

June 11, 2018

**MEMORANDUM**

TO: Members of the Joint Legislative Audit and Review Commission  
FROM: Kimberly Sarte, Associate Director for Ongoing Oversight and Fiscal Analysis  
SUBJECT: JLARC Fiscal Impact Reviews

JLARC staff provide fiscal impact reviews of draft legislation as a service to the General Assembly. A fiscal impact review (FIR) is a “second opinion” on an executive branch fiscal impact statement for a proposed bill. JLARC staff review the executive branch fiscal impact statement and provide one of the following three responses: concurrence, non-concurrence, or an “alternate estimate” of fiscal impact. JLARC staff do not comment on the merits of the bill under review. Under language in the Appropriation Act, only committee chairs can request FIRs.

**Outcomes of JLARC fiscal impact reviews in 2018**

JLARC staff conducted 13 FIRs during the 2018 session (Table 1). The FIRs covered the areas of health and human resources, general government, public safety, and state revenue. For 38 percent of bills reviewed in 2018, JLARC staff concurred with the fiscal impact statements; for 46 percent, JLARC staff did not concur. For the remaining 15 percent, JLARC staff provided an alternate estimate of fiscal impact. JLARC staff issue alternate estimates when (1) the executive branch does not present a fiscal impact estimate for a bill or (2) in cases where JLARC staff concur with some, but not all, aspects of a fiscal impact statement.

One of the FIRs that involved the most extensive analysis was for a bill that would require able-bodied, adult Medicaid recipients to either be employed or participate in community engagement activities. JLARC staff did not concur with the fiscal impact statement because (1) JLARC staff assumed a different approach to implementing the bill and (2) JLARC staff found that fewer individuals would be subject to the requirement.

JLARC staff did not concur with the fiscal impact statements for three other bills and instead found that there would be no fiscal impact. One of the bills allowed offenders convicted of a DUI to request use of a secure transdermal alcohol monitoring device. The intent of the bill was later clarified to be consistent with the interpretation in the JLARC FIR, which showed there was no fiscal impact. The subsequent fiscal impact statement from the executive branch also showed no fiscal impact.

Several other JLARC FIRs were also instrumental in clarifying the interpretation of bills and discussions of fiscal impact. These included FIRs for a bill establishing a Kinship Guardianship Assistance program, a bill establishing a new definition for a small business, and a bill allowing distilleries with stores on their premises to retain a greater share of profits.

**Table 1: 2018 JLARC fiscal impact reviews by outcome**

<b>Bill</b>	<b>Government area</b>	<b>Agency issuing fiscal impact statement</b>
<b>Concurrence (38% of FIRs)</b>		
HB 1333: Kinship Guardian Assistance Program	Health & human resources	DPB
HB 1005: Alcohol beverage control, wine wholesaler, primary areas of responsibility	General government	DPB
SB 310: Department of Medical Assistance Services, eligibility for services under waiver	Health & human resources	DPB
HB 1356: State transient occupancy tax	Revenue	TAX
HB 1246: Identity Theft Passport, police reports submitted to the Attorney General	Public safety	DPB
<b>Non-concurrence (46% of FIRs)</b>		
SB 318: Department of Small Business and Supplier Diversity, implementation of certification programs	General government	DPB
HB 196: Child abuse or neglect, extensions of hearings to review findings by local departments of social services	Health & human resources	DPB
HB 263: Virginia Democracy Voucher Program, established	General government	DPB
HB 338: Medicaid, work requirement	Health & human resources	DPB
SB 402: Driving under the influence, secure transdermal alcohol monitoring	Public safety	DPB, VCSC
SB 926: Special counsel, contingency fees for those employed by a state agency	General government	DPB
<b>Alternate estimate (15% of FIRs)</b>		
HB 536: Alcoholic beverage control, disposition of markup profits	General government	DPB
HJ 118: Requesting the Department of Social Services to study regulation of independent living communities	Health & human resources	-- *

NOTE: In some cases, fiscal impact statements were issued by agencies subsequent to the JLARC review. Only the fiscal impact statements reviewed by JLARC staff are listed here.

\* No fiscal impact statement was issued.

TAX = Department of Taxation, VCSC = Virginia Criminal Sentencing Commission, DPB = Department of Planning and Budget.

## **History of JLARC fiscal impact reviews**

JLARC staff have conducted 135 FIRs since beginning the service in 2000. JLARC staff received considerably more FIR requests in the most recent two sessions than in previous sessions (Table 2). The top requesters of FIRs in recent years have been the chairs of the House Appropriation Committee, the Senate Finance Committee, and the House Courts of Justice Committee.

JLARC has received FIR requests for bills in many subject areas. The most common areas have been general government, public safety, revenue, and more recently, health and human resources. The outcomes of JLARC FIRs have varied. The rates of concurrence have dropped from 40-50 percent during the first 10 years to 30-40 percent in recent years. This change is at least partially due to an increase in JLARC's use of "alternate estimates."

**TABLE 2: JLARC fiscal impact reviews completed since 2000**

Session years	Number of FIRs	FIR outcomes			Top review areas
		% Concurrence	% Non-concurrence	% Alternate estimate	
<b>2018</b>	13	38	46	15	Health & human resources General government Public safety
<b>2017</b>	13	31	46	23	Health & human resources General government Public safety
<b>2016</b>	3	33	67	0	General government
<b>2015</b>	3	33	0	67	Public safety
<b>2010–2014</b>	6*	29	39	32	Revenue Public safety
<b>2005–2009</b>	4*	50	32	18	Revenue Public safety Education
<b>2000–2004</b>	11*	40	58	2	Revenue Public safety

NOTE: Before 2016, some FIRs did not explicitly indicate concurrence or non-concurrence; in such cases, JLARC staff used the differences in fiscal estimates between the FIR and the fiscal impact statement to retroactively assign “concurrence” and “non-concurrence” status.

\*Average over the five-year period.