, the panel's recommendations will likely become legislative proposals for the 2002 Session of the General Assembly.

Study Receives Award

Each year, the National Legislative Program Evaluation Society of the National Conference of State Legislatures sponsors a competition for the best research report produced by JLARC's national peer organizations. For 2000, JLARC received this prestigious "Excellence in Research Methods Award" for its study, *Technical Report: The Costs of Raising Children*.

JLARC methodologist Dr. Greg Rest, project leader for the Costs of Raising Children *study, receives the Excellence in Research Methods Award from NLPES Awards Chair Jane Thesig at the 2001 NCSL meeting in San Antonio.*

Criteria for this award included the following:

- a unique or innovative research design that was appropriate to address the audit objectives,

- an exemplary methodology that was articulated in concise terms,

- research results understandable and useful to the intended audience.

The award citation for JLARC's award further noted that the awards committee was "truly impressed with the innovative research design your office used to determine how existing data could

be used to estimate household expenditures on children, and how these estimates could be used in evaluating and developing child support guidelines."

The Virginia Department of Social Services seconded NCSL's praise, stating that the report "provides a very good basis…to develop a revised guideline schedule for consideration in the 2002 General Assembly Session." Child support experts in other states have also expressed interest in adopting the approach developed in this study.

Statewide Human Services Information and Referral Program

Summary

House Joint Resolution 502 of the 1999 General Assembly Session directed JLARC to evaluate "the effectiveness of the Information and Referral Centers in the Commonwealth" and to determine "whether any legislative changes are necessary to enable the program to work more efficiently." The Statewide Human Services Information and Referral (I&R) program is established in statute as a three-tiered system. These three tiers include: six regional I&R centers, which operate as independent contractors; the Department of Social Services, the State-level agency that administers the program; and an advisory council that recommends standards for improving the I&R system. The purpose of the I&R system is to help link people in need with community services designated to meet those needs.

This study found that Virginia's I&R system is not well developed, even though it has been established for a number of years and has been the focus of numerous studies and recommendations for improvement. In addition, this report also underscored that none of the players in the three-tiered system are currently meeting their statutory responsibilities. The primary reasons include the low priority that information and referral services have received at the State level, lack of awareness by citizens, and insufficient funding. This report addressed the mandate through a series of recommendations that would improve the delivery of information and referral services within the current system.

While the recommended changes to the current structure would improve performance, a larger policy question identified was whether the General Assembly wants to continue funding the current system. The study recommended that the State consider whether there are alternative arrangements that might be used to more effectively achieve its information and referral objectives. One option explored was the development and implementation of 211 as a non-emergency information telephone number that could link citizens to designated human resource agencies in their own communities. Another option discussed was the development of a State-level, World Wide Web internet site with links to all local, regional, and State I&R resources across the Commonwealth. Both options could improve citizen access to needed information about public and private services..

Update

The State and regional I&R centers have taken a number of minor actions relative to JLARC staff recommendations, which may have improved the services provided through the program. However, the major recommendation of this study was to determine whether a major restructuring of I&R services was needed. In accord with this recommendation, the Office of the Secretary of Health and Human Services, in consultation with DSS, the regional centers, and other health and human resource agencies, completed a plan for restructuring the statewide I&R system. The plan, which was presented to the House and Senate money committees in December 2000, includes recommendations on alternatives to regional centers and implementation of 211 as a non-emergency information number. The General Assembly did not take any action on this plan during the 2000 Session. To date, the Secretary of Health and Human Services has not implemented any significant restructuring of the I&R program.

The Virginia Fair Housing Office

Summary

The 1997 Appropriation Act directed JLARC to study the operations of the Virginia Fair Housing Office (FHO). The FHO is located within the Department of Professional and Occupational Regulation (DPOR). The study mandate required an assessment of the allocation of resources within FHO, taking into consideration caseload, case processing time, office staffing, staff training and other appropriate issues. This study focused on

the efficiency and effectiveness of FHO staff in administering and enforcing the provisions of the Virginia Fair Housing Law.

A large backlog of unresolved complaints affected fair housing operations from FY 1993 through FY 1997, increasing the amount of time needed to process complaints. However, recent actions taken by DPOR and FHO management had eliminated the backlog. Nevertheless, this study found that the operations of the FHO could be made more efficient and effective in several respects, thereby enhancing its ability to promote and enforce compliance with the Virginia Fair Housing Law. For example, while staffing and resource levels were generally adequate to support current operations, clerical staffing, staff training, and legal support all required attention. Case processing procedures also needed clarification. Furthermore, data management problems identified during the study could negatively affect the amount of funding received from the U.S. Department of Housing and Urban Development for complaint processing.

> "Senior management of the Department has continued to monitor the Fair Housing section very closely and has been pleased with the results and accomplishments that have been achieved since the JLARC study."
>
> *—DPOR Director's comment in a recent status-of-action report.*

The study also found that a cohesive strategy was needed to promote and increase public awareness of the Virginia Fair Housing Law, particularly among those housing providers not required to be licensed by DPOR. Approximately 80 percent of FHO workload was attributable to complaints filed against individuals and firms who were not required to be licensed by DPOR. This study also presented recommendations concerning the investigation and adjudication of fair housing complaints. The report found that the investigation of complaints could be strengthened through improved collection of evidence, including better use of fair housing testing methods. The adjudication of complaints could be improved through better consideration of evidence generally, and through the establishment of a quasi-judicial administrative hearing process.

Update

In accord with a JLARC study recommendation, the General Assembly amended the *Code of Virginia* to allow investigations of fair housing complaints to extend beyond one year when necessary.

Recent status-of-action reports from DPOR indicate that all of the study recommendations have been implemented, and that senior management are pleased with the resulting accomplishments. Among these accomplishments:

- To improve case processing and ensure compliance with HUD's processing criteria, FHO has implemented comprehensive case-processing procedures which define each step necessary from the receipt of a complaint until it is either conciliated or dismissed, or a charge of discrimination is issued.

- As recommended, a formal training manual has been developed. Further, the agency reports that training has received a very high level of attention since the JLARC study, including attendance at HUD workshops, staff completion of investigator certification courses, training provided by the Attorney General's office, and participation in programs offered by the Fair Housing Legal Support Center of the John Marshall Law School (Chicago).

- Per another recommendation, FHO staff have been meeting regularly with the Office of the Attorney General to provide more direct access to legal advice needed during the processing of complaints.

- The study raised concerns about the agency's data management capabilities. Subsequently, information systems staff completed major changes to the fair housing database system, including significant hardware and software upgrades. FHO reports that these changes now allow the office to capture an unprecedented amount of detailed information about every complaint filed.

- The study also called for FHO to significantly increase awareness of, and compliance with, the Virginia Fair Housing Law. In response, the agency developed a management plan and awareness strategy. Per the JLARC recommendation, this strategy includes collection and utilization of data concerning training session participants, evaluation of the impact of these training sessions, identification of best practices used by fair housing agencies in other states, and the targeting of housing providers and property managers not required to be licensed by the Real Estate Board. FHO reports this multifaceted approach is having excellent results. For example, in regard to unlicensed housing

providers alone, more than 500 people received fair housing training during a recent three-month period.

The Fair Housing Office's most recent status-of-action report to JLARC provides evidence that the agency has indeed made appreciable progress in improving programs. FHO's outreach and education efforts have been nominated for this year's national "best practices award" from HUD. HUD also nominated FHO's conciliation process for a national best practices award.

The Medicaid Inpatient Hospital Reimbursement System

Summary

The 2000 Virginia General Assembly directed JLARC to examine the process and methodology used by the Department of Medical Assistance Services (DMAS) to establish a new payment system for Medicaid inpatient care. Inpatient hospital care is the largest expenditure category for the Medicaid program, accounting for about 23 percent of the program's expenditures in recent years.

JLARC conducted a similar review of the Medicaid inpatient program in 1990. At that time, DMAS received high marks for developing and implementing a reimbursement system for inpatient hospital care that effectively controlled the growth in payments for those services. Particular attention was given to the fact that DMAS saved the State more than $64 million in 1990 by paying hospitals only a portion of their allowable costs associated with serving Medicaid patients. At the same time, however, the report discussed the looming specter of legal challenges to DMAS' reimbursement system and the potential threat this posed to the long-term viability of the system.

Legal challenges were made to the old system. Although these challenges abated, some of the issues that were at the center of the hospital industry's lawsuit against the Commonwealth resurfaced as the State began the process of moving to a new reimbursement system in 1996. Specifically, the Virginia Hospital and Healthcare Association (VHHA) contended that at a time when hospital costs were beginning to increase, DMAS was making retroactive cuts to the inpatient reimbursement rates using data-bases that contained many errors. Further, VHHA asserted that a decision by DMAS to perpetuate the use of a rate "adjustment factor" unfairly reduced the Medicaid reimbursement for inpatient care by 21 percent. This follow-up JLARC study provided a review of the process used by DMAS to establish a new payment system, assessed the soundness of the methodology used to set the new rates, and examined the adequacy of those rates.

In general, this study found the rate-setting methodology implemented by DMAS to be logical and internally consistent, while containing all the key elements necessary to calculate rates for inpatient hospital care. However, in developing this new and more complex system of reimbursement, the department had experienced a number of implementation and technical problems, some of which needed to be addressed as the department moved forward with full implementation of the system. In addition, the department was continuing to apply a rate adjustment factor to hospital operating rates that artificially suppressed the payment levels produced by the new reimbursement system.

In terms of implementation problems, the process that was used to put the system in place, make technical adjustments to the rate-setting methodology, and establish prospective rates was characterized by protracted delays. Because of these delays, DMAS was required, by regulation, to apply the initial rates for the system retroactively, which was not consistent with the general intent of the General Assembly.

From a technical perspective, the department experienced two problems that affected hospital payment rates. First, the databases used by DMAS caused some patient claims to be inappropriately categorized. The result of this problem was that the severity of some cases was underestimated, and hospitals received an underpayment for those cases. JLARC staff estimated a minimum of $11.4 million to resolve this problem. In addition, when setting the payment rates for FY 1999, DMAS used a method for estimating hospital costs that was later determined to have lowered payment rates to hospitals. The General Assembly appropriated $12 million in FY 2000 to compensate hospitals for the revenues lost as a result of this problem.

There was also some disagreement about DMAS' tentative plans to recapture savings from hospital payment rates that were paid in FY 1997 and FY 1998. The regulations that provide DMAS with the authority to capture savings from hospitals based on changes in the length of time that Medicaid recipients received inpatient care were passed in

FY 1996. However, JLARC found that the methodology used by the department to determine the amount of savings that could be attributed to those changes and recaptured by DMAS fell considerably short of the burden of proof required by the regulations. Therefore, any payment reductions for lengths of stay savings appeared unjustified.

Update

A major recommendation of the study was that DMAS should refrain from reducing the payment rates in effect in FY 1997 and FY 1998 based on savings generated from a reduction in the length of stay for Medicaid recipients in inpatient care. Although regulations provide DMAS with the authority to make such reductions in payments, the JLARC review concluded there was no compelling evidence that the department's actions were the cause of the reductions in length of stay. DMAS accepted this conclusion, and refrained from reducing payment rates.

Another recommendation of the study was to phase out the rate adjustment factor. The JLARC recommendation was subsequently supported in a package of interrelated recommendations made by the Joint Commission on Health Care, regarding elimination of Certificate of Public Need. DMAS estimated the cost of eliminating the adjustment factor at $83.7 million. Although the General Assembly did not pass the bill (SB 1084 of the 2001 Session) which would have enacted this recommendation, this issue is likely to be considered again in a future Session.

Impact of State-Owned Ports on Local Governments

Summary

The Virginia Port Authority (VPA) is the State entity responsible for operating, developing, and marketing the State's three marine terminal facilities. These facilities are located in the cities of Newport News, Norfolk, and Portsmouth, as well as an inland terminal facility that is located in Warren County. Prior to the State's acquisition and operation of these facilities, the marine terminals were owned and operated by the cities of Newport News, Norfolk, and Portsmouth. However, beginning in the early 1970s, the State purchased the three marine terminal facilities through the VPA and became responsible for their operations. Subsequently, based on a clear mandate and accompanying authority from the General Assembly, the VPA began the process of unifying the operations of these marine terminals.

Since unification, the cargo tonnage that has been shipped through the VPA's terminals has increased consistently. However, because the VPA facilities are State-owned, the host local governments are not allowed to levy approved local taxes against the terminals. Moreover, the scale and scope of the VPA's operations has led to concern by the host localities that the benefits they receive from the facilities do not outweigh the cost of hosting the terminal property.

The 1999 Appropriation Act directed JLARC to study whether adequate compensation was being provided by the State to the host localities to address the loss of local taxes or other revenues. The review also examined other aspects of the relationships between the ports and their host localities, identifying both benefits and ways to mitigate negative impacts. The primary findings of the study can be summarized as follows:

- The State has ensured that financial resources have been available to develop and sustain the operations of the VPA's terminal facilities, resulting in substantial employment and wage benefits for residents across the Commonwealth.

- Localities hosting the VPA terminals also receive employment, tax revenue, and business development benefits from the facilities' operations. The business development benefits from the terminals may be limited somewhat, however, by the fact that the three host cities are essentially fully developed.

- Substantial benefits attributable to the VPA's operations extend well beyond the boundaries of the host local governments, particularly to some localities in close proximity to the VPA host cities.

- Localities were receiving reimbursement for the provision of fire protection services through a service charge levied on the VPA property. However, other services provided by the local governments that benefit the VPA's terminals were not recognized for reimbursement.

- The host localities were forgoing a substantial amount of direct local tax revenue — about $2.5 million in real property tax revenue in 1999 — due to the fact that the VPA terminals are located on very valuable property and are exempt from local taxation.

- Additional reimbursement could be provided to the VPA host localities based on some measure of the business activity at each terminal.

Update

The 2000 General Assembly implemented a major study recommendation by amending the service charge paid to local governments hosting VPA property. The revised service charge, which went into effect July 1, 2000, is based on the amount of cargo tonnage shipped through the relevant property, as well as the assessed value of the tax-exempt real estate. This approach should be effective in alleviating the loss of direct local tax revenues noted in the JLARC study.

The Port Authority itself has also implemented a number of JLARC recommendations. The Authority has reviewed all local government submissions for reimbursement through the service charge for compliance with the *Code of Virginia* requirements, and has reported all omissions and errors to the applicable local governments.

In addition, the Authority has identified and implemented techniques that minimize the adverse impacts of its business activities on localities with terminal facilities. These approaches include:

- minimizing road movement of trucks between VPA terminals through better planning of intermodal container movements,

- changing the gate scheme to minimize truck movements on Hampton Boulevard, in response to concerns by the City of Norfolk, and

- reducing adverse impacts on neighboring residential areas by installing special shields on high-mast lighting systems, rewriting specifications on major pieces of yard equipment to minimize noise, and undertaking a major landscaping initiative.

VPA also reports it has provided special assistance to several local governments, including bulkhead repairs adjacent to the Newport News Marine Terminal, and funding assistance to Norfolk in connection with improvements to Nauticus. A VPA study is currently assessing the impact on the Elizabeth River of expanding Craney Island.

Also as recommended, VPA is implementing business development activities that enable host localities to more fully utilize the economic development potential of the terminal activities:

- VPA has been involving host cities in discussions with major port customers and users who are considering locating their headquarters or other facilities near the port. The City of Norfolk recently benefited from the decision of Zim Line, a leading international container shipping line, to locate their U.S. headquarters within the city limits.

- VPA and other agencies in the Transportation Secretariat have made efforts to assist the City of Portsmouth with the potential purchase and improvement by Maersk/SeaLand of a large waterfront parcel for use as a marine terminal.

Competitive Procurement of Printing

Summary

HJR 810 of the 1999 Session directed JLARC to examine the competitive sealed bidding procedures used by the Department of General Services' Division of Purchases and Supply (DPS) in procuring printing goods for State agencies. A primary concern was whether Virginia firms receive an adequate share of State printing contracts.

In calendar year 1998, State agencies spent in excess of $36.1 million for printing-related work by the private sector. Review of DPS procurement files and agency payments to printing vendors revealed that most State agency printing was being performed by printers located in Virginia. JLARC staff found that 64 percent of all printing contracts procured through competitive sealed bidding were awarded to firms located in Virginia. Correspondingly, 66 percent of the dollar value of all competitive sealed bidding contracts was awarded to Virginia printers.

Overall, JLARC staff found that the procurement process for printing worked well, and DPS' practices appeared sound. However, some procedural improvements were recommended to better reflect the intent of the Virginia Public Procurement Act. For example, DPS needed to work with the printing trade association to improve printers' access to State work, including encouraging more firms to register with DPS. The report also contained recommendations to improve the timeliness of job completion by Virginia Correctional Enterprises, the mandatory source for State agency printing.

Update

DPS has implemented a number of study recommendations through the creation of a new "electronic procurement solution" — a computer database and website called eVA — for use by all State agencies and universities. This initiative implements the JLARC recommendation to develop a single statewide database for all vendors that is accessible to all State agencies. An important first step in implementing this approach was a mass re-registration of vendors already registered, and increased outreach to potential vendors.

DPS worked with the Printing Industries of Virginia Association to link that organization to the new website. This linkage allows easy access to printing vendors for registration, bids, and bid results. All DPS solicitations are now posted on the website and accessible by all vendors. As recommended, listings has been simplified to include a short summary of the item to be printed.

Per another recommendation, the new website also provides information on the "preference laws" for out-of-state bidders. Thus, if a state excludes bidders from Virginia for its own printing projects, a bidder from that state can expect to be treated similarly for Virginia projects.

The Virginia Housing Development Authority

Summary

The Virginia Housing Development Authority (VHDA) is an independent public authority created by the General Assembly in 1972 to address shortages of adequate housing for low and moderate income households in Virginia. The 1999 General Assembly directed JLARC to study the programs administered by VHDA as well as the organization and management of the authority.

This study found that VHDA's performance in terms of generating revenue and achieving financial strength had been excellent and that the authority appeared to be generally well managed. However, the authority's performance in meeting its statutory mission was not reflecting its full potential and needed improvement.

Several concerns related to VHDA's single family and multifamily programs were identified in the report. Thirty-nine percent of the recipients of VHDA single-family loans would have qualified to receive private market loans, and neither private lenders nor VHDA were making an effort to verify whether a borrower would have qualified for a reasonably equivalent private market loan. In addition, VHDA single family loan products were providing only small benefits to borrowers and generally offered the same level of assistance to both moderate and low income households. The study also found that while the multifamily program had been successful in financing multifamily projects, the rents charged were often not affordable, and the distribution of projects around Virginia did not reflect the State's housing needs. The report contained recommendations to address these concerns.

The study also found that the Section 8 program had not been adequately managed. VHDA's decision to ignore a U.S. Department of Housing and Urban Development (HUD) policy directive issued in 1995 had resulted in the loss of a large amount of federal Section 8 assistance to Virginia and the opportunity to house a significant number of additional families. In addition, VHDA needed to improve the financial and technical support provided to the administrative agents administering the program locally, and to improve the efficiency of the program at the State level.

The study further concluded that VHDA had financial strength that could be better utilized without jeopardizing its impressive bond ratings. VDHA had developed sizable fund balances by annually generating more income from mortgages and investments than its level of expenditures. However, VHDA's highest priority appeared to be maintaining a strong financial position instead of fully utilizing its financial strength to provide assistance to low and very low income households that could most benefit from the authority's assistance. The study provided recommendations to better utilize VHDA's financial strength.

Update

The study called for VHDA to conduct a review of its single-family program to identify mission-specific improvements and to develop new loan products targeted to low-income households. VHDA has responded through the mechanism of a "New Products Team" which includes liaison with the Authority's stakeholder groups. This team has identified and is focusing upon some key obstacles to home ownership: lack of savings for down payments and closing costs, inability to meet underwriting ratio guidelines, poor credit history, and inadequate understanding of budgeting, credit, and other home buying factors. The team is cur-

rently developing new loan products to meet these needs, which should be in place by the end of the year.

As recommended, VHDA is taking a number of steps to encourage and facilitate more affordable rents in the multifamily rental developments it finances. For example, the Authority is now restricting Virginia Housing Fund financing to multifamily projects with rents affordable to households with incomes of 50% or less of area median. In addition, through a partnership with the Housing Study Commission and the Department of Housing and Community Development, VHDA has been instrumental in creating the Virginia Foundation for Housing Preservation, which is designed to provide secondary gap financing to developers seeking to preserve Virginia's stock of affordable rental housing. The goal is rehabilitation of multifamily developments while retaining rents that are affordable to low and moderate income households.

Also as recommended, VHDA is undertaking a statewide assessment of housing needs. This assessment is being conducted with assistance of the Department of Housing and Community Development, under direction of the Secretary of Commerce and Trade. This review should assist the Authority in making more informed decisions regarding the allocation of its resources and the development of future program initiatives.

Many of the JLARC's specific recommendations were in reference to VHDA's Section 8 program. VHDA reports that it contracted with a national expert on Section 8 administration, who comprehensively reviewed the Authority's program, including the JLARC findings and recommendations. As recommended, input from the 57 local administrative agents was solicited. Several alternative models were proposed and considered, and VHDA is currently in the process of a significant reorganization of the program. The new model will feature a streamlined central office approach, while localities with the appropriate resources will be allowed to administer Section 8 programs directly through HUD. Other improvements include substantially greater use of automation, restructuring of fees to be more uniform and equitable, consolidation of accounting and quality control functions, and creation of a new training program.

The Authority is currently evaluating how to implement another JLARC recommendation: determining the optimum prudent amount that should annually be contributed to the Virginia Housing fund. However, VHDA recently stated that it anticipates a substantial decline in tax-exempt bond issuance authority beginning in fiscal year 2003, and that this will force the agency to allocate its fund balances to support a broader array of lending programs. A VHDA study is under way to determine the amounts to be contributed to the Housing Fund for the next five years, and this study will also address a JLARC concern about the issue of how interest is to be treated within the fund.

Study Series on Regional Criminal Justice Training Academies

Summary

The 1998 General Assembly directed JLARC to study the regional criminal justice training academies. The review was to examine methods of:

- developing and measuring the quality, consistency, and standardization of regional criminal justice academy training, and
- developing quantitative methods for measuring the knowledge, skills, and abilities of criminal justice officers completing entry-level training.

The review found that Virginia had extensive entry-level training requirements for law enforcement officers. Further, these requirements were increasing, reflecting a recognition that more time needed to be spent on the fundamentals of the profession.

As the State agency responsible for overseeing criminal justice training, the Department of Criminal Justice Services (DCJS) had established a reasonable framework by requiring entry-level officers to demonstrate their mastery of the fundamentals of their profession. However, the review found several aspects of training which needed improvement. Criminal justice instructors needed to demonstrate their knowledge and skill level prior to being certified to teach. A standard test for certification could provide a quantitative method for measuring competency and ensure that all law enforcement officers statewide mastered the essentials of the curriculum.

The study also noted a concern that although vehicle operation is an important part of law enforcement, neither the regional academies nor the State had access to a driver training facility for use by

public safety personnel. Therefore, a study of the feasibility of developing a driver training facility at Ft. Pickett or another suitable location was recommended.

The study also raised concerns about the growing number of regional training academies, and whether extensive switching between the regional academies by local agencies should be curbed.. Acting on this concern, the 1999 General Assembly instructed JLARC to study and develop strategies to stabilize membership of the regional academies. This follow-up study recommended that the General Assembly establish geographical regions for the academies based on regional planning districts or a compact geographical design.

Update

This two-part review resulted in several significant legislative actions:

- The 1999 General Assembly enacted a requirement that all new law enforcement officers seeking certification beginning in July 2001 must pass a uniform test to be developed by DCJS. The department subsequently developed and piloted a statewide certification examination, including implementation guidelines, and the new certification requirement is now in effect.

- The General Assembly gave DCJS the responsibility to develop minimum training standards and qualifications for field training officers, as recommended in the JLARC study. This will help to ensure that new officers receive their field training from experienced officers who have met certain minimum requirements.

- In accord with another study resolution, the General Assembly passed a resolution for DCJS to study "distance learning" approaches to basic law enforcement. As a result, DCJS is now considering a pilot test of distance learning for in-service training.

- The 2000 Session approved legislation which limited, as recommended, the movement of criminal justice agencies between training academies. The statutes now require a two-thirds vote of an academy's board of directors in order for a governmental unit to either join or withdraw from the academy. Further, requests for changing academies are to be considered on a five-year basis.

DCJS reports that progress has been made in response to JLARC concerns about several training and certification issues. As recommended, DCJS has developed guidelines on the use of personnel exempt from certification in entry-level law enforcement training. Further, DCJS has mandated appropriate field training requirements for all law enforcement officers, as recommended. In addition, instructor recruitment and retention guidelines have been developed and adopted.

The JLARC recommendation to study the feasibility of constructing a statewide driver training facility for law enforcement officers at Fort Pickett evolved into a promising cooperative effort. First, the General Assembly directed DCJS and the State Police to do the feasibility study, and appropriated $400,000 for planning and design work. Subsequently, the U.S. Congress enacted legislation giving the necessary land at Fort Pickett to the Commonwealth for use as a law enforcement driver training facility. DCJS and the State Police then initiated discussions with the National Guard, which has resulted in an arrangement for no-cost site preparation once the design is completed. According to DCJS, this cooperative effort that grew out of the JLARC study could save the Commonwealth between three and five million dollars in construction costs alone. However, this project is currently on hold as part of the freeze on capital projects.

The Impact of Digital TV on Public Broadcasting

Summary

In December 1996, the Federal Communications Commission approved a new digital standard for television broadcasting, subsequently mandating that all television broadcasters convert from the current analog signal transmission to a digital signal. Public television broadcasters have until May 1, 2003 to meet this mandate. The 1999 Appropriation Act directed JLARC to study the implications of the federal requirement for digital transmission by the public television stations serving the Commonwealth. The mandate further directed JLARC to examine the use of existing State funding by these public television stations.

This study found that the transition to digital broadcasting by the Virginia public television stations would require significant investments on the part of the stations to replace the existing analog equipment with the digital components. All totaled, the stations estimated that it would cost $72 million

dollars to convert to a digital signal. Additional funds above the $72 million estimate might be required for statewide interconnection and other costs associated with the transition.

While the transition costs are significant, the stations stand to lose their broadcast licenses if the conversion deadline is not met. Currently, the public television stations provide an array of services to school children, teachers, and the general citizenry of the Commonwealth. The stations are relying on the State to provide some portion of the digital conversion costs so that the stations can continue these services.

The decision to provide State funding for the digital conversion of public television is a policy choice left to the Governor and the General Assembly. The JLARC report provided information necessary to aid the discussion of this matter, and most importantly, to guide the disbursement of State funds if the decision were made to provide funding. Specifically, JLARC staff recommended that several factors, representing (1) the equity of station resources available to fund the conversion, (2) the efficiency of service coverage, and (3) the degree of public service provided by the individual stations, should be considered in allocating State funds for the conversion.

Update

The Virginia Public Broadcasting Board (VPBB) has taken several actions to implement the recommendations of the JLARC study. The following summary of the most significant actions is quoted directly from VPBB's recent status of action report:

In September 2000 VPBB, taking into consideration the recommendation for the JLARC study and requests by the public television stations, recommended that $24.0 million from the general fund be included in the Governor's budget as the State's share of funding for the mandated digital conversion.

The 2000 General Assembly included language in the 2000 Appropriation Act authorizing VPBB to finance up to $23,695,064 in equipment for the digital conversion. The responsibility for allocating the funds among the television stations was given to VPBB, while the Department of Treasury and the Secretary of Finance were required to develop the financing plan. The General Assembly included $5,000,000 in FY 2001 and $3.1 million in FY 20002 in debt service for the financing.

In May 2000, VPBB adopted an allocation of the funding by adopting JLARC's recommendation that any allocation of funding for digital conversion should be based on a combination of three factors: equity, efficiency of service and degree of public service. The Board allocation also employed JLARC's methodology for calculating these factors.

In September 2000, Treasury issued an RFP for separate financing for this purpose. The RFP was written to allow maximum flexibility for proposals that would present innovative ways of finance at the lowest cost to the Commonwealth. Seven proposals were received. The Wachovia Pooled Bond Program was selected as the financing mechanism, and was approved by the VPBB and the Treasury Board in December 2000.

Closing occurred in February 2001, and distribution of the bond proceeds was made to the television stations according to the allocation adopted by VPBB.

The funding was allocated among the five Public television providers serving Virginia. Allocations ranged from $2.1 million to Washington Education Television Association to $6.5 million to Blue Ridge Public Television.

The Department of Conservation and Recreation

Summary

The 1997 Appropriation Act directed JLARC to review the organization, operation, and performance of the Department of Conservation and Recreation (DCR) and the department's compliance with legislative intent. The review found that DCR had some organizational strengths which could be built upon in the future. For example, its operational divisions (soil and water conservation, State parks, and natural heritage) had a record of positive accomplishments over the years. The department's Soil and Water Conservation Division had a long history of assisting farmers and others in reducing erosion and managing nonpoint source pollution. The State parks offered safe, clean places for people to enjoy a variety of recreational activities. In addition, DCR's Natural Heritage Division was generally effective in identifying and protecting Virginia's rare, threatened, and endangered natural heritage resources.

The study also found, however, that internal problems were preventing DCR from reaching a higher level of effectiveness. Some of these problems — resource limitations, lack of leadership continuity, and lack of cooperation between divisions — were historical problems which had been cited by the Department of Planning and Budget and the Auditor of Public Accounts in previous reviews. The JLARC staff's review indicated that these persistent problems needed to be addressed if the agency was to successfully cope with the increasing demands and expectations being placed upon it.

A particular concern was the pace of DCR's progress on the 1992 Park and Recreational Facilities Bond projects. Nearly five years after passage of the Bond, 54 percent of the funds still had not been spent. A number of the factors that had led to delays appeared to be within DCR's control. These included a lack of adequate planning prior to the Bond Act's passage, poor organization within DCR's Design and Construction Section, a lack of dependable staffing, and a change in focus by DCR management regarding the scope of the Bond projects.

The JLARC study also found that master planning and resource planning for the parks were seriously behind schedule, with negative impacts on other areas. The report re-emphasized the necessity of the Department completing master plans for all State parks, as required by Chapter 780 of the 1998 Virginia Acts of Assembly.

Update

In a recent status-of-action report, the Department reports that it has completed virtually all of the Park and Recreational Facilities Bond projects. Spent and obligated funds as of May 2001 totaled $95.2 million out of the $95.3 million authorized. Selected highlights of the bond accomplishments include: 4 new parks, 16 new natural areas, a total of 14,000 acres acquired, over 135 new structures, 175 new campsites, 15 new miles of roads, and 48 miles of water, electrical , and sanitary lines constructed.

The Department also reports that significant progress has been made in the area of planning, although at a slower rate than hoped. A significant step in the planning process is the development of resource management plans for each park. The Department reports that these plans have been drafted for all State parks, and should receive the Director's approval this year. Master plans for 16 parks have been completed, approved and adopted. Three additional plans are nearing completion, and the remaining 13 parks are scheduled for completion by 2003. The Department notes that the public's interest and involvement in the master planning process has been more extensive and time-consuming than initially anticipated. It is felt that public support is critical, and that the planning process for each park should be extended as necessary to resolve major concerns.

Per a study recommendation, the Department has compiled a list of repair, renovation, and maintenance needs for the State parks, along with cost estimates for each project. The list shows a backlog of 234 major maintenance projects, with an estimated cost of nearly $30 million. This needs assessment, which is continually being updated, should assist the Department in prioritizing and submitting its capital project funding requests to the General Assembly each year.

The JLARC review called for better coordination of wildlife management activities among DCR's Natural Heritage Division, the Department of Game and Inland fisheries, and the Department of Agriculture and Consumer Services (DACS). In accordance with this recommendation, the three agencies have developed memoranda of agreement instituting mechanisms to share data and avoid duplication of work activities. A recent memorandum between DCR and DACS, for example, established a procedure for DCR to handle all information and project review requests for endangered and threatened plant and insect species.

The JLARC study noted that remote communications among DCR's various sites needed improvement. In response, the department hired a new information system manager in 1998, and computer software and communications hardware were significantly upgraded. The Department continues to have difficulty with high-volume data transmissions, because of limited capabilities of landlines and the remoteness of many parks. However, some improvements are being made through the use of internet service providers. Further, DCR is currently testing a new type of relay connection with the assistance of the Department of Information Technology, which is intended to dramatically improve communications between Soil and Water offices across the State.

The study noted that DCR needed to conduct a detailed examination for staffing needs and priorities relevant to water quality improvement and Chesapeake Bay non-point source pollution reduction. DCR conducted such an analysis and submitted staffing requests to the General Assembly, which approved eight additional FTEs. These

positions were filled as Watershed Managers in the eight regional offices. Their purpose is to target DCR's programs and improve coordination with other state and federal agencies involved in non-point source pollution control, forge new relationships with local governments and conservation organizations, and work toward achieving measurable defined water quality improvements in each of the Commonwealth's river basins. DCR management states that this watershed-based approach, which includes shifting staff resources and providing additional technical assistance, is the best approach for the State's commitment to achieving a 40% reduction in nonpoint source pollution from nitrogen and phosphorus. DCR has the lead responsibility in the State's Chesapeake Bay Program for achieving this goal.

The Department has also made progress in the area of staffing, particularly with regard to information technology. However, although the agency information technology function is now staffed in line with the 1997 Strategic Information Technology Plan, DCR is concerned that spiraling IT demands will soon make even the improved staffing level inadequate.

Study concerns about the Human Resources Section proved justified, as DCR reports there was subsequently a 100% turnover in the HR office. However, with the hiring of a new HR Director in August 1999, the Department reports that "improvements have been dramatic," and "a complete cultural change has occurred in offering human resource services throughout the agency."

Undergraduate Student Financial Aid

Summary

Item 16J of the 1999 Appropriation Act called for a review of need-based financial aid programs of the Commonwealth of Virginia. The study mandate directed JLARC to review financial aid systems in other states and to present alternative structures for carrying out financial aid in Virginia. The mandate also directed JLARC to review merit and incentive scholarship programs.

Administration of need-based financial aid in Virginia is decentralized to the institutions and largely driven by federal money, regulations, and schedules. The Commonwealth provided over $51 million in need-based aid to undergraduate students at public institutions in Virginia during the 1997-98 academic year. Grants are distributed to financially needy students primarily through the Commonwealth Award Program and the Virginia Guaranteed Assistance Program (VGAP).

This study found that oversight of these grants by the State Council of Higher Education for Virginia (SCHEV) historically had been weak, and that the Council could improve its oversight function by better monitoring actual awards to students. A review of SCHEV financial aid records showed that almost half of the students who were eligible for either a Commonwealth or VGAP award actually received nothing from these programs. In addition, the institutions appeared to be varying from their own award schedules in over 60 percent of the cases in which awards were made.

The study concluded that the State could do a better job of administering its portion of financial aid by: (1) providing more information on its policies, (2) monitoring the award of State grants to eligible students, (3) identifying students who did not receive the full amount of State aid for which they were eligible, and (4) calculating the amount needed to fully fund grants to eligible students. More generally, the State needed to better articulate a framework for need-based financial aid for undergraduates at public colleges and universities.

Merit scholarship programs have worthy goals, but implementation of a merit-based program could dilute funds available for need-based programs. Newly established merit-based programs in other states have been more expensive than anticipated and have had mixed success. The JLARC study therefore recommended that the General Assembly defer action on a merit-based program until the goals for need-based programs could be better articulated and the programs better known. The study also noted that if incentive scholarships are to be offered to increase the number of skilled workers in technological fields, rapid change in the technology fields needed to be taken into consideration when targeting academic programs.

Update

As a follow-up to the JLARC review, the 2000 General Assembly directed SCHEV to conduct an additional study of State-appropriated financial aid programs, to ensure compliance with the guidelines in the *Virginia Administrative Code* and the Appropriation Act. This mandate also required SCHEV to examine demographic data on awards, and compare this data with the schools' award methodologies and plans. In conducting this

study, SCHEV developed a survey of the 14 public institutions. According to SCHEV, the survey findings indicate the institutions are administering the financial aid programs within approved guidelines and applicable State law.

In response to a JLARC study recommendation, SCHEV has conducted a review the Virginia Student Financial Assistance Program regulations, with the intent of clarifying the regulations and ensuring consistency in implementation across institutions. Included in this effort are proposed revisions to the Virginia Administrative Code which have been recommended by the Financial Aid Advisory Committee. The findings of this review were presented to the Council this past summer.

SCHEV was in accord with a JLARC recommendation that more information on financial assistance needed to be made available to parents and students. SCHEV reports it is currently developing an institution-specific web page for each of the schools. This source will provide application deadlines and an explanation of institutional award practices. The web site should be in operation this fall.

Another concern identified in the JLARC review was evident differences between institutions' planned levels of awards and the actual records of awards. SCHEV has addressed this concern by implementing a biennial survey that compares award plans and actual awards, as reported on the annual financial aid data file. The survey will require institutions to provide a detailed explanation of why, for example, a student's award on the data file differs from the predicted award based on the institution's awarding policy. On-site audits will be implemented as necessary depending upon the magnitude of variances or other issues raised by the survey results.

SCHEV's recent survey of the colleges and universities has provided some explanation for another study concern: the reasons why almost half of all eligible students do not receive VGAP or Commonwealth Awards. As expected, the primary reason given was lack of sufficient funding for students who applied late and students with low need. SCHEV has adopted a new funding formula, called True Need, which will identify the financial aid funding needs of the schools with greater accuracy. This approach looks at student need after all resources are considered, and includes identifying self-help available to students in the form of subsidized student loans and work-study. SCHEV notes that this approach was endorsed by the Governor in the fall of 2000, but was not passed by the 2001 General Assembly Session. Student aid funding will undoubtedly remain an issue requiring future Legislative policy guidance.

Virginia Distribution Center

Summary

The 2000 Appropriation Act directed JLARC to study the distribution of food and housekeeping products from the Virginia Distribution Center (VDC) to State and local government agencies. VDC's mission is to purchase high volume, standardized items for resale to State agencies and localities. Its primary customers are prisons, mental health and mental retardation facilities, and universities – agencies with substantial food and janitorial supply requirements. The Department of General Services is responsible for administering VDC, which had sales of $38.1 million in FY 2000.

JLARC's review of VDC and agencies' processes for procuring food and housekeeping products found that there were important differences across agencies in terms of their product and service needs. These differences, in turn, affect the determination of which product delivery system best meets the needs of each agency. VDC's products and services appeared to meet the food and housekeeping product requirements of institutional organizations such as the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services in a cost-effective manner.

However, the review found that VDC faced some operational and financial challenges that it needed to address to remain viable. In particular, VDC's sales had been flat during recent years, while its expenses had increased. With the additional commitment to pay for a new warehouse out of VDC earnings, a rate adjustment, additional sales, and control of expenses appeared needed.

Further, VDC did not appear to be adequately meeting the food product requirements of retail-oriented customers such as the State's public universities. VDC does not stock the range of food products needed by universities, nor does it provide the delivery frequency needed. The study concluded that these agencies might be better served through the use of a single wholesale distributor that could provide the majority of their product needs.

Update

The review noted concerns about VDC's ability to fill orders expeditiously. VDC reports it has placed a higher priority on timely filling of orders, by setting specific performance objectives to reduce the length of time between order submission and delivery. A strategic objective to fill orders no later than 5 working days from receipt of the order has been implemented and is stated in the current VDC catalog. Continued expansion of VDC's online ordering system should help the agency obtain this goal.

VDC also reports that, in accordance with study recommendations, it is developing an improved reporting system that will identify fill rates by item and by agency. Several new types of management reports should be useful to the agency in preventing stock-out problems. VDC reports that its fill rate for a recent month was over 98 percent.

The study identified concerns about VDC's policies on substitutions, back orders, and notification of affected customers. The center reports that a notification detailing its policies in these areas has recently been disseminated as part of the current catalog mailing.

In accord with a study recommendation, VDC completed an assessment for eliminating its operating loss. A presentation was made to JLARC staff in March 2001 to discuss options and present an accounting change methodology. Adjustments to VDC's accounting method for determining product costs have been made as of May 2001, and customers have been notified.

Per another study recommendation, VDC has developed a marketing plan geared toward adding new State and local agencies to its customer base. The Office of Graphics Communications assisted with materials for the marketing plan, which is initially targeting regional jails and localities.

The Use of Grievance Hearing Officers

Summary

The 1999 Appropriation Act directed JLARC to conduct a review of grievance hearings, in particular the use of hearing officers in grievance cases. The Commonwealth's grievance hearing process is the responsibility of the Department of Employee Relations Counselors (DERC). This study reviewed DERC's management of the grievance hearing process and the selection and use of hearing officers.

JLARC staff found that the hearing officer structure for employee grievances was generally adequate. The major strength of the system was its ability to provide independent, impartial adjudicators for employee grievances. The major shortcoming was that it did not promote consistency in grievance decisions. The report identified a number of steps that could be taken to address the shortcomings of the current system while maintaining its strengths. These steps included reducing the number of hearing officers who hear grievance cases, improving the training of hearing officers, and better defining the role of hearing officers in deciding grievances. Additional options explored included the need for a full-time hearing officer system for employee grievances, and the establishment of an appeals process for hearing officer decisions.

This review also examined complaints that DERC might be engaging in "judge-shopping" in assigning hearing officers to grievance cases. Analysis of case assignment data suggested that DERC made these assignments on a rotating basis and did not engage in judge-shopping. However, there were no existing safeguards in place to minimize the potential for abuse of the process. To provide a level of assurance to employees and agencies that the process could not likely be "rigged," JLARC staff recommended that the Office of the Executive Secretary of the Supreme Court provide oversight of DERC's selection and removal of hearing officers for employee grievance cases.

Update

The 2000 General Assembly made significant amendments to the grievance statutes through passage of the Employment Dispute Resolution Act, including changing the name of the department to the Department of Employment Dispute Resolution (EDR). Some of JLARC's recommendations were incorporated in this Act. Among the more significant study recommendations passed by the General Assembly was explicit authorization for EDR to remove hearing officers from future consideration of employee grievances if the officers had been evaluated by EDR and deemed ineligible for continued selection. Further, EDR is now required to provide hearing officers with access to past grievance decisions.

EDR has also taken a number of initiatives in line with JLARC recommendations:

- establishing a tracking mechanism to examine the timeliness of hearing decisions,

- establishing written guidelines for administration of the hearing officer program, including an explanation of the evaluation process, and

- reducing the number of hearing officers, in order to encourage greater experience, efficiencies and quality decisions. Using timeliness of previous decisions as the major criteria, ERC placed 79 former part-time officers on its inactive list. The remaining 29 part-time officers were supplemented with two full-time officers, which were specifically authorized by the General Assembly.

> "The findings and recommendations in JLARC's study provided information and perspectives that were very useful in making improvements to EDR's grievance hearing services."
>
> *--Comment from a recent status-of-action update from the Department of Employment Dispute Resolution*

In addition, the department's recent status of action response states: "EDR has implemented virtually all of JLARC's recommendations for enhancing the training and development of its hearing officers." As recommended, the increased emphasis on training appears to better orient the hearing officers to State personnel policies as well as the types of cases officers can be expected to hear.

Review of the Comprehensive Services Act

Summary

Through Virginia's Comprehensive Services Act (CSA), the 1992 General Assembly established one of the nation's first comprehensive systems of care for at-risk children. The system was put in place to provide treatment services for children who exhibit serious emotional and behavioral problems.

The 1996 General Assembly directed JLARC to assess CSA's implementation. As a part of the study, JLARC staff reviewed more than 1,100 files of youths participating in CSA, in order to obtain the data necessary for a detailed analysis of how the program is operating.

The study found that localities have experienced some success with CSA, which has provided a mechanism, although not fully utilized, for involving agencies at the local level in a collaborative process for making service decisions. Consistent with the intent of CSA, localities are serving CSA children in least restrictive and less expensive environments. Further, once children leave the program, their behavioral problems appear to be stabilizing.

However, the study concluded that to ensure a more efficient delivery of services, both the State and localities would need to address a number of problems with program implementation. These included inconsistent use of collaborative planning at the local level, inadequate client assessments, insufficient attention to provider fees, and limited program oversight and monitoring. If not properly addressed, these problems could undermine CSA in the long term.

The report noted that one approach to both increasing CSA program accountability and achieving State and local cost savings would be to use Medicaid as an alternative funding source for CSA where feasible. JLARC staff identified areas where CSA could be appropriately paid for by Medicaid. Approximately 63 percent of the savings achieved by such a policy would accrue to the State, and approximately 37 percent were estimated local savings (based on the average CSA State-local match rate).

Update

The General Assembly responded to the JLARC study concerns during the 1998, 1999, and 2000 Sessions. The General Assembly streamlined the State oversight and management of the Comprehensive Services Program, and improved the program's efficiency and accountability at the local level to ensure that CSA children are served in the most appropriate, least restrictive, and most cost effective manner. Through statutory changes and budget bill language, the General Assembly made the following changes in accord with study findings:

- statutorily recognized the Office of Comprehensive Services for At-Risk Youth and Families as the administrative arm of the State Executive Council, and established the Office's powers and duties,

- restructured a layer of management, known as the State management team, into a State and local advisory team,

- increased the membership of the State Executive Council to include the Director of the Department of Medical Assistance Services (DMAS) and more local representatives,

- designated the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse as the permanent chair of the Council,

- implemented a uniform assessment instrument and process to be used by all localities to identify levels of risk of CSA youth,

- implemented uniform standards for case management, documentation, and data collection for CSA-funded services,

- implemented utilization review for all providers of CSA-funded services,

- specified that all CSA youth and families requiring treatment services must be assessed by the local family assessment and planning teams in order to be eligible for CSA funds,

- allowed the State Executive Council to deny CSA funds to localities that fail to comply with federal and State requirements pertaining to the provision of special education services, and

- provided $4.25 million (per year of the biennium, through the 2000 Appropriation Act) to be used exclusively for children and adolescents not mandated for services under CSA and who are identified and assessed through the family assessment and planning teams and approved by the community policy and management teams of localities.

The study's findings regarding Medicaid hold significant potential for saving the State money while still providing appropriate services to CSA children. In response to the report, the General Assembly placed language in the 1998 Appropriation Act (later codified by 1999 legislation) allowing localities to utilize Medicaid funding to pay for therapeutic foster care and residential treatment. Although the Medicaid payment for therapeutic foster care was initially rejected by the federal Health Care Financing Administration, DMAS has continued to work on securing this funding. Medicaid reimbursement for residential psychiatric and treatment foster care began in January 2000.

If all JLARC-recommended Medicaid program changes were fully implemented, the savings to the State and localities would exceed $44 million annually. Of this, the State would save approximately $28 million, and the localities would save approximately $16 million. The Medicaid phase-in will also mean better utilization of Medicaid for inpatient and outpatient mental health services that were already covered under the Medicaid program.

The Office of Comprehensive Services, the State Executive Council, and DMAS also report taking significant actions on the JLARC recommendations:

- Informational meetings and CSA training sessions have been conducted throughout the State to support uniform assessment approach.

- Per a study recommendation, the State Executive Council has been examining data needs and reporting requirements for a system of performance standards for CSA. Such a system would be used statewide to evaluate local decisions regarding levels of care and participant outcomes. The Office of Comprehensive Services has made revisions to fiscal reporting forms to help facilitate such a system.

- A study concern was the varying level of compliance with statutory CSA requirements by localities receiving supplemental funding. The office of Comprehensive Services reports that it has placed a priority on this issue by assigning a full-time compliance officer and a full-time statistician to monitoring activities and to data analysis.

- To develop the necessary criteria for the CSA-Medicaid link, DMAS organized workgroups to provide input to the agency. OCS and DMAS have kept localities aware of developments through newsletters and training.

Review of the Virginia Department of Health

Summary

A long-standing priority of the Virginia General Assembly is the protection of public health for the citizens of the Commonwealth. To this end, the General Assembly has authorized the Virginia Department of Health to provide a comprehensive array of public health programs. These programs, which include individual and population-based health care services, as well as specific public environmental health programs, are considered critical to the maintenance and improvement of the quality of life in Virginia.

The 1998 General Assembly directed the JLARC to conduct a review of the performance and management of the Virginia Department of Health. To complete this study, JLARC staff conducted interviews with State and local health department staff, sent mail surveys to the 35 health district directors and to local staff in each of the State's 119 local offices, and reviewed program records from a sample of local health departments.

The findings from this review indicated that despite some problems, local health department staff had effectively organized and were successfully implementing the core programs of public health. These include programs to treat persons with various communicable diseases, as well as programs to protect the public health and the environment from the improper construction and operation of on-site sewage systems. The study found that improvements were needed, however, in the immunization program for children, the State's food service inspection program, and the services provided to treat persons infected with tuberculosis.

More pressing were problems found at the State level, which have hindered the operation and management of the Virginia Department of Health. Due mostly to constant turnover in the commissioner's office and among key management positions, the agency's strategic planning and policy development functions had been weakened. Accordingly, key policy questions regarding the future funding and role of the local health departments had been largely unaddressed. In addition, the turnover and issues related to planning had undermined the agency's efforts to update its new computer system. The report provided recommendations to address these and other problems identified in the review.

Update

A permanent commissioner for the Department of Health was appointed in November 1999. The Department has also taken steps, including increased use of videoconferencing technology, to reduce the workload of the Associate Commissioner, improve communications, and reduce travel time.

A concern uncovered by the JLARC review was that many persons beginning preventative therapy, especially those being tested for Tuberculosis, were not completing the therapy. As recommended, the Department is conducting a study to better determine the reasons for this phenomenon. The Department also reports that new policies on routine screenings should favorably impact completion rates, because a misleading type of skin test will be less frequently used.

The study recommended that the Department become more proactive in addressing the issue of non-immunized children. The Department appears to have made significant changes in this area. The Division of Immunization has revised the action plan for the health districts to include assessment of a statistically valid sample of school and day care immunization records. These assessments are now reported to the Division on a quarterly basis. In addition, the agency's data-management capabilities have been improved to allow each health department to access the relevant data for its own locality, and to project children with immunizations due in the coming month. This will allow the local health departments, though assessment and follow-up within their own populations, to be significantly more proactive in their outreach efforts.

Per another recommendation, the Department is drafting legislation to require that private doctors enter child vaccination data into the Department's online network, which is under development. VDH is currently testing new software relative to this capability.

The JLARC study recommended that the *Code of Virginia* be amended to toughen certain requirements regarding the inspection of food service establishments. For example, a requirement could be added that a designated person-in-charge of a restaurant demonstrate a fundamental knowledge of food safety requirements. VDH is responding to this study concern, but through the regulatory process. The Department is in the process of repealing the existing *Rules and Regulations Governing Restaurants*, and new regulations were promulgated in May 2001 for public comment. If adopted, the new regulations will also link the number of annual inspections to the risk posed by the type and extent of food preparation conducted by the restaurant, as proposed by JLARC.

In accord with several study recommendations, the Department is conducting a comprehensive workload analysis to assess the need for additional local staff in environmental health and other community public health programs. These analyses will constitute a significant part of a statewide needs assessment, which is needed to help address long-standing problems in the funding of local health programs.

The JLARC review found that State medical examiners were refusing to accept certain types of

cases for autopsies authorized by local medical examiners. This was occurring because of heavy workload. Per a study recommendation, VDH conducted a workload analysis of the Office of the Chief Medical Examiner. The Department reports that since September 1999, seven medical death investigators and three assistant chief medical examiners have been hired to cover the four district offices. VDH has also made a number of administrative changes to redefine roles, revise position descriptions, enhance the delegation of duties to the district level, strengthen financial management, and develop consistent policies and procedures for each district office. These improvements should help the Office of the Chief Medical Examiner meet the autopsy requirements of the *Code of Virginia*.

The study found that development of a new computer system at the Health Department, known as VISION, had suffered from poor planning and inadequate funding. This system is intended to integrate all of the public health data collected by VDH's functional programs into a central location that is accessible by appropriate public health officials. Initial development of the system began in 1996, and the Department reports that, even though a higher priority was given the project after the JLARC review, there is still considerable development to be completed. A somewhat scaled-down version of the system is predicted to go on-line by April 2002.

As recommended, the General Assembly amended the *Code of Virginia* during the 2000 Session to expand the requirements for the State Health Commissioner. The new eligibility standards allow candidates to be certified by a recognized board in a primary care specialty instead of being certified by the American Board of Preventive Medicine.

The General Assembly has not acted on another JLARC recommendation that the *Code* be amended to grant local health inspectors the authority to assess civil fines on establishments for repeated violations of the State's food code. In its latest status-of-action response to the JLARC study, VDH reaffirmed that this authority would both provide disincentive to repeat offenders and help cover the costs of repeat visits to problem establishments.

State Activities to Identify Water Toxic Problems and Inform the Public

Summary

At the May 1999 JLARC meeting, the Commission approved an inquiry by JLARC staff into the State's performance in making available water toxics information. A subcommittee of JLARC was appointed to consider the findings from this inquiry. This study grew out of concerns that data which would have been helpful in assessing toxic issues regarding the Staunton River might have been withheld from the general public.

The two State agencies having the primary responsibilities in this area are the Virginia Department of Environmental Quality (DEQ), which monitors Virginia's waters, and the Virginia Department of Health (VDH), which receives data from DEQ and makes decisions about the need for public health warnings or restrictions on certain public uses of Virginia waters.

The inquiry focused on several topics related to the handling of toxic issues by DEQ and VDH. Three major themes emerged from this evaluation:

- There were several positive aspects to recent DEQ and VDH actions in the areas reviewed. After years of delay, DEQ had released the Virginia Toxics Database to EPA and other interested parties. In addition, DEQ's director has initiated policies to provide the public with rapid access to new fish and sediment data, and had shown responsiveness to citizen concerns regarding PCBs in the Roanoke (Staunton) River. Also, while there were concerns about whether VDH's approach to health advisories should be more aggressive in order to provide more cautious public health protection, the particular guidance and decisions reviewed for this inquiry appeared to have been made within the bounds of a nationally-recognized range for risk assessments.

- There were, however, some serious questions about the timeliness with which DEQ and VDH were responding to data that raised possible concerns about environmental quality. A time lag that occurred between DEQ's 1993 study of the Roanoke River and the 1998 VDH issuance of a health advisory on eating fish was

only a fraction of the total time since a report prepared for the State Water Control Board documented the same toxic issue in the Roanoke River more than a quarter century ago. That report had found ascending concentrations in fish and sediment samples of a toxic substance, polychlorinated biphenyls (PCBs), in approximately the same section of the Roanoke River which was raising recent concerns. Furthermore, a sample of fish taken from Mountain Run in the 1970s had not been followed by adequate monitoring over time, and more recently taken fish samples showing PCBs from Levisa Fork at the Virginia/Kentucky state line required immediate attention. Based on the findings from this inquiry, there was a concern that unsystematic management and delays in the use of data on water quality might be hindering State efforts to thoroughly assess water toxic problems and protect the public.

- There was also a concern about the apparent reactive rather than proactive nature of DEQ and VDH actions on the Roanoke River. The evidence indicated that without pressure from the U.S. Environmental Protection Agency which began over a decade ago, it is unlikely that a public warning on the river would have been issued. In addition, DEQ's recent change in strategy to focus more on identifying the sources of PCBs, as had been envisioned by State Water Control Board management in 1992, was in response to substantial pressure from citizens in that river basin. The JLARC review credited DEQ's director, however, for taking a personal interest in addressing this issue and for making recent data on DEQ sampling results for the river publicly available on a timely basis.

Update

DEQ's recent status-of-action report notes that the department has expanded the scope of its five-year routine fish tissue and sediment monitoring rotation. DEQ reports that it cannot achieve the desired three-year sampling rotation without an increase in funding. However, the agency is looking to the Virginia Environmental Emergency Response Fund as a mechanism to allow increased follow-up or expanded monitoring, including the assessment work being conducted in the Roanoke and Dan River basins in response to PCB contamination.

The area covered by the Roanoke (Staunton) River fish consumption advisory was expanded in 1999 in response to additional sampling data indicating PCB levels above the VDH level of concern. A separate advisory was issued in late 1999 for a portion of the Dan River. In the fall of 2000, DEQ issued a report summarizing its most recent studies of these rivers, and comparing results with historic data. DEQ is continuing to conduct investigations into PCB sources, including record searches, site investigations, and surveys of permitted discharges.

DEQ's recent sampling results from the Mountain Run area appear favorable. None of the five species of fish tested showed concentrations of PCBs higher than VDH's level of concern. DEQ has indicated that it will draw another sample this year to further examine PCB concentration levels. In response to a request from VDH, DEQ also conducted a special fish and sediment study of Levisa Fork in 2000. Some of these samples exceeded VDH's level of concern, but were collected at sites already subject to the VDH advisory for Levisa Fork.

DEQ has also found measurable (though not excessive) levels of another pollutant, brominated diphenyl ethers (BDEs), in the Roanoke and Dan Rivers, and the agency has advised the Staunton River Citizens Advisory Committee. DEQ has formed a staff work group on BDE source identification and follow-up monitoring, and the agency chairs a task force of State and federal agencies formed in April 2000 to analyze information about BDEs.

DEQ reports that progress has occurred on its Shenandoah River Mercury Monitoring and Assessment Project. The department reports that, through a combination of efforts by DEQ, the Department of Game and Inland Fisheries, and the Division of Consolidated Laboratory Services, the sampling of fish has been achieved with greater control and less expense than through previous efforts, which depended on contractors. DEQ is in the process of detailed review of recent and historical data. The department indicates that the data to date suggest mercury levels are remaining fairly stable. If this is the case, this is a cause for some concern, because the State's plan from the 1980s for this issue anticipated that mercury levels would abate naturally over time.

On this project, DEQ states that it is making "every effort to involve and communicate with all affected stakeholders." These efforts include:

- providing copies of mercury reports to all local libraries in the affect areas,

- posting warning signs at all public access points in the portions of the rivers system affected by any health advisory,

- ensuring that all relevant data is shared with the Department of Health, as well as posting it on DEQ's web site, and

- issuing press releases summarizing mercury results, and in some cases holding public meetings to announce changes to fish consumption advisories.

DEQ reports that in the fall of 2000 it began a collaborative process with experts from DuPont, VDH, DGIF, and representatives of citizen groups. A "science team" with representatives from these groups has met several times. A primary focus of this team is to review data from the monitoring project, enlist input from professionals with knowledge of other mercury sites and with specialized expertise, explore the potential for remediation, and develop additional monitoring strategies.

The Virginia Department of Health (VDH) worked with JLARC staff in assisting legislators to develop language for legislation addressing a number of toxic monitoring and policy development issues. The 2000 Session of the General Assembly subsequently amended the *Code of Virginia* pertaining to VDH's responsibilities for issuing fish consumption advisories.

Under the new *Code* provisions, VDH was required to develop a written policy identifying the criteria and levels of concern to be used in determining whether to issue fish consumption advisories for certain toxic substances (including PCBs, kepone, and mercury). In addition, the *Code* required development of a Memorandum of Agreement between VDH and DEQ, which now ensures the timely transmission and evaluation of reliable water quality and fish advisory information.

A recent status-of-action update from VDH indicates that the department has developed and submitted written policies for several toxic substances. VDH has also worked with DEQ on having a more consistent State policy with regard to acceptable levels of risk to human health from exposure to carcinogens and toxins, and has adopted at 10-5 risk level that is consistent with DEQ's. (However, in that process, VDH also changed its assumption regarding the duration of exposure, now assumed to be 12 years instead of 70, and its assumption regarding the number of meals, now assumed to be two eight-ounce meals per month rather than four. These changes enabled VDH to retain its current 600 parts per billion trigger level for PCBs despite the lowered risk level factor.) VDH also worked with DEQ in developing and signing a memorandum of agreement to ensure the timely transmission of water quality and fish advisory information.

OTHER JLARC OVERSIGHT ACTIVITIES

Legislative Fiscal Analysis Section Provides Additional Services for Legislators

Background

In 1998, the Joint Commission on the Commonwealth's Planning and Budget Process proposed housing a small fiscal analysis unit within JLARC. During the 1999 Session, the General Assembly adopted an amendment to the Appropriation Act creating this new unit. A three-person "JLARC Fiscal Analysis Section" was subsequently organized. The Section consists of a section manager, a fiscal analyst, and a fiscal economist, under the direction of the JLARC Deputy Director. Technical support is also available from JLARC's Chief Methodologist.

Purpose

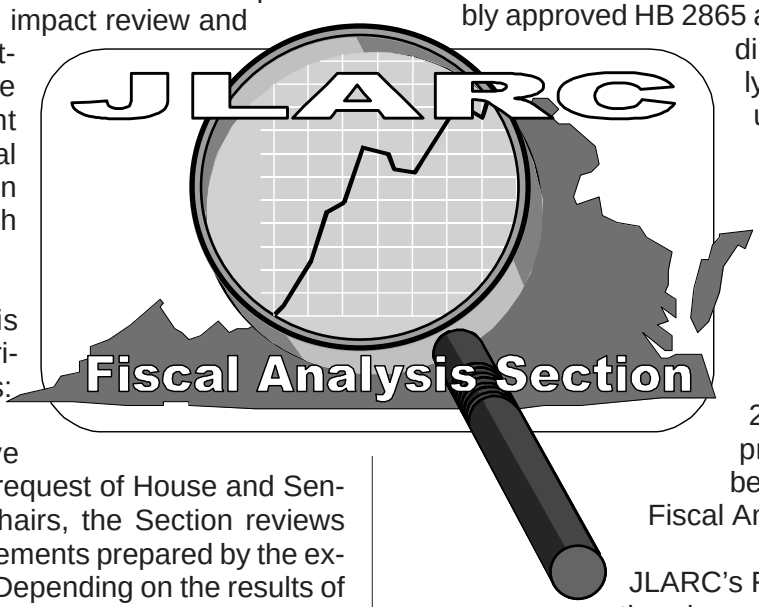
The purpose of the Fiscal Analysis Section is to provide the Legislature with technical expertise in the areas of fiscal impact review and expenditure forecasting. Previously, the budget environment required the General Assembly to rely on the executive branch for these functions.

The Fiscal Analysis Section has three primary responsibilities:

- During legislative sessions, at the request of House and Senate committee chairs, the Section reviews fiscal impact statements prepared by the executive branch. Depending on the results of the reviews, the Section may determine the need to prepare alternative fiscal impact statements for the General Assembly. During the first two legislative sessions, the Section produced 28 fiscal impact reviews. In addition to reviewing fiscal impact statements, the Section is available to respond to *ad hoc* requests by General Assembly members and other legislative staff, as determined by the JLARC Chairman or Director.

- Between legislative sessions, the Section monitors key executive branch expenditure forecasts, particularly Medicaid, corrections, primary and secondary education, and higher education. These areas of focus have accounted for about two-thirds of General Fund Appropriations in recent years. As a starting point, the Section conducted a review of the existing expenditure forecasting methodologies used by the executive branch. The Section will periodically report to JLARC and the legislative committees on these key forecasts, as requested.

- The Section also undertakes related fiscal analyses assigned by the Legislature. This function was considerably expanded during the 2001 Session, when the General Assembly approved HB 2865 and HJR 773, which direct JLARC to analyze the growth and uses of State spending. Under these mandates, which include an annual review of Virginia's budget growth, JLARC is studying State spending trends over the last 20 years. This comprehensive task has been assigned to the Fiscal Analysis Section.



JLARC's Fiscal Analysis Section places the General Assembly in a better position to assess the potential fiscal impacts of specific legislative proposals, as well as the anticipated magnitude of major spending items.

Virginia Retirement System Oversight

Background

Given that the General Assembly is constitutionally required to maintain a retirement system for public employees, the availability of accurate and timely information about the Virginia Retirement System (VRS) is essential. In 1994, JLARC completed a series of comprehensive studies on VRS, examining the agency's structure and governance, as well as its investment and benefit programs. A number of improvements to the system were achieved through implementation of study recommendations, as has been chronicled in previous editions of this *Report to the General Assembly*.

Perhaps the most significant recommendation implemented — with the approval of the 1995 and 1996 Sessions and the public at large in November 1996 — was a constitutional amendment which defined VRS funds as independent trusts. This change provided greater protection to VRS assets by creating stronger legal safeguards.

To help ensure accountability of VRS activities to the Legislature, the 1994 General Assembly passed the *Virginia Retirement System Oversight Act*. This act requires JLARC to oversee and evaluate VRS on a continuing basis.

The objectives of retirement system oversight are:

- provide timely, accurate information about the retirement system to the General Assembly,
- assess the appropriateness of the structure of governance for the retirement system and recommend modifications to the structure as necessary,
- evaluate on a periodic basis the soundness of the retirement system trust funds,
- evaluate the performance of the VRS investment program and report to the General Assembly on any significant changes in the investment program, and
- evaluate the efficiency and effectiveness of VRS administration and operations.

Update

JLARC and VRS staff work cooperatively under the Oversight Act to keep the General Assembly informed on all emerging and ongoing issues. JLARC staff attend the monthly meetings of the VRS Board of Trustees and the Investment Advisory Committee. Staff also periodically attend meetings of the administration and personnel, benefits and actuarial, and audit committees of the VRS Board of Trustees.

An important tool developed as part of JLARC's oversight responsibilities is a special periodical called *VRS Oversight Report*, which is researched and produced semiannually by JLARC staff and distributed to all members of the General Assembly. To date, 16 issues of the oversight report have been completed, typically focusing on the VRS investment program. This publication is a frequently accessed item on the JLARC website.

In addition, the *Code of Virginia* requires that JLARC prepare and maintain an informational guide to VRS for the members of the General Assembly. JLARC staff have produced a compendium of useful information especially designed for legislators, titled *A Legislator's Guide to the Virginia Retirement System.* The first edition of this well-received reference was distributed in May 1996. In May 1999, JLARC staff completed and distributed the second edition of the *Legislator's Guide*.

The second edition updates the information related to the VRS administrative, benefit programs, pension funding, investments, and State retirement legislation originally presented in the 1996 edition. The update also incorporates the numerous benefit program changes authorized by the 1999 General Assembly. In addition, new information on the VRS investment and deferred compensation program has been included.

Currently, VRS and JLARC staff are working cooperatively to produce a 2002 revised edition of the *Legislator's Guide*, which will be available (and searchable) on JLARC's internet site.

Monitoring of Internal Service Funds

JLARC monitors internal service funds on a continuing basis. The Commission reviews the status of fund accounts, and evaluates requests to change the nature and scope of the services provided or the customers served. The Commission also approves in advance the rates employed by fund managers for billing customer agencies. Eleven internal service funds are now monitored by JLARC:

1. The **Virginia Distribution Center** (Department of General Services) stores and distributes various goods such as canned foods, paints, paper products, and cleaning supplies to State agencies, local governments, and school divisions.

2. The **Office of Graphic Communications** (Department of General Services) provides graphic design, layout, photography, and typesetting services to State agencies.

3. The **Maintenance and Repair Program** (Department of General Services) implements the rental plan or special maintenance agreements between DGS and entities whose office space is located at the seat of government.

4. The **State Surplus Property Operation** (Department of General Services) manages and disposes of surplus property for State agencies and institutions.

5. The **Federal Surplus Property Operation** (Department of General Services) acquires and distributes federal surplus property.

6. The **Consolidated Laboratory Services** (Department of General Services) account for laboratory analyses provided for the Department of Environmental Quality and the Department of Agriculture and Consumer Services and for the testing of motor fuels for the Virginia Department of Transportation and of drinking water samples for public water works.

7. The **Real Property Program** (Department of General Services) manages transactions involving the sale of State-owned real property.

8. The **Division of Fleet Management** (Department of General Services) operates the State's car pool and manages the fleet of passenger vehicles.

9. The **Computer Services Division** (Department of Information Technology) provides data processing services to State agencies.

10. The **Enterprise Solutions Services Division** (Department of Information Technology) provides systems and software design, development, and maintenance services to State agencies.

11. The **Telecommunications Division** (Department of Information Technology) provides telephone and data transmission services to State agencies.

Review of Performance Measures

Performance measures can be used both to measure performance and to encourage better performance. Since 1990, the State has been studying or developing performance measures for use by executive branch agencies. These activities have been recommended by JLARC and encouraged by the General Assembly. Since 1995, JLARC staff have assisted DPB in evaluating the quality and utility of agency measures. Throughout this period, however, executive branch agencies or their respective secretaries have had the final approval on what indicators will be measured and reported by agencies.

With the passage of HJR 773 of the 2001 Session of the General Assembly, JLARC the staff has been directed to assume a more active role in the review of performance measures. Specifically, HJR 773 directs JLARC to conduct "an analysis of the use of performance budgeting, performance measurement, and program evaluation information in the legislative budgeting

process and how the information may be more systematically used for program improvement and budget decision-making by legislators." With this mandate, staff will systematically review agency performance measures and report to the Commission on needed improvements.

Inmate Forecast Technical Committee

Legislation passed during the 1995 Session requires the development of a prison population forecast based on a consensus forecasting process. The Act provides for the establishment of a technical forecast group comprised of representatives from the Department of Corrections, the Department of Criminal Justice Services, the Virginia Criminal Sentencing Commission, the Joint Legislative Audit and Review Commission, and such experts as shall be appointed by the Secretary of Public Safety from the fields of criminal justice, population forecasting or other appropriate field of study as may be deemed necessary. The Secretary of Public Safety acts as chairman of the technical advisory group. The staff methodologist represents JLARC in reviewing the development of forecast methodologies and alternative forecasts of the State's prison and jail populations.

Debt Capacity Advisory Committee

The JLARC Director is a member of the Debt Capacity Advisory Committee created by the 1994 General Assembly. The Committee is required to review the size and condition of the Commonwealth's tax supported debt and submit to the Governor and General Assembly an estimate of the maximum amount of new tax-supported debt that prudently may be authorized for the next biennium. If necessary, the Director submits an informational memorandum to the chairs of the money committees.

DSS Local Information Technology Planning Committee

The 1998 Appropriation Act continues the Local Information Technology Planning Committee to provide oversight of automated systems at the Department of Social Services. JLARC is designated as one of five State agencies with membership on the committee, along with five local social service agencies. The chief of one of JLARC's research divisions serves as the JLARC member of the committee. The committee meets monthly.

JLARC Reports Available on CD-ROM

In October 1998, JLARC began to publish reports on CD-ROM. Now in its fourth release, the CD contains all studies produced by JLARC since October of 1994, more than 100 reports. The reports are in PDF format, and can be selected from an index with any Internet Web browser. As with the Web downloads, the cost-effective CD-ROM is helping to reduce JLARC publication and report mailing cost.

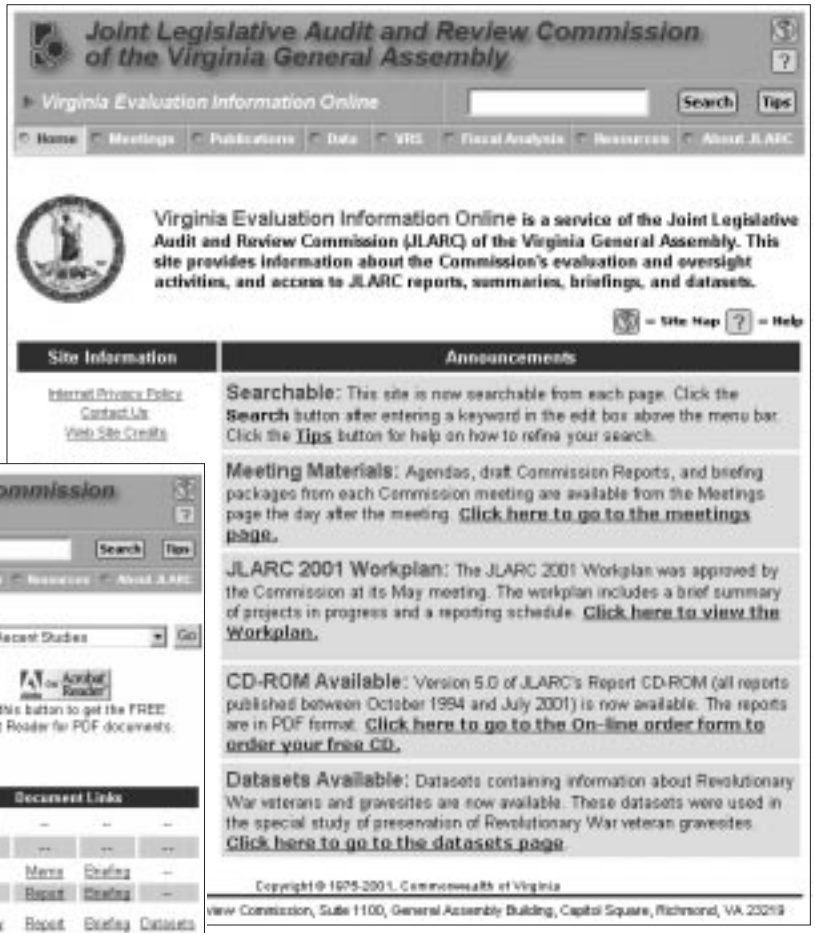
A note on JLARC publications: Previous editions of this *Report to the General Assembly* have included an annotated listing of all JLARC reports. For cost efficiency considerations, this lengthy bibliography of over 270 reports has been relocated to JLARC's web site (see article, next page).

JLARC's Internet Site Increasingly Utilized by the Public

http://jlarc.state.va.us

Since 1996, the Commission has maintained a World Wide Web internet site to distribute publications and to make other information available to the public. In 2001, the JLARC site was redesigned to improve ease of navigation and to provide full search capability. The Web site allows visitors to:

- read summaries of JLARC studies on-line,
- perform complete downloads of all reports published since 1994 in the popular PDF format for printing at home,
- easily order printed reports for quick receipt through the mail,
- search for documents using keywords,
- check the schedule of Commission meetings for the year,
- access draft reports, briefings, and other materials distributed at meetings,
- check staff employment opportunities,
- print a map of the JLARC office location,
- link from the JLARC home page to the Virginia General Assembly, VRS, other State agencies and Virginia sites, oversight agencies of other states, U.S. government agencies, and search engines,



- read about the legislative and fiscal impacts of JLARC reports, as well as national honors and awards won by the Commission and its staff, and
- use a periodically-updated guide to Virginia Retirement System benefits and programs as an on-line reference.

JLARC's extensive list of publications is organized chronologically and by subject area to aid users in finding materials of interest. The site also includes JLARC's statutory authority and a discussion of the research process.

The site now receives two to three thousand visitors a month. Further, each month more than 300 reports are downloaded, and about 1,000 summaries are read on-line. A recent JLARC report on Revolutionary War veteran gravesites has been downloaded more than 1,000 times. In addition to disseminating the Commission's work to interested citizens, an added benefit is the reduction of publication costs as fewer "hard" copies of JLARC reports are needed.

International Visitors Continue to Seek Out JLARC

In recent years, JLARC and other legislative agencies have become something of a travel destination for international officials studying good government practices, including legislative oversight. Commission staff have explained the "JLARC way" to visitors and delegations from many parts of the world, including Russia, China, Mongolia, Romania, Armenia, Serbia, Scotland, Australia, New Zealand, South Africa, Sweden, and Pakistan. The following article on JLARC's international side was developed from an interview with Dr. Kirk Jonas, the staff Deputy Director.

"I wish I had kept better track when we got our first visitors," says Kirk Jonas, JLARC's unofficial tour leader for international groups. It is only a rough estimate, but Jonas guesses that visitors from as many as 50 nations have called on JLARC in the past decade. It was only after several dozen groups had already come and gone that Jonas realized he should start marking a map of the world (now full of push-pins) to signify the origins of JLARC's many visitors.
For the most part, groups are peer agencies from other nations. Such groups generally consist of several performance audit staff members and interpreters. Other groups have included legislators, other legislative staff, private sector evaluators, clergy, and a range of other professions. The purposes of their visits vary substantially.
In June 2001, Mr. Paul Grice, the Clerk and Chief Executive of the Scottish Parliament paid a visit to JLARC and other General Assembly offices. The Scottish Parliament was created in 1999 with powers roughly equivalent to those of a state government. National powers (such as defense and foreign affairs) remained with the central government. Grice was interested in a range of issues as the first executive of the new parliament, especially evaluation of programs. Grice was part of the U.S. Department of State's International Visitor Program.

Some visitors target Virginia because they see similarities to their own situations. Dr. Ray Wright, who bears the title "Usher of the Black Rod" of Australia's Victoria Parliament, visited Virginia because he felt that the General Assembly was "in size and reach comparable" to the Parliament of Victoria. Wright met with legislators as well as staff from JLARC and other agencies.

Some international visitors have a specific agenda. Two representatives of the Council of Europe requested a meeting with the JLARC study team evaluating the death penalty in Virginia.

The former Soviet bloc has sent numerous delegations. Some of these groups are essentially involved in the nation-building process. Under the old Soviet Union, there was little need for budgets, oversight, or accountability. The Soviet republics simply requested what they thought they needed and received what the cen-

Scottish statesman Mr. Paul Grice (right) discusses program evaluation with JLARC's staff Director Phil Leone.

tral government thought it could spare. Now independent nations, these new governments must work out equitable and workable systems of taxation, finance, and administration. Many of them are learning that legislative oversight is a vital component of effective democracy. Recently (April 2001) about a dozen officials from the Armenian Ministry of Finance and Economy visited JLARC. This group spent four days in Richmond and met with numerous officials in the executive and legislative branches. The group asked probing questions and took voluminous notes.

Technology has had an interesting effect on recent visits. In past years, staff would provide visitors with selected copies of reports that the group's advance team had indicated might be of interest. Today, a business card with JLARC's website often provides all the vital information that visitors need. Over a hundred JLARC reports are now available in full text form on the internet. Or, for less than a dollar, equivalent information can be provided to the visitor on a compact disk. Via email, staff have answered questions about the Virginia Retirement System to auditors in Shanghai, China and performance measurement in Tokyo, Japan.

"We're frequently asked what JLARC gets out of these visits," said Jonas. "First, explaining our work to a different culture like those of Russia or Pakistan makes us think about what's most important about the work we do. That comes back to objective research that is responsive to the needs of the legislature. Second, listening to some of the conditions experienced by some of our international peers (occasional electricity, missed paydays, and threats of intimidation come to mind) gives one an appreciation of the superior working conditions that we often take for granted."

JLARC's guests have been consistently appreciative and complimentary. They are fascinated with Virginia's State government and its history. Probably, they generate other visitors by referring some of their professional counterparts. One thing is for certain, the visits have been as much a learning experience for the hosts as for the guests.

JLARC Staff

Director: Philip A. Leone
Deputy Director: R. Kirk Jonas
Division I Chief: Glen S. Tittermary
Division II Chief: Robert B. Rotz

Section Managers:
Patricia S. Bishop, Fiscal and Administrative Services
 John W. Long, Publications and Graphics
Gregory J. Rest, Research Methods
Walter L. Smiley, Fiscal Analysis

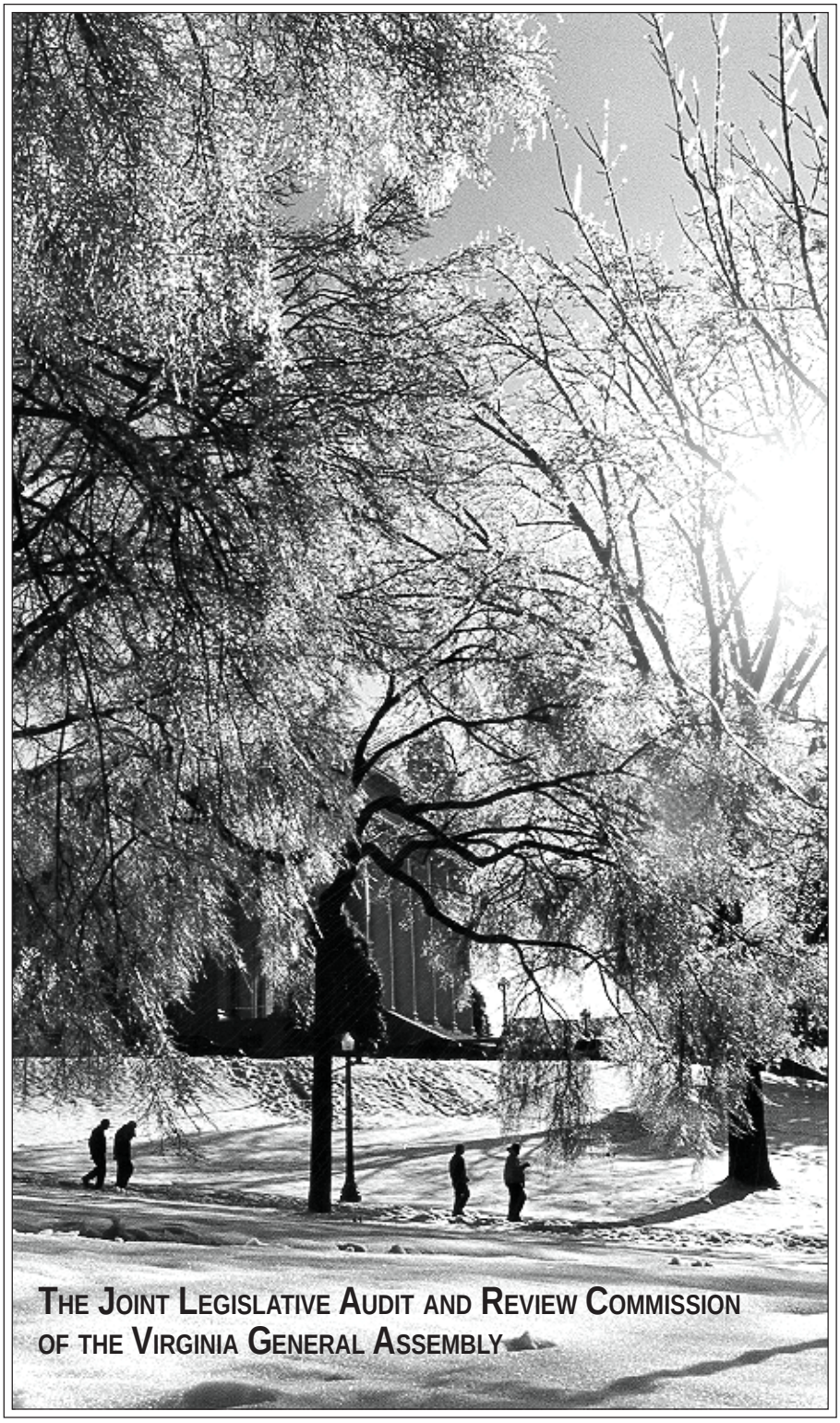
Project Team Leaders:
Linda B. Ford
Harold E. Greer, III
Cynthia B. Jones
Eric H. Messick
Wayne M. Turnage

Fiscal Analysis Section:
Kimberly A. Maluski
Daniel C. Oney

Project Team Staff:
Aris W. Bearse
Kelly D. Bowman
Wendy N. Brown
Ashley S. Colvin
Gerald A. Craver
Scott F. Demharter
Lisa V. Friel
Anne E. Oman
Jason W. Powell
M. Elizabeth Silverman
Christine D. Wolfe
Sandra S. Wright

Administrative and Research Support Staff:
Kelly J. Gobble
Joan M. Irby
Betsy M. Jackson
Becky C. Torrence

 Indicates JLARC staff with primary assignment to this report.



Suite 1100, General Assembly Building
Capitol Square, Richmond, Virginia 23219

(804) 786-1258
Fax: 371-0101
http://jlarc.state.va.us