

**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION
OF THE VIRGINIA GENERAL ASSEMBLY**

INTERIM REPORT:

**The Secretarial
System in Virginia**

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Preface

Item 14G of the 1996 Appropriation Act directed the Joint Legislative Audit and Review Commission (JLARC) to conduct a follow-up study of its 1984 assessment of the Commonwealth's secretarial system. As part of this study, Item 14G instructs JLARC to examine issues relating to the role of cabinet secretaries in internal agency management that were raised in the 1995 JLARC interim report on the Department of Environmental Quality.

Prior to the creation of the secretarial system, there were numerous efforts during this century to reorganize State government in order to reduce unnecessary fragmentation. This fragmentation, it was felt, made State government unwieldy, placing a heavy burden on Virginia's Governors and limiting their ability to manage effectively. However, these early reorganization efforts were largely unsuccessful.

In 1972, following the recommendation of the Governor's Management Study, the General Assembly created the secretarial system. The secretaries are appointed by the Governor and confirmed by the General Assembly. Each is responsible for coordinating and managing agencies in a functional area of government, such as administration or natural resources. Secretaries also provide policy leadership, develop legislative proposals, and perform public relations/information functions.

The Executive Branch has now been organized under the secretarial system for almost 25 years. During that time the system has undergone substantial change. Executive orders issued by Governor Godwin in 1974 at the recommendation of the Hopkins Commission and legislation passed in 1976 and 1984 have significantly strengthened the secretaries' management capabilities. The number of secretarial areas and the particular agencies assigned to them have also been changed many times.

This interim report presents summary information on the background, creation, and evolution of the secretarial system. The final section of this report outlines the major issues that the final report on the secretarial system is expected to address. JLARC will complete its final report in time for the 1998 Session of the General Assembly.

Philip A. Leone
Director

January 15, 1997

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Interim Report: The Secretarial System in Virginia

The Executive Branch of the Commonwealth has been organized since 1972 using a secretarial system. The Governor's secretaries — currently eight in all — assist the Governor in both the policy and management functions of the Executive Branch. Each secretary oversees agencies in a functional area of State government and acts to coordinate and manage their activities through such actions as resolving interagency disputes and preparing a comprehensive budget. Secretaries also provide policy leadership, solve problems, develop legislative proposals, and perform public relations/information functions. The secretaries are appointed by the Governor and confirmed by the General Assembly. They are often referred to collectively as the Governor's "Cabinet."

Item 14G of the 1996 Appropriation Act (Chapter 912) directed the Joint Legislative Audit and Review Commission (JLARC) to conduct a "follow-up study of its 1984 assessment of the secretarial system." This study also addresses the issues raised in the 1995 JLARC interim report on the Department of Environmental Quality "on the role of cabinet secretaries in internal agency management." A copy of the study mandate appears in Appendix A.

This interim report presents summary information on the background, creation, and evolution of the secretarial system. JLARC will complete its full report in time for the 1998 Session of the General Assembly. Summary information on JLARC's study plan is provided at the end of this report.

EARLIER REORGANIZATION EFFORTS

Prior to the creation of the secretarial system in 1972, the reorganization of State government had been studied periodically for decades. These periodic efforts were usually spurred by perceptions that Virginia's government was unnecessarily fragmented and unwieldy. In particular, the government had too many agencies that reported directly to the Governor. This placed a heavy workload on the Governor and made it difficult to manage the government effectively. Although each reorganization study had different recommendations, the need to centralize organization and authority and increase the Governor's management abilities were common themes.

The first major proposal for a reorganization of State government in this century came from Governor Harry F. Byrd between 1926 and 1928. Byrd proposed a number of reforms that he said were needed to make the Governor "the real head of the executive branch." Byrd proposed the adoption of a short ballot, that the Governor be given the authority to appoint department heads, and that many existing agencies be either abolished or merged into approximately ten departments. He also suggested that he

would meet with the heads of these departments periodically as a “cabinet.” Subsequently, Virginians approved constitutional amendments in 1928 to adopt the short ballot and effect structural reforms. The General Assembly abolished more than 30 agencies and consolidated the remaining units into 12 large agencies. Byrd’s reforms significantly strengthened the Governor’s management powers.

The Byrd reforms offered only a temporary solution, however, as the number of State agencies began to increase steadily. By the 1940s, the number of agencies had returned to the level of the pre-reform years. The Commission on Reorganization of State Government (also known as the Burch Commission after its chairman, Thomas G. Burch) was formed to examine the problem. The Burch Commission recommended the consolidation of about 70 existing agencies into 14 departments. The heads of these departments as well as the directors of budget and personnel would form the Governor’s cabinet and meet regularly to advise the Governor. However, the General Assembly did not enact most of the reforms recommended by the Burch Commission, choosing instead to abolish or merge agencies on a more limited basis.

During the 1960s, State government again expanded rapidly, with over 40 new agencies created. State expenditures tripled, and the number of State employees grew five times faster than the State population. The need for a reexamination of the government’s organization was as pressing as ever.

In 1966, the Commission for Economy in Governmental Expenditures, composed of members of the General Assembly, reported on “the administrative difficulties faced daily by the Executive Branch,” particularly in the areas of “basic planning and administration.” The Commission recommended the creation of a Commissioner of Administration to provide better management and oversight of the State’s budget, personnel, and planning functions. The General Assembly subsequently created the position in 1968 to oversee central staff agencies such as the Division of the Budget and the Division of Personnel.

In 1970, Governor Linwood Holton formed the Governor’s Management Study. The Governor’s Management Study was composed of Virginia business leaders who comprehensively reviewed the organization of State government. Echoing earlier conclusions, the study’s 1970 final report criticized Virginia’s government organization as “massive and unwieldy.” The executive branch had more than 150 “departments, agencies, and institutions,” with about 75 of these reporting directly to the Governor. In addition, the workload of the recently created Commissioner of Administration was found to be “intolerable.” The Governor’s Management Study concluded that this cumbersome arrangement made it very difficult for the Governor to manage effectively and stated that “control is needed *now and badly* [emphasis in the original].”

The Governor’s Management Study looked to the practices of the private sector for a solution:

It is the considered opinion of the Management Study that the logical and necessary solution to the proper executive harnessing of the state’s

resources and administrative processes lies in substantial duplication of the structure used today in many large business organizations.

The study proposed the creation of five “Deputy Governor” positions similar to the “executive head of a large operating division of a corporation” in many businesses. Each Deputy Governor would oversee a different functional area of government, such as education or human affairs. In addition, a Commissioner of Administration and Budget would oversee support operations such as budgeting and personnel. The Governor would delegate his executive duties to the Deputy Governors “to such extent as he might see fit.” The Deputy Governors “would be involved constantly with the operations and heads of departments and agencies under their responsibility” but “would have limited involvement with detail, this area being the responsibility of the units under their authority.” Together, the Deputy Governors would serve as the Governor’s “executive team.”

The General Assembly adopted the proposals of the Governor’s Management Study with some modifications and created six new executive positions in 1972. The new positions — titled “Secretary” rather than “Deputy Governor” — administered the areas of Administration, Finance, Education, Human Affairs, Commerce and Resources, and Transportation and Public Safety. The Secretaries were to be appointed by the Governor, subject to confirmation by the General Assembly. The legislation assigned State agencies to the various secretaries, but also gave the Governor the authority to reassign agencies by executive order.

The powers and duties of the new secretaries were relatively imprecise. Secretaries were simply “to exercise such powers and duties as may be delegated...by the Governor” in order to execute the Governor’s “management functions.” The only other specific item required agencies to forward reports to the Governor through the appropriate secretary.

EVOLUTION OF THE SECRETARIAL SYSTEM

The General Assembly and the Governor have made significant changes to the secretarial system since its creation in 1972. The powers and duties of the secretaries have been clarified and expanded to give them a stronger managerial role. Furthermore, there have been numerous changes both in the number of secretarial areas and in the individual agencies assigned to each secretary.

Evolution of Secretarial Powers and Duties

As noted above, the original legislation creating the secretarial system stated that the secretaries would exercise only those powers and duties that the Governor saw fit to delegate. Governor Holton delegated powers and duties to the secretaries in 1972 with Executive Order 21. Secretaries were authorized to:

- employ personnel and contract for consulting services as funds allowed,
- request temporary assistance from agency personnel with the approval of the agency head,
- coordinate programs within each secretarial office and promote the inter-office exchange of information and action to ensure consistent State government activity,
- prepare proposals for legislative action, including programs to be considered for reduction, combination, or elimination,
- request copies of agency budget submissions from the Division of the Budget, and
- establish procedures to make direct and expeditious decisions on behalf of the Governor that recognized agency heads' ultimate responsibility to the Governor.

Despite these steps, many observers felt that the secretaries had little actual authority. To address these concerns, the General Assembly in 1973 created the Commission on State Governmental Management, also known as the Hopkins Commission after its chairman, Senator William B. Hopkins. The Commission reported in 1974 that the secretaries were "hampered by the lack of clear definition of their powers and duties." Greater secretarial involvement was especially needed in the budgeting process, which the Commission said "may be the weakest area in the functioning of the Cabinet system." In addition, secretaries viewed themselves "as a committee having collective responsibility" and did not devote sufficient time to their individual areas. The Commission concluded that "the Secretaries have not provided the management and supervisory assistance contemplated by the Governor's Management Study and made possible by the 1972 legislation" and proposed a set of executive orders that would clarify and strengthen the secretaries' powers and duties.

Governor Mills Godwin adopted many of the recommendations of the Hopkins Commission with executive orders issued in 1974. The secretaries were given substantial budgetary responsibilities. With some exceptions, the secretaries were given the authority to review and approve budget proposals from their assigned agencies and to recommend a comprehensive budget for their functional area. The Secretary of Administration was given special authority "to direct and control the budget procedure" and submit a recommended Executive Budget to the Governor. Secretaries were also authorized to hold agency heads accountable for their "administrative, fiscal, and program performance," develop policies to promote long-term planning and coordination, and coordinate the "policies, programs, and activities" of their assigned agencies.

The General Assembly incorporated some of these powers and duties in new legislation passed in 1976. The Assembly added sections outlining the powers and duties of each individual secretary. With the exception of the Secretary of Education, the new powers and duties of the secretaries were almost identical:

- Secretaries were subject to the direction and supervision of the Governor.
- Agencies assigned to a secretary had to act in accordance with the “general policy” established by the Governor or the secretary acting on the Governor's behalf.
- Secretaries were empowered to resolve “administrative, jurisdictional or policy conflicts” between agencies or officers in their area.
- Secretaries were authorized to direct the formulation of a comprehensive budget for their functional area.
- Agencies had to forward reports to the Governor through their supervising secretary.

In contrast with the other secretaries, the General Assembly passed much different language for the Secretary of Education. Like the other secretaries, the Secretary of Education was subject to the Governor’s direction and supervision and allowed to resolve administrative, jurisdictional, and policy conflicts. However, agencies in the Education area were not required to follow the general policies of the Governor and/or the Secretary. Furthermore, the Secretary of Education was not given the authority to direct the preparation of a comprehensive education budget. Instead, the Secretary was directed to prepare a comprehensive budget for “cultural affairs” and “alternative policies, plans and budgets” for education. The Secretary of Education’s authority was apparently limited in order to preserve the relative autonomy that Virginia’s Board of Education and institutions of higher education have traditionally enjoyed.

In 1983 JLARC examined the secretarial system as part of a comprehensive review of the organization of the State’s executive branch. The study noted that the changes made to the secretarial system by the 1974 executive orders and 1976 legislation had strengthened the manager-coordinator orientation of the system. The study found this orientation appropriate for the Commonwealth’s needs but suggested further clarification concerning the power of secretaries to hold agency heads accountable. Governors Godwin, Dalton, and Robb all had issued executive orders authorizing their secretaries to hold agency heads accountable for their “administrative, fiscal and program actions,” but the report found that the State Constitution and existing statute were vague on this point. The report recommended that the General Assembly make such authority explicit for all secretaries except the Secretary of Education, calling it a “critical management component.”

Following the JLARC report, the General Assembly further modified the powers and duties of the secretaries during its 1984 session. The powers and duties of the Secretary of Education were unchanged. The newly amended powers and duties of the other secretaries were virtually identical and have not been modified since. The section for the Secretary of Administration is representative (Exhibit 1).

The 1984 legislation codified a number of powers and duties that the Governors had given to the secretaries by executive order since 1974. These included the authority

Exhibit 1

Statutory Powers and Duties of the Secretary of Administration

§2.1-51.26. Subject to supervision by Governor; powers and duties.

- A. The Secretary of Administration shall be subject to direction and supervision by the Governor. The agencies assigned to the Secretary shall:
1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;
 2. Provide such assistance to the Governor or the Secretary as may be required; and
 3. Forward all reports to the Governor through the Secretary.
- B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:
1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;
 2. Direct the formulation of a comprehensive program budget for the functional area identified in §2.1-398 encompassing the services of agencies assigned for consideration by the Governor;
 3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;
 4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;
 5. Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary; and
 6. Employ such personnel and contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or Executive Order.

Source: §2.1-51.26 of the *Code of Virginia*. The powers and duties of the other secretaries are located in the *Code* as follows: §2.1-51.8:1 (Natural Resources), §2.1-51.14 (Health and Human Resources), §2.1-51.17 (Public Safety), §2.1-51.20 (Education), §2.1-51.33 (Finance), §2.1-51.39 (Commerce and Trade), and §2.1-51.42 (Transportation).

to hold agency heads accountable for their “administrative, fiscal and program actions,” sign documents on the Governor’s behalf, and employ needed personnel and consulting services. In addition, agencies were also directed to provide assistance to their respective secretaries as required, and the secretaries’ authority to resolve interagency conflicts was broadened to include “program” and “operational” conflicts.

The powers and duties that the Governor currently delegates to the secretaries by executive order are quite similar to those found in statute. In many cases, the executive order simply repeats statutory passages verbatim. Additional secretarial powers and duties assigned by executive order that are not found in statute include:

- making recommendations to the Governor’s Policy Office and the Governor on major policy issues,
- coordinating communications with the federal government and governments of other states in matters related to agency programs and activities, and
- serving as liaison with nonstate agencies, interstate compacts, and other nonstate organizations.

Despite the efforts that have been made to clarify and define the powers and duties of the secretaries, areas of disagreement remain. In 1996, JLARC issued an interim report on the Department of Environmental Quality (DEQ). The report identified a number of activities that suggested that the Secretary of Natural Resources was substantially involved in DEQ personnel decisions. These activities included the hiring of some wage employees for senior DEQ positions at the Secretary’s instruction and the Secretary’s requirement that she approve all DEQ employment offers above grade 13. The report concluded that the Secretary of Natural Resources was “taking on some of the aspects of a chief executive for DEQ,” a position at odds with the role that the secretaries have traditionally played as manager-coordinators and with the statutory authority that agency heads have to hire agency personnel. The Secretary defended her actions as consistent with her responsibility to hold agency heads accountable for their “administrative” actions.

Alignment of Secretarial Areas

The General Assembly has made substantial changes to the structure of the secretarial system since 1972. The number of secretarial positions, originally six, has ranged from a low of five to the current eight positions. In addition, numerous agencies have been created, renamed, abolished, and merged in the intervening years.

As noted above, the secretarial system originally included six secretarial positions — Administration, Finance, Education, Human Affairs, Commerce and Resources, and Transportation and Public Safety (Figure 1). Changes at the secretariat level have involved the merger and separation of closely related secretariats. The original Administration and Finance secretariats were merged in 1975, only to be

Figure 1
Structure of the Secretarial System
by Fiscal Year

1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
Administration		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance		Administration and Finance	
Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance	
Human Affairs		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources	
Transportation and Public Safety		Transportation		Transportation and Public Safety																					
Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education	
Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources	
Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development	
Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources	

Note: The formation of the current Transportation secretariat and Public Safety secretariat took effect at the end of FY 1990.

Source: Acts of Assembly, various years.

separated again in 1984. While in existence, the Secretary of Administration and Finance was assisted by an Assistant Secretary for Financial Policy, who functioned as a *de facto* cabinet member. The Commerce and Resources area was divided into Economic Development and Natural Resources secretariats in 1986. The Transportation and Public Safety secretariat has also seen numerous changes. The Assembly divided it in 1976 into a separate Transportation secretariat and Public Safety secretariat, rejoined them in 1984, and finally separated the two areas a second time in 1990.

The General Assembly has also changed the names of two of the secretariats. The original Human Affairs area was renamed Human Resources in 1976 and Health and Human Resources in 1988. The Economic Development secretariat that evolved from the original Commerce and Resources position was renamed Commerce and Trade in 1993.

The adoption of the secretarial system has not resulted in a substantial reduction in the number of Executive Branch agencies (Figure 2). The number of agencies assigned by statute has ranged from a low of 62 in FY 1973 to a high of 93 in FY 1976. After increasing substantially in FY 1976 following the passage of extensive reorganization legislation, the number of agencies gradually declined over the next decade, reaching 72 by FY 1987. The number of agencies then increased to 80 by FY 1989 and has not changed substantially since that time.

The number of agencies assigned to each secretary varies substantially. For instance, statute currently assigns only four agencies to the Secretary of Transportation and 15 agencies to the Secretary of Commerce and Trade.

Secretarial Staffing and Funding

Each of the secretaries is assisted by a small staff. Appropriations for the secretarial system since FY 1992 have varied from \$3.3 million to \$5.7 million, with a total maximum employment level (MEL) of approximately fifty positions (Table 1). The money from the Commonwealth Transportation Fund pays for the Office of the Secretary of Transportation. Appropriations for the secretarial offices also reflect pass-thru funds for special projects and studies and are thus higher than actual operating expenses.

The appropriations and MELs of the individual secretarial offices vary (Table 2). Smaller secretariats such as Finance and Transportation have only four positions, while larger secretariats such as Commerce and Trade and Health and Human Resources have staffs of seven. The Office of the Secretary of Administration, with a current MEL of 15, is a unique case. Its position level includes the seven-person Division of Selected Agency Support, which handles payroll, benefits, and other operations for the other secretarial offices as well as the Governor's Office and a number of small executive agencies such as the Virginia Liaison Office. Prior to 1995, the MELs for the secretarial offices were for reference only and were not binding. However, in 1995 the General Assembly changed the MELs for the secretarial offices from estimates to firm ceilings.

Figure 2
Number of Statutorily Assigned Agencies
by Secretarial Area and Fiscal Year

Fiscal Year	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97
Administration & Finance				27	18	13	14	14	15	15	15	15													
Administration	7	7	7										11	8	8	8	10	10	10	10	10	11	10	11	11
Finance	8	8	8										4	5	5	5	5	5	5	5	5	5	5	5	5
Health & Human Resources	8	8	10	13	12	12	12	12	12	12	10	10	15	17	17	19	18	19	19	15	15	15	15	16	14
Transportation & Public Safety	8	8	8	8									11	12	11	11	12	15							
Transportation					4	4	5	5	5	5	5	5							4	4	5	4	4	4	4
Public Safety					8	8	11	11	11	11	9	9							11	11	11	11	11	11	11
Education	9	9	9	13	15	14	14	13	13	13	13	13	15	10	10	10	10	10	10	10	9	9	9	9	9
Commerce & Resources	22	22	23	32	31	31	30	29	29	29	30	30	24	22											
Commerce and Trade																					13	13	15	16	15
Natural Resources																					8	8	10	11	11
SECRETARIAL SYSTEM TOTAL:	62	62	65	93	88	82	86	84	85	85	82	82	80	74	72	74	80	86	86	81	82	78	77	80	77

Note: When they have been part of the Education secretariat, the State's community colleges and institutions of higher education are each counted as one agency.

Source: Acts of Assembly, various years.

Table 1

Appropriations and Maximum Employment Levels for the Secretarial System, Fiscal Years 1992-1998

Fiscal Year	MEL	General Fund	Commonwealth Transportation Fund	Total Appropriation
1998	51.00	\$3,598,276	\$360,567	\$3,958,843
1997	51.00	\$3,623,276	\$360,567	\$3,983,843
1996	53.00	\$3,335,497	\$343,117	\$3,678,614
1995	50.00	\$3,356,474	\$343,117	\$3,699,591
1994	53.00	\$3,408,167	\$740,186	\$4,148,353
1993	50.00	\$2,987,951	\$315,186	\$3,303,137
1992	49.00	\$5,364,136	\$360,580	\$5,724,716

Source: Acts of Assembly, various years.

Table 2

FY 1997 Appropriations and Maximum Employment Levels by Secretarial Area

Secretary	MEL	Appropriation
Administration	15.00	\$850,437
Commerce and Trade	7.00	\$544,539
Education	5.00	\$494,750
Finance	4.00	\$359,226
Health and Human Resources	7.00	\$559,059
Natural Resources	5.00	\$418,511
Public Safety	4.00	\$396,754
Transportation	4.00	\$360,567

Source: 1996 Appropriation Act.

In addition to direct staff, secretaries also utilize agency personnel as loaned and indirect staff. As noted earlier, agencies must “provide such assistance...to the Secretary as may be required.” Personnel assigned to line agencies are sometimes used to complete studies that have been requested by the General Assembly. There are no systematic records of secretaries’ use of indirect staff. However, the use of indirect staff could be substantial. The 1984 JLARC study of the secretarial system estimated that the secretaries used over 38 FTEs of indirect staff time over a ten-month period. In an effort to curb the use of indirect staff, the Appropriation Act now limits the assignment of agency staff to secretarial projects to 180 days.

ISSUES TO BE EXAMINED IN THE FINAL REPORT

This interim report has presented background information on Virginia's secretarial system. As noted earlier, JLARC will complete its final report on the secretarial system in time for the 1998 Session of the General Assembly. The final report is expected to address the following research questions:

- Is the secretarial system meeting its statutorily established requirements?
- Are the management responsibilities of the Governor sufficiently defined and appropriately delegated to the secretaries?
- Do the functional groupings of agencies within secretariats enhance management control and provision of related government services?
- What is the proper role of the secretaries in internal agency management?
- Are the resources assigned to the secretaries adequately identified and commensurate with their responsibilities and workload?
- Is legislative oversight of the secretarial system sufficient?
- If reform of the current secretarial system is desirable, what alternative models of secretarial management are available?

Appendix A
Study Mandate

ITEM 14 G - 1996 APPROPRIATION ACT

The Joint Legislative Audit and Review Commission shall conduct a follow-up study of its 1984 assessment of the secretarial system in the Commonwealth. The follow-up study shall include, but not be limited to, issues identified in the 1995 JLARC interim report on the Department of Environmental Quality on the role of the cabinet secretaries in internal agency management and the structure and staffing of the current secretarial system. The Commission shall report its findings to the 1997 General Assembly.

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