

# JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

A black and white photograph of a grand classical building, likely a legislative or judicial structure, featuring a series of tall columns and a wide set of steps leading up to the entrance. The scene is illuminated by streetlights at night, with a large, dark, conical shrub in the foreground on the right. The building's facade is detailed with classical architectural elements like a pediment and cornices.

The Commission's Role  
and Resources

Summaries of Recent Studies

Follow-Up of Recommendations

Milestones: Three Decades  
of Legislative Oversight

JLARC on the World Wide Web

## 2003 REPORT TO THE GENERAL ASSEMBLY



September 8, 2003

**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 *2003 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.

It is a great privilege to chair this distinguished Commission. When I was first elected to the legislature in 1979, I was asked by a reporter what committee I most wanted to serve on. I told them JLARC, and only 14 years later they gave me what I wanted. Yet I can now say, after serving more than nine years on JLARC, that it was well worth the wait. During my time on the Commission we have had many impacts that I take pride in, especially the restructuring of the Virginia Retirement System and the enactment in 1994 of the VRS Oversight Act. Many other examples are described in this document.

JLARC's core mission is to ensure that the tax dollars of the citizens of Virginia are spent wisely, efficiently, and effectively. To that end, we have placed many State programs under our microscope, and many agency heads have answered questions from the Commission. Only with reliable information can the General Assembly make the difficult kinds of decisions we have to make. Considering the budgetary challenges we have been experiencing over these past two years, I would submit that never has JLARC's role been more needed. This marks our 30th year, and in this current year alone we have generated an estimated \$66 million in savings and new revenues.

I want to take this opportunity to say thanks to the JLARC staff for their support. Through the years I have come to appreciate their high standards and excellent work ethic. Our staff has been nationally recognized, and has served as an ideal training ground for scores of effective State employees and managers -- including three of the past four Secretaries of Finance. It should be noted, too, that JLARC has not been immune from the budgetary issues that continue to trouble the State. In fact, like many other agencies, our staff has absorbed a 12 percent budget reduction over the past year and is currently working at the lowest employment level in 25 years, while still maintaining a high level of productivity.

It is gratifying to know that I have been able to play a part in JLARC's many accomplishments. As I approach my retirement from the General Assembly, I count my experiences as member and Chair of the Commission among my most fulfilling.

Respectfully Yours,

A handwritten signature in black ink that reads "Kevin G. Miller". The signature is written in a cursive, flowing style.

Kevin G. Miller



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# MEMBERS OF THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

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**VICE-CHAIR: DELEGATE LACEY E. PUTNEY**



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 SENATOR JOHN H. CHICHESTER  
 SENATOR CHARLES J. COLGAN  
 DELEGATE M. KIRKLAND COX  
 DELEGATE FRANK D. HARGROVE, SR.  
 DELEGATE JOHNNY S. JOANNOU  
 DELEGATE DWIGHT C. JONES  
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 DELEGATE HARRY J. PARRISH  
 DELEGATE JOHN A. ROLLISON III  
 SENATOR WALTER A. STOSCH  
 DELEGATE LEO C. WARDRUP, JR.



Delegate Jones

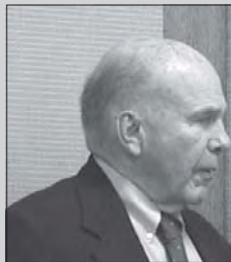


Senator Stosch

Senator Chichester

**MR. WALTER J. KUCHARSKI**  
**AUDITOR OF PUBLIC ACCOUNTS**

**DIRECTOR: PHILIP A. LEONE**



Delegate Hargrove



Delegate Putney



Delegate Callahan



Senator Colgan

Delegate Parrish



Delegate Joannou



Delegate Cox



Delegate Wardrup

Senator Norment



Delegate Rollison



Mr. Leone



Mr. Kucharski

*Delegate Callahan and  
 Delegate Putney have  
 served on the Commission  
 since its inception in 1973.*

# JLARC's ORGANIZATION, ROLE, AND RESOURCES

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 submitted 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 re-

quested 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.

### ***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 trans-

fer 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, automated systems, telecommunications, laboratory services, central warehouse, computer services, real property, capital outlay, fleet management, building maintenance services, and State and federal surplus property. See page 36 for a fuller discussion of this function.

### ***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 responsibility of the Commission and its staff is described in detail on page 35 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 37.

## **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 300 reports. In addition, numerous letter reports and briefings have been prepared on specific topics of interest to the Commission. Ten 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 receives 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. Full-length viewable / downloadable versions of recent reports and a complete annotated bibliography of all JLARC reports are available on the internet at <http://jlarc.state.va.us> (see page 38 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.

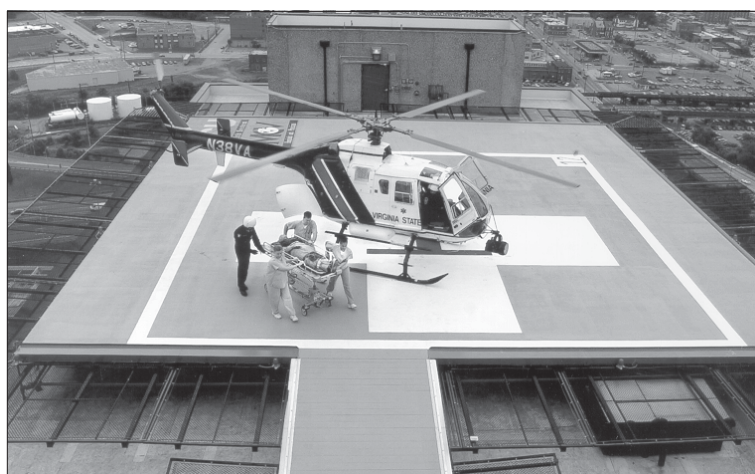
The varied education, training, and professional experience of JLARC’s 25 research staff are important to the Commission. Since 1973, the composition of the staff has continued to evolve. Today, while the largest single group still comes into JLARC with backgrounds in public administration



Above: A work planning session in the JLARC conference room.



Right: JLARC meets monthly to receive staff briefings. Commission meetings often draw press and television news coverage, as well as the interested public.



Staff work for the Commission often involves site visits and observation of various operations. The photo at left was taken during a recent study of the Chesapeake Bay Bridge Tunnel. Shown above is Virginia Commonwealth University's hospital-based helicopter pad, construction of which was recommended in a JLARC report.

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, planning, political science, psychology, and urban systems. Most members of the JLARC 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.

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## 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. See page 13 for examples of JLARC's savings to the Commonwealth.

***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 finding 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.

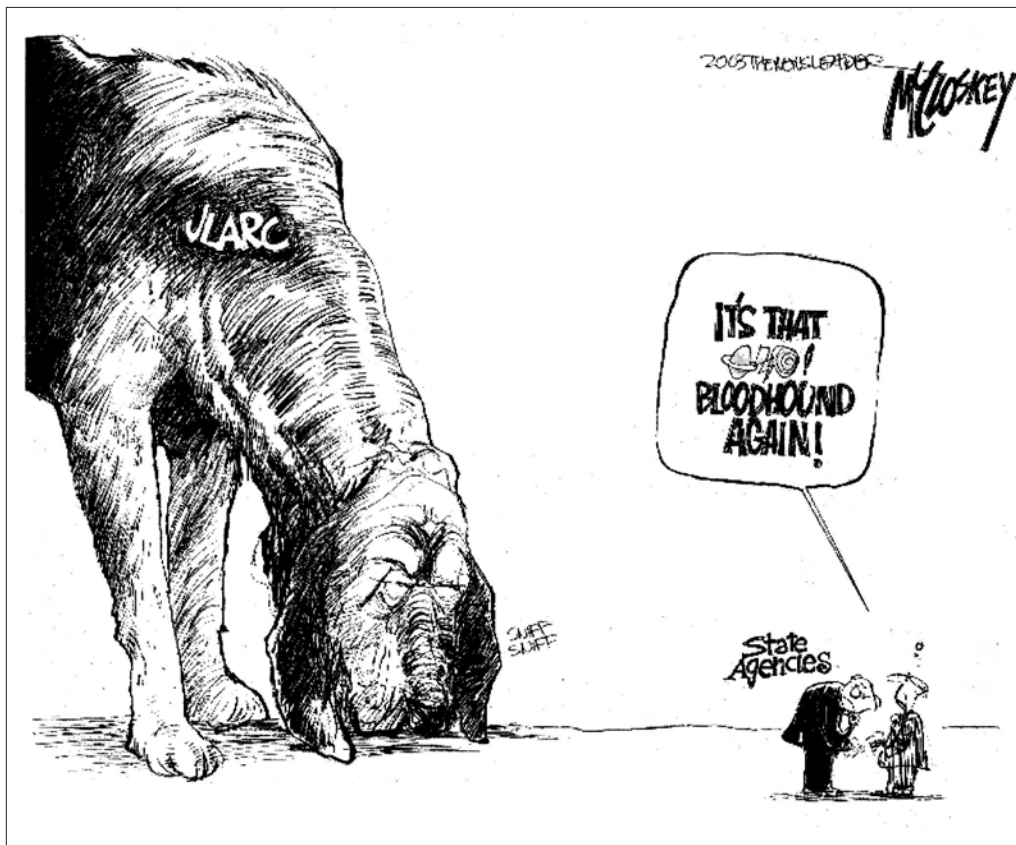
***An Informed Legislature:*** Oversight studies help inform citizen legislators about agencies, programs, and activities. A primary objective for JLARC is to gather, evaluate, and report information and make recommendations that can be used in legislative decisionmaking. Reports provide information 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.

# THREE DECADES OF LEGISLATIVE OVERSIGHT

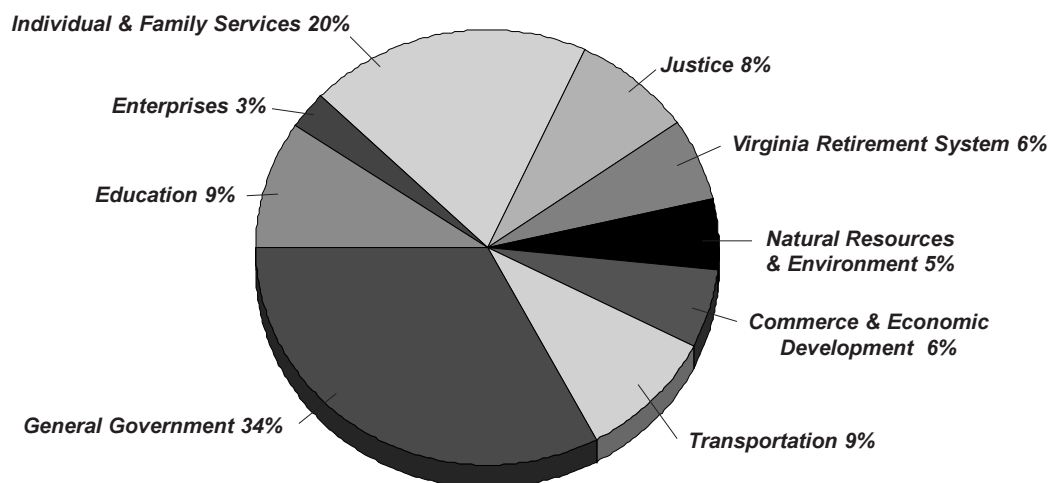
This year marks the 30<sup>th</sup> anniversary of JLARC's establishment as the General Assembly's "watchdog" agency for research, oversight, and evaluation. The Commission's first published report was a study of Virginia's Community College System, which went to press in 1975. Varying in length from quick-turnaround memo reports to comprehensive multi-year studies, the list of successfully completed projects will reach a milestone — 300 published reports — during the upcoming 2004 General Assembly Session.

The Commission's work over three decades can be catalogued in a number of ways. For example, visitors to JLARC's website (an article about JLARC online appears on page 38) can readily track the agency's work by means of a chronological listing of all published reports, by month and year. Alternatively, the list of reports can be sorted by major governmental areas, which are generally related to the secretarial areas, plus retirement and judicial system topics.



*The Commission has been characterized as the Legislature's "watchdog" since its very inception. A number of newspaper cartoons, such as the one at left from a recent issue of the Staunton News Leader, have played on the "healthy tension" that exists between JLARC and State agencies*

The pie chart below (which includes current studies) illustrates how the agency's efforts have been focused over the years. It demonstrates that Commission studies have been distributed across a broad range of government activities.



General government is predictably the most frequent target area for reviews, given that a foundation of JLARC's mission is achieving accountability, economy, and efficiency in governmental operations. It should be noted that this area includes a wide range of specific programs and subject areas: from tax compliance to election administration, from information technology to State mandates on local governments, from printing contracts to charitable gaming, from agency office space to the organization of the executive branch.

The second largest number of Commission studies have examined programs which support families and individuals, which also is unsurprising given that agencies in this area (such as the Department of Social Services) provide direct services to hundreds of thousands of citizens. One of the largest and most problematic topics in this area has been Virginia's Medicaid program, multiple aspects of which have been studied by JLARC analysts, with the goal of keeping costs down while maintaining necessary assistance.

Together, Virginia's social service and general government programs have accounted for more than half of JLARC's studies over the years. Adding the next most frequently evaluated ar-

reas — transportation and education — would account for nearly three-quarters of the Commission's work to date. This is appropriate, because not only do these programs directly affect nearly all citizens of the Commonwealth to some degree, their associated costs also rep-

resent about three-quarters the General Assembly's biennial appropriations. Further, in examining budget growth over the past two decades, JLARC staff found that these areas account for more than 80 percent of the increase (see chart at lower right). The big-ticket items in Virginia's budget have always been a mainstay of the Commission's work.

## Recent Study Topics Have Reflected Economic Concerns

The services that the Commission provides to the Legislature have evolved significantly over the years as new needs, particularly fiscal challenges, have arisen. It could be argued that the 'A' in JLARC more accurately represents "Analysis." Staff analytical services have been called upon more frequently in recent years, due to troubling downturns in the national economy and other factors ultimately affecting the Commonwealth's budget.

Virginia is far from alone among the states in grappling with serious revenue issues, but in many respects the Commonwealth was more prepared for them and has demonstrated a more

effective response. For example, there is no doubt that Virginia's "Rainy Day Fund" (a JLARC-recommended initiative approved by the General Assembly and implemented through a Constitutional amendment overwhelmingly ratified by the citizens of Virginia in 1991) has provided significant cushioning for the recent precipitous fall in revenues. The Legislature's foresight in establishing what amounts to a State savings account during "boom" times provided \$467 million in FY 2002, \$246 million in FY 2003, and \$129 million in FY 2004, without which more drastic measures undoubtedly would have been necessary to balance recent budgets. The presence of this fund, and of the Commission itself, have been recognized as factors in Virginia's maintaining its high bond ratings and high scores on fiscal management, as judged by independent national sources such as *Governing Magazine*.

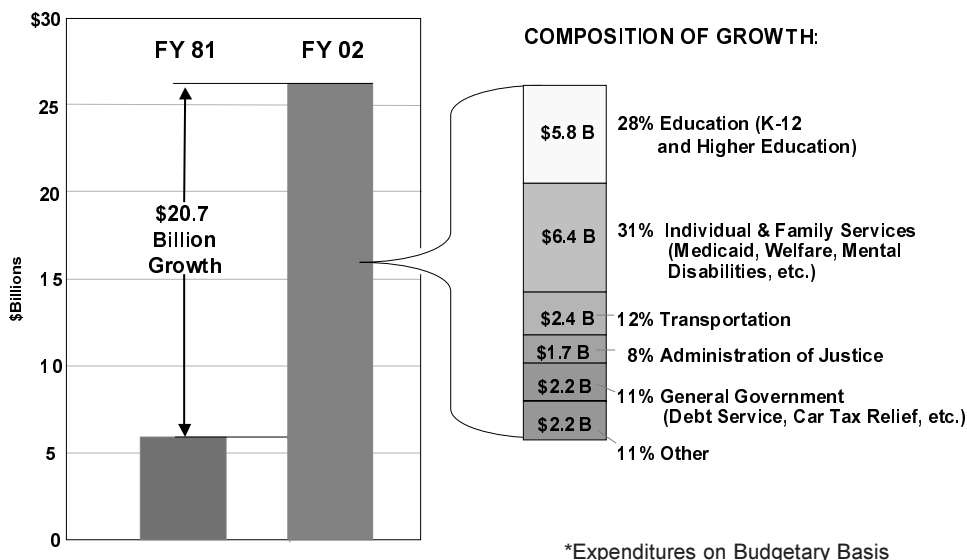
In recent years, the Legislature's concerns about falling revenues, rising expenses in critical areas, and the difficulty of securing dependable data for both historical and predictive purposes have resulted in study mandates that reflect these concerns. For example, noting that spending growth was exceeding both population growth and inflation, the 2001 General As-

sembly turned to JLARC for assistance in analyzing the causes of budget growth in the Commonwealth. Two reports on this overarching topic have been submitted, and a third is in preparation. In addition, escalating costs in Virginia's Medicaid program, which were approaching \$3 billion in FY 2000, led the Legislature to call for a JLARC study of Medicaid-related programs in the Department of Medical Assistance Services.

### The Commission Provides the General Assembly with the Capacity to Provide Timely, Savings-Oriented Responses to Budgetary Issues

The vast majority of JLARC studies grow out of the concerns and debates of the full General Assembly (typically, a JLARC study begins with a joint resolution approved by both houses of the Legislature). However, the 14 Assembly Members appointed to the Commission are proactive in setting staff priorities, and they also have the option of directing staff to undertake special studies -- on short notice if necessary. This approach has proved useful during the past two years.

**Composition of State Spending Growth\*  
Between FY 1981 and FY 2002**



The fact that Virginia's is a citizen legislature means that the formal Legislative Session of the full Assembly must operate within a limited time frame. JLARC, however, maintains a full-time staff, and the Commission members meet to hear study findings about 12 times a year on average. This year-round functionality has provided a capacity to react quickly, for example, to the deepening nature of the recent economic slump. The ability to respond in a timely manner to emerging concerns has made JLARC a val-

able source of budget-related information and recommendations.

Recently, for example, two special staff reports directed by the Commission *after* the 2002 Session focused on ways to increase tax revenues and decrease Medicaid drug expenditures. When the 2003 General Assembly convened in Richmond, the Members found a number of practical, budget-enhancing recommendations waiting for their consideration. On the basis of these two “unmandated” studies alone, the Legislature was able to generate new revenues and cost savings totalling more than \$66 million.

JLARC’s Fiscal Analysis Section, which was created by the full Assembly and became fully operational prior to the 2000 Session, could not have come into being at a more critical time. Originally envisioned to provide the Legislature with alternative, objective reviews of fiscal impact statements and expenditure forecasts prepared by the executive branch, the Fiscal Analysis Section has evolved beyond this function to provide additional services. The specialization of these staff analysts and their ability to draw on the expertise of other legislative staff housed

in the General Assembly building have been useful to the Legislature in its efforts to remedy budget growth. (*See more about the Fiscal Analysis Section in the next article, and on page 37.*)

## **JLARC Continues to Provide Unique Services to the Legislature**

Over the Commission’s three decades, the Membership of the General Assembly has undergone many changes. One purpose of this document is to ensure that both new and long-serving Members are aware of the resources for objective research and analysis available to them through JLARC.

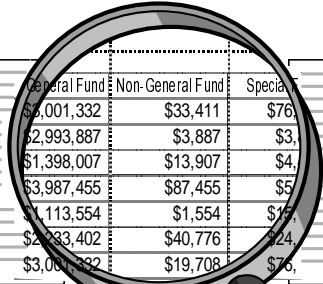
The substantive chapters which follow add to and elaborate upon Commission and staff activities touched upon above. As in past issues, this biennial *Report to the General Assembly* provides some recent examples of the Commission’s work and also follows up on recommendations from selected older studies.

# RECENT SPECIAL STUDIES

## PROVE TIMELY, ACHIEVE SAVINGS

### IN BUDGET PROCESS

Three special reports prepared by JLARC's Fiscal Analysis Section prior to the 2003 Session proved to be important sources of savings and new revenues for the Assembly's FY 2004 budget writers. The reports on tax compliance, State spending on pharmaceuticals, and higher education research institutes had significant fiscal impacts, together generating more than \$66 million.



General Fund	Non-General Fund	Special
\$2,001,332	\$33,411	\$76
\$2,993,887	\$3,887	\$3
\$1,398,007	\$13,907	\$4
\$3,987,455	\$87,455	\$5
\$1,113,554	\$1,554	\$15
\$2,233,402	\$40,776	\$24
\$3,001,332	\$19,708	\$76

#### Tax Compliance

Issued in October 2002, this special report made six recommendations to strengthen compliance with Virginia's tax laws. Four of the recommendations called for changes to the *Code of Virginia*, all of which were introduced in the 2003 General Assembly.

**Tax Amnesty.** The report recommended a tax amnesty modeled on the 1990 Virginia amnesty, estimating that \$51 to \$66 million could be generated. Subsequently, Governor Warner endorsed a tax amnesty in the budget bill he introduced to the 2003 General Assembly. He included \$39.3 million in new general fund revenue attributable to the amnesty, and provided \$7 million to administer it. The Tax Commissioner had initially opposed the plan, but later endorsed the program.

Two amnesty bills passed the General Assembly, HB 2454 (Parrish) and SB 1030 (Chichester). These bills authorized a tax amnesty period during FY 2004, and further authorized the Tax Commissioner to contract for the administration of the amnesty. Subsequent modifications by the House, the Senate, the budget conferees, and the Governor "raised the ante" for amnesty-generated revenue to the final total of \$48.5 million, which was included as revenue in the Appropriation Act as signed by the Governor.

**Failure to File.** The report pointed out that failure to file an income tax return only carried a criminal penalty of a Class One misdemeanor (the same penalty as for petit larceny, defined as the theft of less than \$200 worth of property). The recommendation was to change the penalty to a felony. The higher penalty would emphasize the serious nature of the offense, and improve the fundamental fairness of Virginia's tax system.

Delegate Parrish introduced a bill to accomplish this penalty change (HB 1576), which was passed and signed by the Governor. The fiscal impact statement indicated negligible implementation costs. This change should work in concert with the tax amnesty to enhance new collections.

**Additional Staff.** The report recommended additional tax staff, noting that the number of audit staff in the Department of Taxation had declined 31 percent between FY 1995 and FY 2002, although both the number of tax returns and total tax collections had risen significantly. Additional audit staff could further enhance compliance and generate additional revenue, the report stated.

The Appropriations Act, as signed by the Governor, provided 124.5 compliance-related positions, at a cost of \$11.3 million. A majority of these positions will be tax auditors and collections staff, which the Tax Commissioner expects to generate \$21.3 million in new general fund revenue during FY 2004.

## State Spending on Medical Supplies and Pharmaceuticals

Three of the recommendations from a JLARC special report on medical supplies and pharmaceuticals resulted in significant budget savings. Summaries of the recommendations and their associated savings are listed below:

- ▣ Implementation of a preferred drug list (PDL) within the Virginia Medicaid program by the Department of Medical Assistance Services (DMAS) no later than January 1, 2004, with estimated general fund savings of \$9 million in State fiscal year 2004 and approximately \$18 million in general funds annually thereafter.
- ▣ Reduction in the retail pharmacy dispensing fee paid by DMAS to retail pharmacists from \$4.25 to \$3.75 per prescription per month, with estimated annual savings of \$2 million in general funds.
- ▣ Replacement of the single-tiered prescription drug plan for active State employees and early retirees covered under the State's self-insured plan with a three-tiered drug co-payment plan (\$15, \$20, and \$35 for a 34-day supply). Actuarial analysis done for the Department of Human Resources Management projects a reduction in drug claims as a result of the new plan equating to an estimated \$9 million in program savings. A portion of these savings will accrue to the general fund.

In addition, the 2003 Appropriation Act included language expanding nonprofit hospital participation in the 340B drug discount program, as recommended in the JLARC report. This action is estimated to save the Medicaid program \$750,000 in general funds in FY 2004. Addressing another JLARC recommendation, the Appropriation Act also reduced the budget of the Department of Corrections by \$800,000 in FY 2004 general funds, based on savings that could be achieved through the agency's participation in the 340B drug discount program. These actions result in an estimated savings of \$1.55 million in general funds.

## Research Institutes in Higher Education

A JLARC staff report on higher education concluded that the special purpose research insti-

### Summary of General Fund Savings and New Revenues Attributable to Recent JLARC Special Report Recommendations Enacted by the General Assembly (FY 2004: \$ in millions)

	<u>Savings</u>	<u>Net New Revenues</u>	<u>Total</u>
Tax Compliance	\$ —	\$51.50	\$51.50
Pharmaceuticals*	12.55	—	12.55
Higher Education	2.28	—	2.28
<b>Totals</b>	<b>\$14.83</b>	<b>\$51.50</b>	<b>\$66.33</b>

\*Does not include potential General Fund savings from the three-tiered prescription drug plan. A portion of the \$9 million in savings will accrue to the General Fund.

tutes and public service centers found at most of Virginia's institutions of higher education offered some potential for savings. The report also noted that the General Assembly had repeatedly indicated these entities should seek non-general fund sources of support.

The Appropriation Act reduced general fund support for special purpose research institutes and public service centers by \$2.28 million (a compromise between the Senate's reduction of \$1.10

million and the House's reduction of \$4.76 million). Of the 46 centers, six centers had their funding eliminated entirely in the conference report, and 12 centers saw no funding reductions. None of the institutes or centers at Norfolk State University or Virginia State University were reduced, and the Aquaculture Genetics and Breeding Program at the Virginia Institute for Marine Science actually received an increase in general funds of \$50,000.

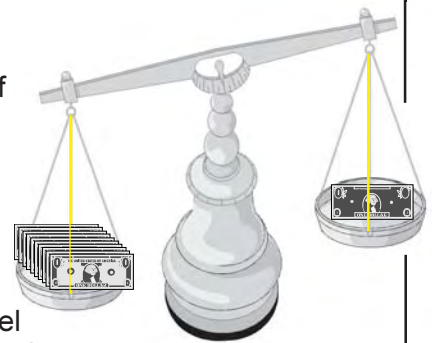
## THREE DECADES OF SAVINGS TO THE COMMONWEALTH ATTRIBUTABLE TO JLARC STUDIES

Through continuing follow-up of studies, Commission staff track actual savings reported by the agencies that have been subject to JLARC reviews, as well as savings achieved through the appropriations process. Previous editions of this biennial report have documented savings of more than \$365 million since JLARC's first study. The additional savings and revenues discussed in this chapter bring **the cumulative documented and anticipated savings attributable to JLARC recommendations to \$431 million.**

It should be noted, however, that the \$431 million in documented savings is a very conservative figure. In most cases, this figure includes only those savings that are implemented through one biennial budget of the Commonwealth. In reality, many of these adjustments continue to accrue savings indefinitely. For example, **the JLARC recommendation which has accrued the most savings overall is the Set-Off Debt Collection Act**, which was implemented by the General Assembly in 1981. This program, which reduces State tax refunds by any amounts that may be owed the Commonwealth by a taxpayer for other documented reasons, has proven a significant source of revenue over its 20-year history. Through FY 2002, the Set-Off Debt Collection Act has generated \$282 million.

Not all Commission studies result in savings. Other objectives of legislative oversight (such as enhancing program effectiveness and ensuring compliance with legislative intent) sometimes require that additional resources be allocated to State agencies and programs.

JLARC itself, of course, requires budgetary support by the General Assembly to pay for staff salaries and benefits, statewide travel expenses that can sometimes be significant on a far-ranging project, occasional consultant fees, and other expenditures necessary to the study mandate at hand. However, averaging less than \$1.5 million per year, **JLARC's expenditures when compared to the savings discussed above have returned nearly ten dollars for every dollar expended.**



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# GENERAL GOVERNMENT STUDIES

## Information Technology Systems Development

During 2002, JLARC staff completed a review of information technology (IT) systems development in Virginia at the request of the Commission. The study found that many IT projects have failed in recent years, wasting more than \$100 million dollars. The report identified the need for stronger central direction and oversight of systems development.

Of 18 report recommendations, 13 were fully implemented, and four others were partially implemented. The study recommendations formed the basis for HB 1926 and SB 1247 en-

acted during the 2003 General Assembly. This legislation significantly reformed the governance structure and process for IT systems development and management in Virginia.

A JLARC recommendation was the blueprint for a formalized process for managing and funding major IT projects. Two key changes were the creation of an information technology investment board, and a separate and independent chief information officer (CIO). The investment board will serve to improve central approval and oversight of major projects, provide a structure for

prioritizing projects for investment, and provide greater accountability for IT systems development. The establishment of a separate full-time CIO position with responsibility for leading the development and management of information systems will provide a single individual who is ultimately accountable for the development and management of information technology. The CIO can provide professional leadership and continuity in information technology across gubernatorial administrations.

During a recent JLARC work-planning meeting, the members of the Commission expressed a



strong continuing interest in the Commonwealth's IT systems development and management. Subsequently, the Commission directed its staff to continue monitoring this area, particularly the executive branch's inauguration of VITA, the Virginia Information Technology Agency. As this centralized approach to systems development and management gets fully under way, JLARC staff will be periodically assessing the results and reporting to the Commission through 2005.

## Charitable Gaming Commission

In May 2002, JLARC approved an Administration request to study the Charitable Gaming Commission (CGC), the agency charged with regulating charitable gaming activities in the Commonwealth. The study focused on the adequacy of the organization and management structure of the CGC, as well as the agency's resources and staffing. The study team found that, overall, the CGC had been successful in achieving its primary objectives: the prevention of gaming fraud and increasing the percentage of gross gaming proceeds used for charitable purposes. JLARC staff also found that, with some exceptions, the CGC's oversight activities were perceived favorably by the regulated community.

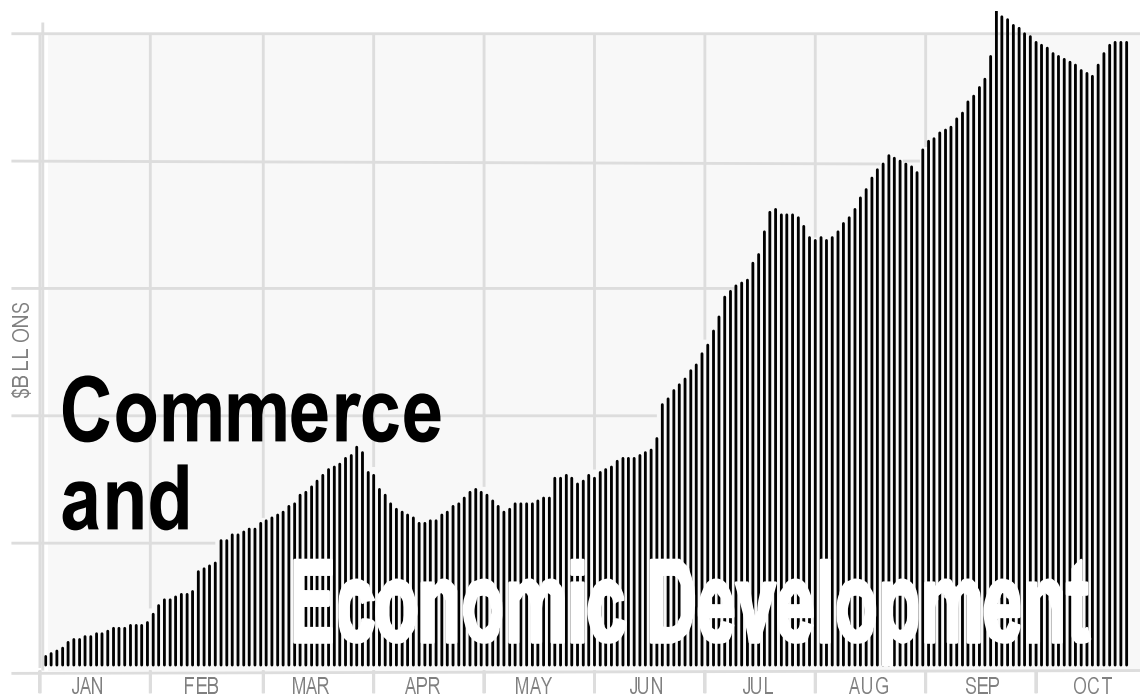
Despite these successes, JLARC staff found that the overall structure and staffing of the Gaming

Commission were insufficient to ensure uniform compliance with Virginia's charitable gaming statutes. Improvements were also needed in the areas of fiscal oversight and training.

In line with one of several policy options presented in the report, the General Assembly enacted SB 1278 (Colgan) to change the governance structure of the Gaming Commission. Effective July 1, 2003, the Commission's status was upgraded to that of a State agency, with a policy board rather than a supervisory board. Both the board and the department director are now appointed by the Governor. These changes should improve the management and accountability of the agency.



*Note: for summaries of other general government studies, including State spending, tax compliance, and State purchase of pharmaceuticals, see the "Special Studies" article on page 11.)*



## Workforce Training in Virginia

Each year, Virginia invests over \$250 million to build and support a quality workforce, an essential component of sustained economic development. In 2000, JLARC directed its staff to review the efficiency and effectiveness of the Commonwealth's workforce training efforts.

In addition, the 2002-2004 Appropriation Act directed JLARC to review the administration of the federal Workforce Investment Act (WIA) by the Virginia Employment Commission (VEC). The WIA provides Virginia over \$40 million a year for employment and training services and mandates a system of service delivery to coordinate between three WIA-funded programs and 14 other federally mandated workforce training programs. The act requires that the system develop one-stop centers that provide single points of access to the many State and federal employment and training programs.

The review found Virginia lacking a coherent, coordinated system of workforce training.

Twenty-two workforce training programs were administered by ten State agencies in three secretariats. There was no formal coordination among these programs, many of which provided similar services to similar populations. The study also found that while Virginia had implemented the basic framework of the one-stop service delivery system required by the WIA, the VEC did not have the authority to develop a true coordinated system. In fact, neither the VEC, nor any other existing State agency was able to develop the system as intended by the WIA.

In order to facilitate a statewide system of workforce training, JLARC staff recommended that the VEC be replaced by an agency with a clear employment and training focus, which could administer many of the 22 workforce training programs. The Governor cited the JLARC study in his 2003 State of the Commonwealth Address, and proposed a comprehensive plan to enhance coordination and improve the one-stop centers.

The 2003 General Assembly implemented several of the JLARC report recommendations with the passage of House Bill 2075. The legislation requires that two workforce training programs, the Virginia Initiative for Employment Not Welfare (VIEW) and the Food Stamp Employment and Training (FSET) program, enter into partnerships with the one-stop centers. As suggested in the report, this will facilitate access and reduce duplication.

As recommended, the new statutory language directs the Virginia Workforce Council to establish performance measures for local workforce investment boards and one-stop centers and evaluate their performance over time. This recommendation was made because there was no coordinated oversight of these bodies. The new performance measures will take into account the extent to which local workforce investment boards have obtained outside funding beyond the Workforce Investment Act (WIA) funds. The JLARC report determined that the WIA funds were rarely sufficient to develop a coordinated system of workforce training and outlined the need for local boards to seek out additional funds.

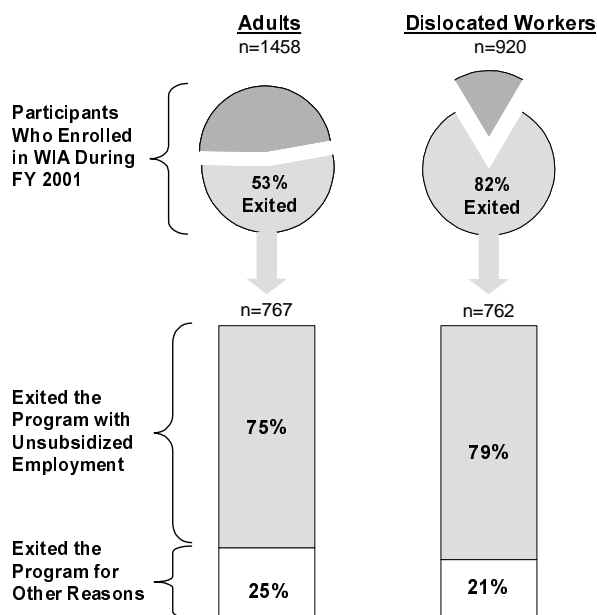
Lastly, the bill implements the JLARC recommendation that the Virginia Workforce Council establish criteria for training providers to be certified to receive WIA funds. This function was inconsistently performed at the local level.

## State Business Incentive Grant Programs

In July 2002, JLARC directed its staff to examine the long-term costs and benefits of the major business incentive grants that are funded through the Commonwealth of Virginia's General Fund. Business incentive grant programs are intended to attract companies that are considering locating or expanding in Virginia, especially when other states or countries are competing for these businesses. These programs generally offer grants for workforce training, site acquisition and development, construction, transportation access, other capital expenditures, or other specified purposes. Examples of business incentive grant programs examined are the Governor's Opportunity Fund and workforce training assistance.

### Outcomes for WIA Participants Who Enrolled in FY 2001

(Based on JLARC Analysis of VEC Data)



The principal finding of the study was that if the State were to eliminate funding of its two largest business incentive programs in a given fiscal year, there would be longer-term consequences. Fewer new jobs (along with investments in facilities) would likely be created or transferred to Virginia; instead these jobs would likely locate in other states. In two to three years, the State's resulting loss of individual income tax revenues would likely be more than the amount that was saved by cutting these programs. There would also be less corporate income tax and sales tax revenues, and less indirect economic activity due to the investments (that would accompany these business expansions) not being made.

The report noted that the State has promised some companies sizable grants in future years after the current biennium, which would require new appropriations from the General Assembly. However, past experience indicates that not all companies will likely meet the required performance criteria to receive the grants. Further, the General Assembly has the prerogative to

fund the maximum amounts — or less — in making its appropriations in future years.

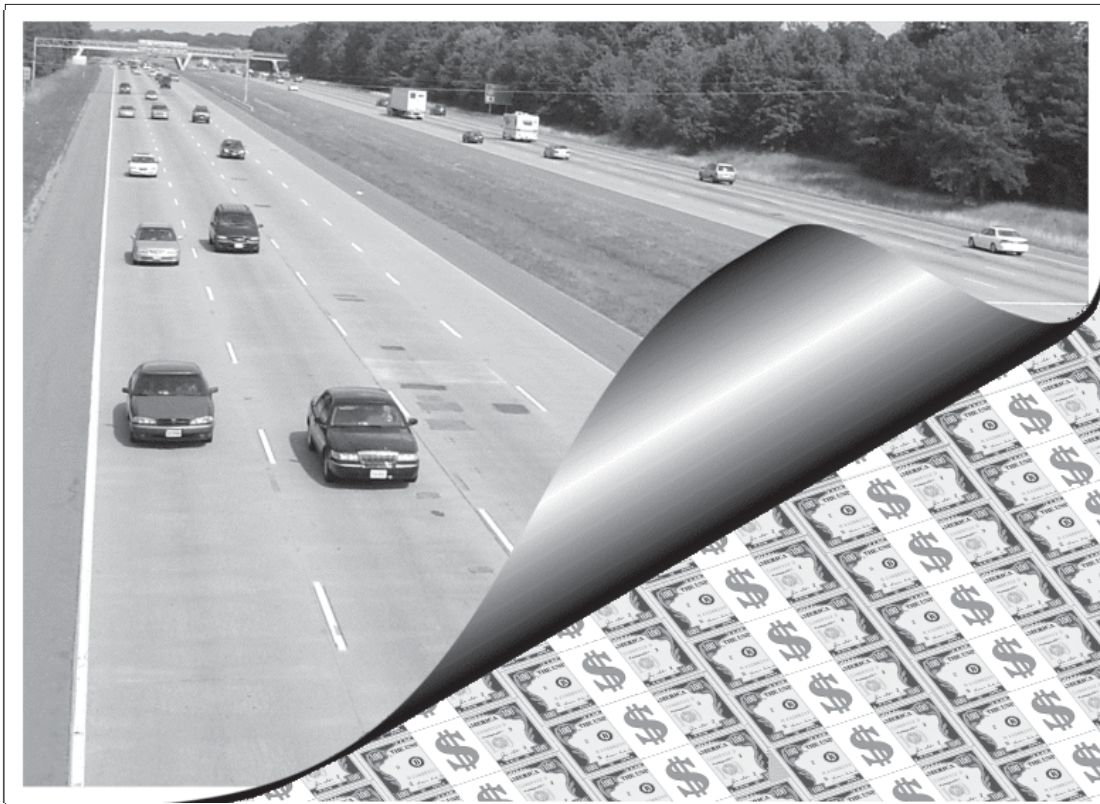
## Virginia Housing Development Authority

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. Several previous editions of this *Report to the General Assembly* have described and followed up on JLARC's 1999 study of VHDA. A recent status-of-action report from the authority included some noteworthy new actions.

VHDA has made significant changes in the Section 8 housing program that are consistent with JLARC recommendations. JLARC staff had recommended (1) initiating a training program

for local Section 8 administrators, (2) streamlining the central administration of the program, and (3) transferring authority for administration of the program from VHDA to local agents in those localities that had the ability and resources to administer the program locally. VHDA reports that it has developed such a training program, reduced the central office staff administering the program from 25 to 14 FTEs, and transferred 26 localities and 4,300 housing units to local administrators of the program.

The most significant change, one that is again in line with JLARC findings, is the recent decision by VHDA to contribute \$50 million per year to the Virginia Housing Fund over the next five years. This represents a 250 percent increase in the amount that will be contributed and is significant because the Virginia Housing Fund is the fund used to address housing for low-income persons with the greatest need for affordable housing.



Over the years, JLARC has completed more than 30 studies addressing transportation topics, particularly critical issues facing the Department of Transportation. Four recent studies identified serious shortcomings in VDOT's oversight and management, and the funding of highway construction and maintenance programs.

Although initially defensive and critical of the Commission studies, the department later confirmed the existence of many of the problems identified. A number of newspaper articles lent further support to the analyses, and the findings of the JLARC studies were cited in a report prepared by the U.S. General Accounting Office for the House of Representatives, Committee on Transportation and Infrastructure.

VDOT has reported making several policy and program changes that appear to constructively address the problems. These changes are primarily in the areas of construction cost estimation, the use of consultants in designing construction projects, and the overall funding of the highway maintenance program.

## Construction Cost Estimates

Recent assessments by VDOT of estimated costs for construction projects included in the Six-Year Improvement Plan appear to confirm the findings of the 2001 JLARC report, *Review of Construction Costs and Time Schedules for Virginia Highway Projects*. JLARC found that the costs of some large construction projects, such as the Springfield Interchange Improvement Project, had been routinely and substantially underestimated.

In December 2000, JLARC staff estimated that the cost of the Springfield Interchange would likely reach \$666 million. At that time, VDOT assured the Commission that the total construction cost would not exceed \$567 million. VDOT's latest (May 2003) calculations, however, estimate the final project cost at more than \$676 million.

Route 288 provides another example. In its presentation to the Commission in December 2000, VDOT indicated that JLARC's cost estimation

methodology was flawed because applying it to the estimated cost for the Route 288 construction project would have resulted in an estimate of \$395 million. VDOT asserted that this was clearly erroneous because under the Public Private Transportation Act (PPTA) the department had negotiated a contract for \$226 million. However, including the preliminary engineering and right-of-way costs, as well as the costs of refinancing contractual obligations, increases VDOT's estimated total cost for the project to \$390 million.

JLARC staff estimated that the 2001 Six-Year Improvement Plan appeared to understate estimated construction costs by \$3.5 billion. VDOT staff analysis presented in January 2002 confirmed that total contractor payments, on average, exceeded original contract amounts for construction projects by more than 25 percent. As a result of this analysis, VDOT presented a revised Six-Year Plan in May 2002 with substantially fewer projects.

## VDOT's Use of Consultants

In April 2002, VDOT staff presented to the Commonwealth Transportation Board findings of an analysis of the department's use of consultants for the design of highway construction projects. This analysis was conducted based on recommendations included in the 1999 JLARC study, *Review of the Use of Consultants by the Virginia Department of Transportation*. JLARC staff recommended this analysis be conducted because of an increasing trend in the use of consultants and the concern that VDOT lacked adequate processes for monitoring consultant performance. Based on this analysis, VDOT's own analysis found:

- Approximately 70 percent of all construction design work was being performed by consultant labor.
- On average, consultant design costs were 46 percent higher than VDOT costs for similar projects, primarily as the result of salary and overhead costs.
- Actual consultant costs for the 50 projects sampled exceeded VDOT design estimates by more than \$16 million.

## Highway Maintenance Program Adequacy and Funding

In January 2002, JLARC issued its report on the Adequacy and Management of VDOT's Highway Maintenance Program. The central finding of this study was that the State had an estimated \$1.6 billion in additional pavement and bridge maintenance needs, and that the current funding levels appeared inadequate to meet these needs. Furthermore, at the time of the study, the department's 2002 biennium budget presented a reduction in the annual allocation to the maintenance program.

As a result of these findings, JLARC staff recommended that the Commonwealth Transportation Board provide additional funding to the maintenance program. In April 2002, VDOT's approved budget included an annual increase in maintenance funding of approximately four percent.

In June of this year, VDOT responded to a status-of-action request by JLARC staff on the 18 study recommendations. A majority of the recommended activities are currently under way, exemplified by the following:

- The Department has initiated a new process to improve equipment utilization through better internal communications and more efficient disposition of equipment. VDOT estimates annual savings in the \$0.5 to \$1.5 million range.
- VDOT has resolved issues related to its inability to carry forward unexpended funds, resulting in about \$14 million being carried forward into FY 2003.
- Methodologies have been developed to better assess and address pavement conditions on all highway systems.
- As recommended, a major revision and expansion of VDOT's best practices manual for maintenance practices is under way. The department reports it is using surveys and a web-based discussion forum to develop new policies, with the first focus on pavement, bridges, and pipes.

- ▣ A proposed “synergy” initiative involving major computer systems development within VDOT, which JLARC staff found troubling, will not be undertaken by the department. Instead, all such decisions have become the purview of VITA (see article on VITA, page 14).

## **Equity and Efficiency of Highway Construction and Transit Funding**

In December 2001, JLARC released its report on the equity and efficiency of highway construction and transit funding. This study provided options for revising the current allocation system to make it more efficient and equitable. In addition, the study found that the existing administrative system needed to be replaced with a road classification system based on the functional purpose of the roads, and that VDOT districts should be revised into new funding regions for purposes of allocating regional construction funds.

## **Recent Legislative Responses to Highway Studies**

House Joint Resolution No. 211 of the 2002 Session established a joint subcommittee to study recent JLARC study recommendations. As directed, JLARC staff have provided technical assistance for the subcommittee’s efforts. The subcommittee was given two years to complete its study. In the meantime, the 2003 Session showed continuing interest through legislative activity emphasizing greater accountability, stronger financial management and oversight, wider access to more user-friendly information on highway projects, clearer lines of responsibility for transportation contracting authority, and establishment of a new highway safety program.

## **The Chesapeake Bay Bridge-Tunnel**

Since 1964, the Chesapeake Bay Bridge-Tunnel has provided the only direct highway link between the Eastern Shore and the Virginia mainland. Each year, it carries more than three million vehicles across the mouth of the Chesapeake Bay. The Chesapeake Bay Bridge and Tunnel District operates the facility, providing for capital improvements, maintenance, police and safety patrols, toll collection, and administrative services. Construction and operations have been funded almost entirely from bonds issued by the district and toll revenues collected on the facility. The State provides less than one million dollars annually for operations.

Concerns of some Eastern Shore residents about the long-term economic impact of increased traffic resulting from recent toll discounts prompted the 2002 General Assembly to direct a study of the Bridge-Tunnel through House Joint Resolution 210. JLARC was directed to examine the appropriate role of the facility in the economic growth of the Eastern Shore and the Commonwealth, the appropriate toll structure, and the efficiency of facility operations.

Overall, the review found that the construction and operation of the Chesapeake Bay Bridge-Tunnel has been a successful endeavor. The facility provides an essential link between the Eastern Shore and the mainland, supporting the agricultural economy on the Shore, and tourism on both sides of the bay. Given its importance to transportation in the region, the review also found that the appropriate role for the Bridge-Tunnel in economic growth is to ensure a safe, convenient, low-cost link between the Shore and the mainland.

The General Assembly has not authorized the Bridge-Tunnel district to involve itself in growth management or economic development, either as part of its operations or through the toll structure. The business and government leaders on the Eastern Shore interviewed for the study confirmed that they

expect the local governments to be responsible for growth management, not the Bridge-Tunnel District. The review also found that the toll structure provides adequate revenue for operations, maintenance, and existing debt service. However, it may not provide adequate revenue for future capital expansion if parallel tunnels are needed by the year 2020. The report recommended that the district begin developing a long-range capital plan to address future facility needs and funding.

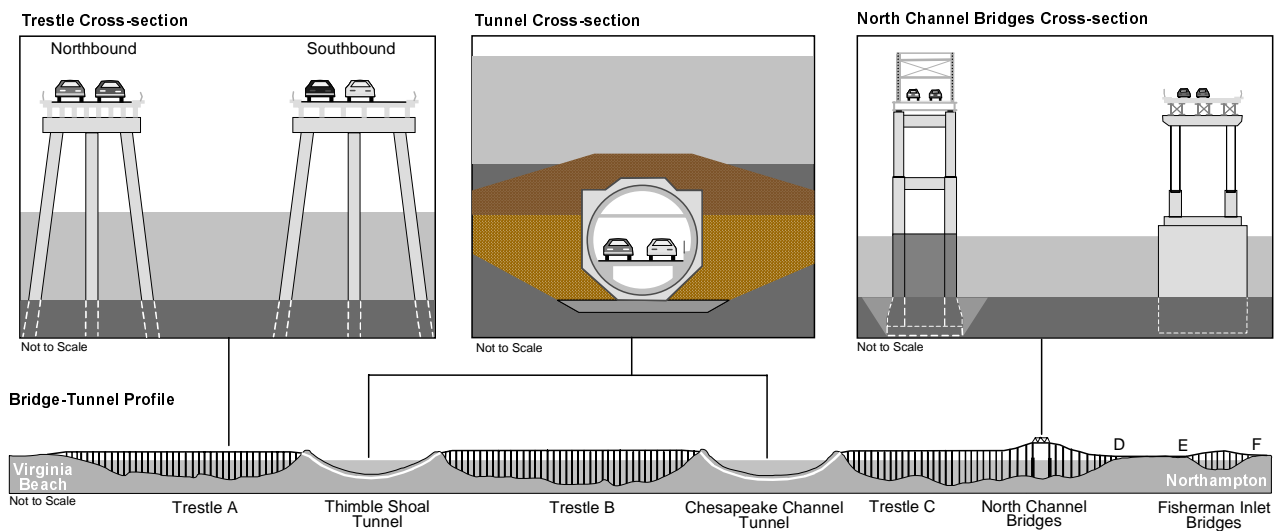
Maintenance and operations of the facility were found to be generally appropriate. Improvements were recommended, however, for toll and emergency staffing, facility security, major maintenance projects, and administration of the district's personnel evaluation system.

The Bridge-Tunnel District recently reported that the 22 study recommendations are in various stages of consideration and implementation. Selected District activities include the following:

- A long-range capital plan is nearing completion, which includes engineering consulta-

tion regarding tunnel configurations and associated costs.

- Current and potential toll discount programs are being re-evaluated, and further discounts appear unlikely.
- As recommended, the District has secured a qualified security consultant to assess security concerns raised in the JLARC report, and some security improvements have already been implemented.
- In line with another recommendation, emergency action planning has been given a higher priority, including better coordination with police, emergency, and military agencies.
- Maintenance issues, particularly in regard to handrails in the tunnels, have been addressed through a repair program.
- In response to an administrative recommendation, the District has entered into a contract with the Executive Director, which specifies an annual written evaluation for this position.



*An Illustration from the Bridge-Tunnel Report*

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# NATURAL RESOURCES AND ENVIRONMENT

## Implementation of the Chesapeake Bay Preservation Act

House Joint Resolution 622 (HJR 622) of the 2001 General Assembly directed JLARC to study the implementation of Virginia's Chesapeake Bay Preservation Act (Bay Act). The Bay Act was established in 1988 as a partnership between Virginia and 84 of the State's eastern-most localities as a way to ensure appropriate local land use and development in environmentally sensitive areas. The resolution reflected legislative concerns about the effectiveness of local and State oversight and enforcement of the Bay Act, as well as the level of resources necessary to effectively administer the Act's requirements.

Several issues related to implementation and enforcement of the Bay Act were identified in the report. For example, local adoption of management programs required by the Act was delayed, by as much as six years in some cases, because of factors such as inadequate resources to amend local ordinances and map environmentally sensitive lands. Moreover, enforcement of certain Bay Act requirements has occurred inconsistently across the Tidewater localities, resulting in development in areas where land-disturbing activities are supposed to be prohibited, as well as the irregular application of other management program criteria.

Localities indicated that the Chesapeake Bay Local Assistance Department (CBLAD) provides appropriate and timely technical assistance. However, inadequate financial resources appear to hinder CBLAD's ability to provide greater as-

sistance, to perform certain internal functions, and to ensure local program compliance. In addition, it did not appear that the Chesapeake Bay Local Assistance Board had prioritized the evaluation and enforcement of local program implementation, as required by the *Code of Virginia*.

In response to the Commission's June 2002 direction to consider the future status of CBLAD, four structural options were presented in the study concerning potential ways to organize the department's functions. These options ranged from maintaining the status quo to consolidating the agency into the Department of Conservation and Recreation (DCR). Legislation was also introduced in the 2003 Session to merge CBLAD into the DCR. However, the legislation failed at the conference committee stage. Thus it appears that CBLAD will continue to be an independent agency for the foreseeable future. It is important to recognize that the deficiencies identified in the report, including resource issues and inadequate State oversight and enforcement of local programs, will not necessarily be corrected as a result of a merger and should be addressed regardless of where these responsibilities are located.

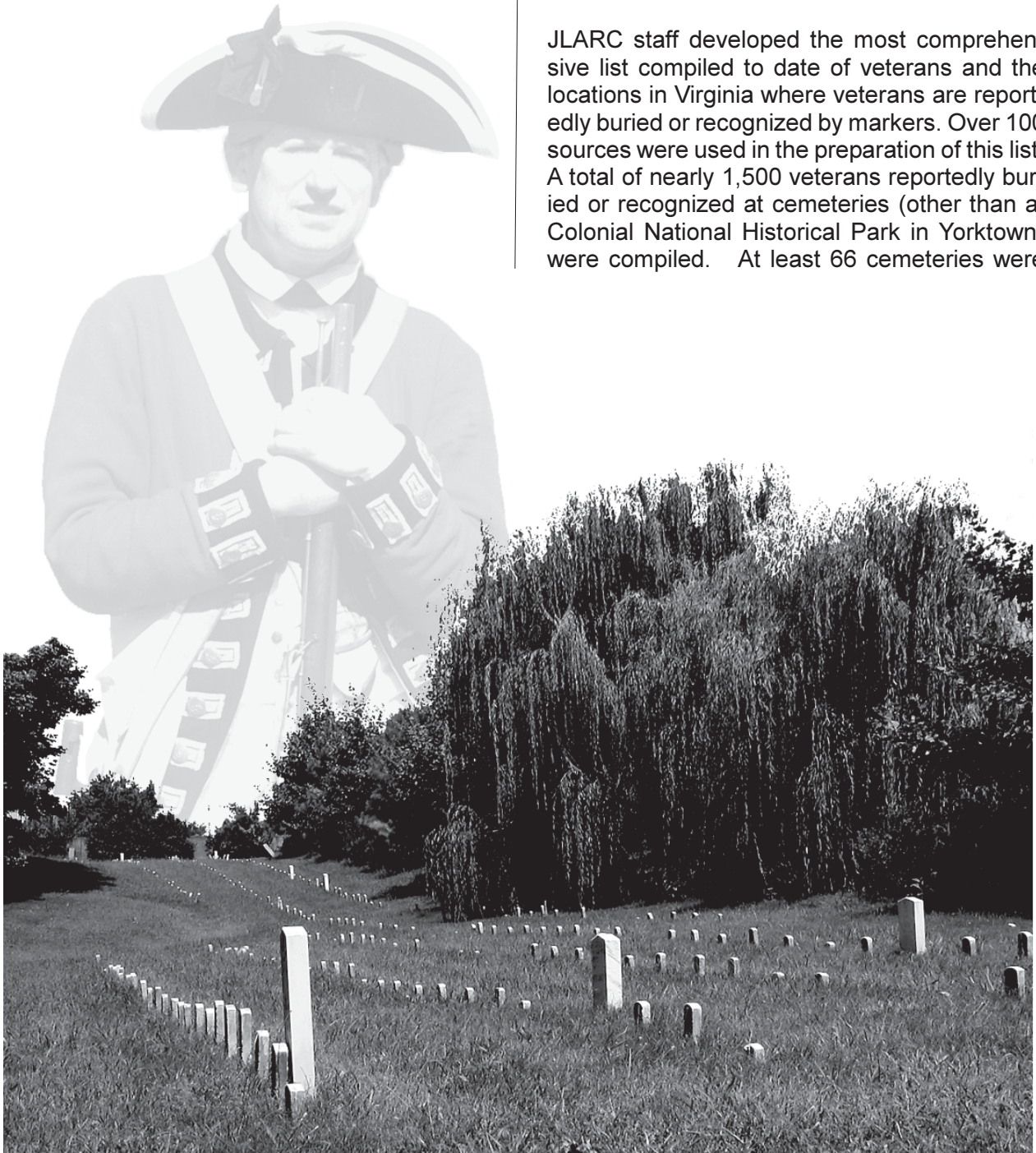
The Governor's budget submitted to the 2003 General Assembly proposed substantial reductions in CBLAD funding and staffing. Grants to Soil and Water Conservation Districts to develop agricultural soil and water quality conservation plans pursuant to Bay Act regulations were eliminated. In line with concerns expressed in the

JLARC study, budget amendments were introduced in both houses to restore funding for various purposes. Ultimately, the General Assembly reduced cuts by \$150,000 to restore two staff positions proposed for elimination. However, a recent status-of-action report from CBLAD's acting Director expresses continuing concern that the agency is under-funded to implement the Bay Act program.

## Revolutionary War Veteran Gravesite Program

Responding to House and Senate joint resolutions from the 1999 Session, JLARC staff developed a special report on the preservation of Revolutionary War veteran gravesites in Virginia. The Commonwealth had a program to help provide for the care and maintenance of Confederate veteran gravesites, but had no similar program for veterans of the American Revolution.

JLARC staff developed the most comprehensive list compiled to date of veterans and the locations in Virginia where veterans are reportedly buried or recognized by markers. Over 100 sources were used in the preparation of this list. A total of nearly 1,500 veterans reportedly buried or recognized at cemeteries (other than at Colonial National Historical Park in Yorktown) were compiled. At least 66 cemeteries were



identified in which three or more Revolutionary War veterans are reportedly buried or recognized. Staff estimate that there are about 560 sites with Revolutionary War veteran burials. At these sites, over 700 grave markers may be eligible for a maintenance program.

Extensive appendixes are provided in the report to show the information obtained and the sources used during this review. The wide interest in historical and genealogical research has made this report one of the most popular “hits” – nationally and even internationally — on the JLARC website. During FY 2002 alone, the study was accessed online nearly 14,000 times.

JLARC staff have also been commended by, and asked to give presentations before, local historical societies.

In response to the Commission report, the 2002 General Assembly adopted House Bill 919, providing for the establishment of a program to assist in maintaining Revolutionary War veteran gravesites. Accordingly, Chapter 256 of the Acts of Assembly adds a section (10.1-2211.1) to the *Code of Virginia* to provide the statutory basis for the program. The provisions became effective on July 1, 2002. Funding for establishing the program is not yet available, however.

*JLARC staff visited many gravesites during the study in order to assess site conditions and record names and exact locations. Sites were often overgrown and difficult to reach even by foot. The use of a satellite-assisted global positioning system (GPS) improved the collected data by providing accurate geographic coordinates. The database begun by JLARC is the most complete survey assembled to date of these historic sites, and should continue to be useful to historical researchers in the future. The complete data sets are available and fully searchable as separate files on JLARC's website.*



# INDIVIDUAL AND FAMILY SERVICES

## Programs in the Department of Medical Assistance Services

Senate Joint Resolution 441 from the 2001 General Assembly Session directed JLARC to conduct an evaluation of the development, management, utilization, and funding for the health and mental health services provided through the Department of Medical Assistance Services (DMAS). This mandate led to two studies which covered several key program areas, including the mental retardation waiver program, non-emergency transportation services, and the child health insurance program (another area of inquiry, pharmacy services and State spending of pharmaceuticals and medical supplies, is described in a previous article page 12).

In regard to the waiver and transportation programs, JLARC staff noted several longstanding unresolved problems and recommended that DMAS provide status reports to the House and Senate money committees. The status reports have indicated progress on both fronts.



Many of the problems with the transportation program were resolved through DMAS taking action to terminate its contract with an unresponsive transportation provider. The mental retardation waiver program benefited from 175 additional waiver slots being provided through General Assembly appropriations for Fiscal Year 2004.

The JLARC report noted numerous implementation problems associated with Virginia's child health insurance program, known as Family Access to Medical Insurance Security (FAMIS). The review found weak program design, management, and leadership, which had resulted in low enrollment of children in the program and the forfeiture of more than \$55 million federal dollars.

Five recommendations were directed at improving the program. The Department of Medical Assistance Services (DMAS) has reported significant progress in addressing each recommendation.

- ▣ Procedures have been developed to better track enrollees and referrals to Medicaid. An expanded quarterly report keeps the General Assembly informed.
- ▣ A telephone survey was implemented in February 2002 to assess reasons why children were dropping out of insurance coverage. DMAS reports the survey has provided useful information for policy and administrative decisions.
- ▣ A revised projection was developed to accurately assess the total number of uninsured children in Virginia potentially eligible for Medicaid or FAMIS.

- As mandated by the General Assembly DMAS amended its Medicaid State Plan and regulations to adopt a single eligibility level of 133 percent of the federal poverty level for all children served in the Medicaid program. Nearly 19,000 children have been served by this expansion to date.
- DMAS and the Department of Social Services have developed extensive methods and procedures for improving communication on eligibility issues related to FAMIS. A “No Wrong Door” policy has been in effect since the fall of 2002: applicants can file their FAMIS applications with either the FAMIS central processing unit or their local Department of Social Services.

The enhanced data collection activities showed that as of spring 2003, 80% (up from 76% at the end of 2002) of children living below 200% of poverty were covered by Medicaid and FAMIS. According to the Governor’s office, enrollment has increased from about 39,000 children in September 2002 to over 55,000 in July 2003, a 41% increase. During that period, monthly enrollment increased from about 1,500 to more than 4,000. A recent national survey by the Kaiser Commission on Medicaid and the Uninsured gave Virginia high marks for its efforts to reduce barriers and improve access. However, an estimated 61,000 eligible children remain uninsured.

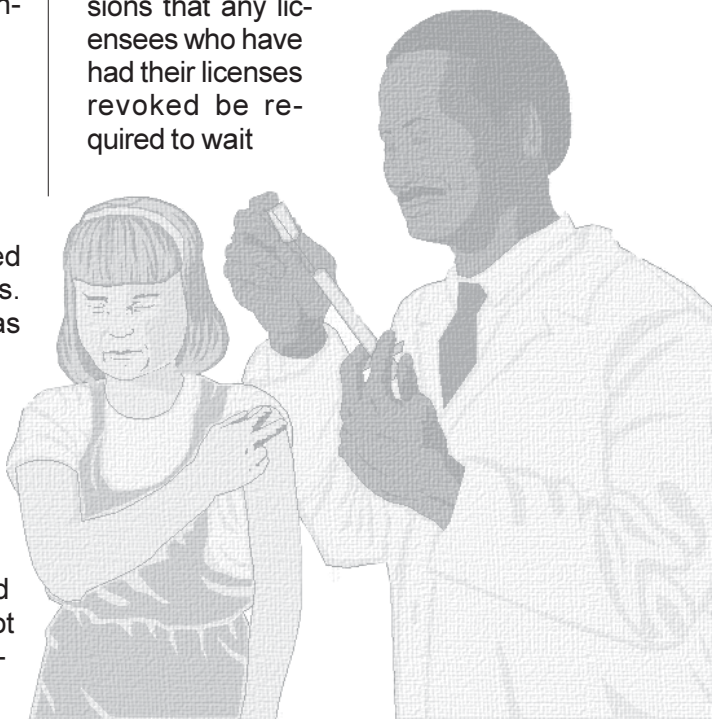
## Virginia Board of Medicine Reforms

During 1998 and 1999, JLARC staff conducted a review of Virginia’s health regulatory boards. The most significant finding of the study was that the Board of Medicine did not adequately protect the public from doctors who provide substandard care in the treatment of patients. Other key findings were that the disciplinary system was taking too long to resolve many cases, eligibility standards for reinstatement of licensees were not uniform across professions and were too lenient, and instances of unlicensed practice often were not prosecuted. The JLARC report included 19 recommendations to improve the regulation of health professionals.

These recommendations served as the basis for HB 1441 enacted during the 2003 General Assembly session that significantly reforms the regulation of doctors. The most significant recommendation adopted through this legislation changed the standard for a violation of law in the treatment of patients from gross to simple negligence. Under the old gross negligence standard, doctors who provided substandard care to patients were rarely disciplined for this conduct. With the new simple negligence standard imposed by the legislation, the Board of Medicine is required to address cases in which there is evidence presented that a doctor has provided substandard care.

The legislation also enacts a JLARC recommendation that the Board of Medicine be required to investigate all reports or complaints received about doctors, regardless of the source of information. The JLARC study found that many reports submitted to the Board of Medicine indicating that doctors likely provided substandard care in the treatment of patients had been closed without an investigation.

The recently enacted legislation also adopts several recommendations that apply to the regulation of health care professionals more generally. The legislation established a uniform requirement for all health professions that any licensees who have had their licenses revoked be required to wait



three years before they are eligible to seek reinstatement of their licenses. Under previous law some licensees, such as doctors, could seek reinstatement of their licenses within a year of revocation.

The legislation also required the Department of Health Professions to include more extensive information in its biennial report about case processing times and the types of cases in which sanctions are imposed by the health regulatory boards. This will enable the General Assembly and the general public to more effectively monitor the types of cases in which the boards are taking disciplinary action or failing to take action and whether the time required to resolve disciplinary cases continues to be excessive.

Finally, the legislation adopts the JLARC recommendation that the Department of Health Professions be given more authority to pursue cases of unlicensed practice that are not prosecuted by Commonwealth's attorneys. The JLARC study found that there were many cases in which persons practicing health care without the appropriate license were not prosecuted and, instead, these cases were being closed by the Department of Health Professions without any action.

## **Birth Injury Program Modifications**

Because a number of concerns had been raised about the Virginia Birth-Related Neurological Injury Compensation Program during its 15-year existence, JLARC directed its staff to conduct an evaluation of the program during 2002. Staff assessed the program's structure and operations, including aspects that fall under the Workers' Compensation Commission, and examined the extent to which the program has served its intended purpose.

The review found the birth injury program to be largely beneficial to the children served, compared to Virginia's capped tort system. In addition, participating physicians, hospitals, and medical malpractice insurers have benefited by the program through reduced medical malpractice insurance rates, a reduction in birth-injury related lawsuits, and a reduction in subsequent claims costs.

However, it was less clear that the program had achieved the societal benefits intended, such as the availability of obstetrical care in rural areas of the State. In addition, the most recent actuarial report on the program projected the fund would have an unfunded liability of more than \$88 million based on the fund balance at the end of 2002.

Despite this long-term liability, there is no threat of a short-term deficit, as the fund's current balance is approximately \$84.7 million. The report identified some of the decisions that had contributed to the fund's actuarially unsound status, including flaws in the basic assessment structure and inadequate financial oversight of the fund by the birth injury board.

The JLARC staff report presented a series of programmatic changes that would be needed if the General Assembly chose to maintain the birth injury program. Subsequently, legislation was passed in the 2003 General Assembly Session that implemented most of the report's recommendations. HB 2048 and HB 2307 enacted a number of study recommendations aimed at improving the eligibility determination process, ensuring fair treatment of claimants, and increasing accountability and oversight of the program.

Of the 24 recommendations requiring legislation, 17 recommendations were fully implemented and an additional four recommendations were partially implemented through the legislation. In addition, the report was used to defeat a proposal that would have adversely impacted the program's purpose. Some of the key legislative changes are highlighted below:

- The legislation enacted a number of study recommendations aimed at improving the effectiveness of the eligibility determination process, which is handled by the Virginia Workers' Compensation Commission (WCC). For example, the role of the medical panels in the process was strengthened to ensure that unbiased, detailed expert medical opinions are provided to the WCC for all petitions submitted.
- Improvements were also made to assist families who petition for entry into the program. For example, to increase claimant

access to legal representation during the eligibility process, the WCC was given discretion to award reasonable attorney fees and expenses for cases filed in good faith, regardless of whether a child is accepted into the program. Also, hospitals that withhold medical records from a petitioner can now be fined, and the petitioner will be given a rebuttable presumption that the missing records showed fetal distress.

- This legislation also remedied an inequity in benefits for program-eligible infants who die shortly after birth. These families receive very limited benefits from the program, but are barred from filing a lawsuit. The WCC may now award up to \$100,000 to the parents or legal guardian of an infant covered by the program who dies within 180 days of birth.
- The legislation also changed the program's Board of Directors membership to ensure representation from the disabled community and from individuals with financial expertise. In addition, the Board no longer has the power to reduce the annual assessments paid by participating physicians and hospitals, as this practice has contributed to the program's current financial problems.
- In response to study findings that the program provides handicap-accessible renovations to homeowners, but no comparable benefit to non-homeowners, the legislation directed the Board to implement a policy on handicap-accessible housing to address the needs of all the children.
- Legislative changes were also enacted that serve to increase accountability and oversight of the program. For example, the program will now be subject to provisions of the Virginia Freedom of Information Act, Administrative Process Act, and Public Procurement Act.
- In response to study findings that most families learn about the program only after pursuing a medical malpractice lawsuit, this legislation requires physicians and hospitals to inform patients about the program.

- Finally, mothers who are physically injured during the birthing process are now allowed to separately file suit to obtain compensation for those injuries. Prior to this change, any such claim by a mother was prohibited.

Extensive media coverage of the JLARC report enhanced public awareness and understanding of the birth injury program. The week following the November 2002 staff briefing of the report, the *Richmond Times Dispatch* printed a total of three front-page stories with detailed information on the study findings. The following quote from one of these articles correctly summarizes the study's findings:

Although the 11-month study labels the Virginia Birth-Related Neurological Injury Compensation Program's impact as generally favorable for birth-injured children, physicians, hospitals, and malpractice insurers, dozens of recommendations point to management shortcomings, unaddressed costs and inconsistent care provided to children who will never lead independent lives.

A number of other articles published in the *Richmond Times Dispatch* in the months following the release of the report have referenced the JLARC report as well. In addition, The *Virginian-Pilot* printed both a front-page story and an editorial on JLARC's findings related to the Virginia Board of Medicine's role in disciplining doctors involved in birth injury cases.

## Child Support Enforcement

During 2000, JLARC staff conducted a series of studies of the State's child support enforcement activities, including the management, caseloads, and employment levels of the Division of Child Support Enforcement (DCSE), as well as DCSE's partnerships with local courts and sheriffs' offices. The previous (2001) edition of this biennial *Report to the General Assembly* details the findings, recommendations of these studies and the Division's responses.

A recent status-of-action report from DCSE shows continuing attention by the Division to the

concerns raised in the JLARC studies, as exemplified by the following updates:

- ▣ DCSE is in its second year of setting district office performance goals replicating federal performance measures. For its composite performance on all incentive factors relative to other state child support programs, Virginia was awarded an incentive payment for the most recent federal fiscal year of \$16.9 million, compared with the previous level of about \$6.1 million.
- ▣ As recommended, significant progress has been achieved in closing unproductive cases meeting federal and State closure standards. DCSE reports that since 1999 nearly 270,000 such cases have been closed, significantly reducing the drain on staff and systems resources required to track such cases, and allowing focus on those cases with potential for collection.

DCSE noted that JLARC's report on the costs of raising children was "very useful" in the work

of the 2001-2002 Secretary's Triennial Child Support Guideline Review Panel. Using this special study, the Panel's economist was able to develop long-overdue models for a new Guideline Schedule, intended to replace the current model, developed in 1988. The resultant legislative proposal passed the Senate but not the House in the 2003 session. It is likely that legislation will again be proposed in 2004.

This study received the Excellence in Research Methods award during the 2001 meeting of the National Conference of State Legislatures.

"DSS has found the various JLARC reviews of our child support enforcement cooperation to be extraordinarily helpful in sharpening our stewardship of Virginia's program"

*—Comment by the DSS Commissioner  
in a recent status-of-action report*

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# EDUCATION STUDIES

## Elementary and Secondary School Funding

In May 2000, the Commission directed staff to study funding for elementary and secondary schools in Virginia. State funding for education is provided to help school divisions pay for the costs of the State Standards of Quality (the SOQ), as well as other costs. The SOQ are constitutionally-required standards in Virginia for the intended purpose of affording a minimum high-quality program of education.

JLARC had conducted two prior reviews of the SOQ in the mid-1980s. The recent review was different in nature, however, than the prior SOQ studies. The prior JLARC studies had focused on estimating and funding the costs associated with the SOQ framework, as it existed at that time. Those studies did not assess the adequacy and appropriateness of the standards, nor did they consider local operating expenditures for services beyond the SOQ. The recent review of public education funding was broader in scope: in addition to assessing the cost and funding of the existing SOQ, the study considered local expenditures for services beyond the SOQ. Debt service and capital costs were also examined.

Regarding operating costs, the study found three primary reasons for the magnitude of local expenditures above levels recognized by State funding practice:

- ▣ division staffing practices above State standards;
- ▣ cost estimation changes made by the State

during the 1990s which dampen SOQ costs; and

- ▣ salary levels above the typical practice of most divisions, offered by a number of Virginia's largest school divisions.

Regarding capital costs, despite the availability of State school construction grant funds and some Lottery funds for non-recurring costs, localities still provided more than three dollars for debt service costs for each capital cost dollar provided by the State in FY 2000.

The JLARC report provided three option tiers to help structure the way in which the State might enhance its funding of education. The first tier addresses JLARC staff estimates of the costs for fully funding the SOQ. The net State cost increase for this purpose in the 2002-



2004 biennium (a two-year cost increase) was calculated at about one billion dollars, of which about \$364 million was for routine cost rebasing. Tiers two and three provided additional options for the General Assembly's consideration.

As the study reached completion, the State faced a serious revenue shortfall. The 2002 General Assembly found itself in need of accurate and relevant information in order to address budget issues in the costly area of education funding. The JLARC study and its tiered approach was frequently cited by Legislators in the difficult process of identifying funding priorities.

Despite the limitations imposed by the revenue shortfall, the 2002 General Assembly addressed two of the components of the Tier One cost contained in the JLARC report:

- ▣ the restoration of most of the administrative personnel costs that had been erroneously dropped from the cost calculations in a prior year, and
- ▣ a change in the calculation of the costs of the SOQ to ensure that certain locally-generated revenues are not deducted before calculating the costs of the standards.

To implement these changes, the Appropriation Act provided an appropriation under Basic Aid of \$4.1 million in FY 2003 and \$54.2 million in FY 2004 to "pay for the State share of recognizing the prevailing number of administrative positions in local school divisions." An appropriation also provided \$24.9 million in FY 2003 and \$50 million in FY 2004 to reduce and then eliminate the State's deduction of locally-generated revenues prior to determining the costs of the Standards of Quality. In addition, the 2003 General Assembly adopted a compensation supplement for school division staff "to address a portion of the compensation-related concerns" identified by the JLARC report. Funding of \$27.5 million was provided in FY 2004 for this purpose.

In the short term, the State may not be able to fully fund SOQ cost estimates and address all the other concerns about adequacy of funding support for education. However, for the long term, the State may wish to develop a plan to address full SOQ funding and other education funding issues raised in the study.

## Recent State Board Responses

The JLARC report also indicated a need for the State Board of Education to address the conditions and needs of public education in its annual reports, and to re-examine the Standards of Quality to ensure that the standards are realistic in relation to the Commonwealth's educational needs and practices. The 2002 General Assembly supported these findings, passing several bills directing the Board to review the Standards of Quality:

- ▣ Senate Bill 201 stated that "To ensure the integrity of the standards of quality, the Board of Education shall, in odd-numbered years, exercise its constitutional authority to determine and prescribe the standards, subject only to revision by the General Assembly, by (i) reviewing the standards and (ii) either proposing amendments to the standards or (iii) making a determination that no changes are necessary."
- ▣ House Bill 884 and Senate Bill 350 required that the Board include in its annual report to the General Assembly, "a complete listing of the current standards of quality for the Commonwealth's public schools, together with a justification for each particular standard, how long each such standard has been in current form, and whether the Board recommends any change or addition to the standards of quality."
- ▣ Senate Joint Resolution 120 requested the Board to "revise the Standards of Quality to ensure these statutory practices are realistic vis-a-vis the Commonwealth's current educational needs and practices."

In response, the Board established an SOQ standing subcommittee to help it assess the conditions and needs of public education. Further, the Board revised its bylaws to require, at least every two years, a review of the Standards of Quality. In addition, the Board held a series of public hearings on the SOQ to solicit suggestions and concerns from educators, parents, employees, civic and community leaders, and other citizens interested in public education. Almost 200 comments were received, which were studied by the Board and culled to a list of pro-

posals the Board considers realistic and sound from a policy standpoint.

The Board of Education has given its approval to a number of significant changes to the SOQ. The Board has prepared a package of draft legislation to implement its SOQ proposals, which amounts to a re-codification of the SOQ portion of Title 22.1 of the *Code of Virginia*. Several of the Board's proposed changes address issues that were raised as part of Tier Two in the JLARC funding study, including elementary resource teachers and funding for a secondary school

teacher planning period. These proposals will undoubtedly be of considerable interest to the 2004 General Assembly Session. Recognizing that the associated costs may be significant, the Board is recommending that its SOQ proposals be phased in over the next two biennia.

It should be noted that since "Tier One" costs as defined in the JLARC report are intended to fully address the costs of the SOQ, as such new standards become effective the costs for the practices required by the Standards become part of the Tier One cost.

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## Current Studies in Education

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The General Assembly's abiding interest in Virginia's system of K-12 education is reflected in three JLARC studies currently in progress. These studies are reviewing school divisions' best practices for both support services and school performance, as well as the funding of educational technology.

### **Best Practices for the Support Services of School Divisions**

House Joint Resolution 34 from the 2002 General Assembly required JLARC to examine best practices for the support services of school divisions in Virginia. Support services include the non-instructional activities that school divisions typically provide, such as administration, attendance and health, pupil transportation, operation and maintenance of buildings and grounds, and food services.

The study is currently in the second of two phases. In the first phase, JLARC staff collected over 180 best practice ideas from the school divisions, and identified those practices in an interim report. In the second phase of the review, now nearing completion, the impacts of best practice use and other factors upon the adequacy, quality, and costs of support services are being examined. To accomplish study objectives, staff have visited 20 school divisions in different parts of the State.

### **Review of Factors and Practices Associated with School Performance**

Senate Joint Resolution 349 of the 2003 General Assembly session directed JLARC to examine best practices at high-performing schools in the State. The resolution specifically directed JLARC to identify and examine:

- ▣ schools that have performed successfully in meeting the Standards of Accreditation and have achieved marked improvement in student and school performance;
- ▣ specific demographic and other factors that may influence academic success;
- ▣ practices and demographic information for the best- and poorest-performing school divisions; and
- ▣ successful practices in those high-performing school divisions with marked fiscal or other challenges.

This review has two major components. One component involves a quantitative analysis of demographic and other factors which may explain the differences in the level of performance across schools and divisions. The other component involves a qualitative examination of practices in the best- and poorest-performing

schools. The study findings will be reported in December 2003.

## **State Funding Formula for Educational Technology**

Senate Joint Resolution 87 of the 2002 General Assembly session directed JLARC to recommend a State funding formula for educational technology and technology support personnel. While the State already provides some funding for educational technology purposes, improvements in the State's funding approach may be possible.

This study has reviewed several technology cost areas and will present funding formula options

in these areas for the General Assembly's consideration. These areas include:

- ▣ technology integration staffing,
- ▣ technology support staffing,
- ▣ technology training for instructional staff, and
- ▣ technology replacement costs and infrastructure needs.

As requested by SJR 87, the study is also examining the use of federal and private sector assistance for educational technology. This study is nearing completion and is scheduled for presentation to the Commission at the September JLARC meeting.

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*(Note: see page 12 of the Special Studies chapter for a summary of recent JLARC work in higher education)*

# ADDITIONAL & ONGOING OVERSIGHT RESPONSIBILITIES OF JLARC

## Virginia Retirement System Oversight

The General Assembly is constitutionally required to maintain a retirement system for public employees. Therefore, 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.

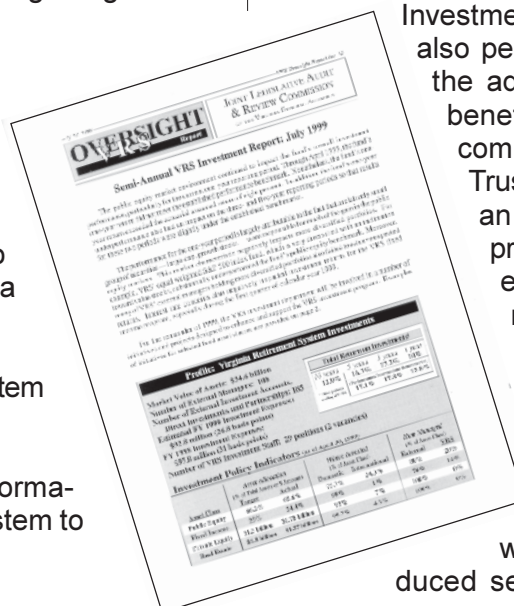
The objectives of retirement system oversight are:

- 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.

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. With the assistance of an actuary, an actuarial report is prepared once every four years, evaluating the financial soundness of the retirement funds.

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, 20 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 maintain a compendium of useful information especially designed for legislators, titled *A Legislator's Guide to the Virginia Retirement System*. Originally offered as a limited-edition publication, the *Legislator's Guide* is now resident on JLARC's website, allowing continuous updating of information. It has proven to be one of JLARC's most frequently accessed web documents, with more than 3,000 unique visitors and nearly 9,000 visits during the last fiscal year.

## 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. **Building Operations** (Department of General Services) implements the rental plan or special maintenance agreements between

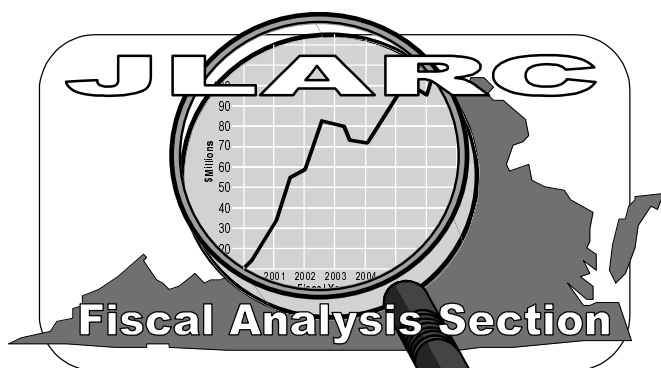
DGS and entities whose office space is located at the seat of government.

4. The **State Surplus Property** program (Department of General Services) manages and disposes of surplus property for State agencies and institutions.
5. The **Federal Surplus Property** program (Department of General Services) acquires and distributes federal surplus property.
6. **Consolidated Laboratory Services** (Department of General Services) accounts 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 **Bureau of Capital Outlay Management** (Department of General Services) reviews plans and specifications for capital and non-capital State projects to ensure compliance with the Virginia Uniform Statewide Building Code.
8. **Fleet Management** (Department of General Services) operates the State's car pool and manages the fleet of passenger vehicles.
9. **Computer Services** (Virginia Information Technologies Agency, formerly the Department of Information Technology) provides data processing services to State agencies.
10. **Automated Services** (Virginia Information Technologies Agency) provides automated systems design, development, and maintenance services to State agencies.
11. **Telecommunications Services** (Virginia Information Technology Agency) provides telephone and data transmission services to State agencies.

## Review of Performance Measures

Since 1990, the Department of Planning and Budget (DPB) has been developing performance measures for use by Virginia State agencies. The General Assembly has encouraged this effort since the 1992 Appropriation Act mandated a pilot performance measures program. DPB has submitted draft measures to JLARC staff for review and comment. Since 2000, the Appropriation Act has provided that JLARC review and comment on DPB's development of performance measures. HJR 773 of the 2001 Session also required that JLARC assess the use of performance budgeting, measurement, and program evaluation in legislative budgeting.

In 2003, the General Assembly passed and the Governor signed House Bill 2097, the "Roadmap to Virginia's Future." This act provided that each agency develop strategic plan information and "performance measurement results." The act also created the Council on Virginia's Future and (in Section 2.2-2686 of the *Code of Virginia*) directed JLARC to provide staff assistance to the Council.



The Fiscal Analysis Section (FAS), a unit within the JLARC staff, was established by the 1999 General Assembly to assist with legislative fiscal impact analysis, and to conduct oversight of the forecasts that are key to major State programs (including Medicaid, corrections, primary and secondary education, and higher education). A section manager calls upon JLARC staff as needed to provide support that is customized for the project at hand.

During the General Assembly Session, the section focuses on reviewing executive branch fiscal impact statements that are referred to JLARC by committee chairmen. The results of these staff analyses are published as *Fiscal Impact Review* reports. In addition to reviewing fiscal impact statements, the FAS also responds to *ad hoc* requests by General Assembly members and other legislative staff, as determined by the JLARC Chairman or Director.

The section has also been assigned responsibility for conducting the annual review of State budget growth, required under HB 2865 from the 2001 General Assembly (now §30-58.3 of the *Code of Virginia*).

## 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, JLARC, and such experts as may be appointed by the Secretary of Public Safety from the fields of criminal justice, population forecasting or other appropriate fields of study. 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.

## **Technical Support: Implementation of JLARC's Highway Recommendations**

In 2001, JLARC completed studies of the adequacy and funding of VDOT's maintenance program and the equity and efficiency of highway construction and transit funding (see pages 19-21). House Joint Resolution No. 211 of the 2002 Session establishes a joint subcommittee to study the recommendations and directed JLARC to provide technical Assistance.

## **Virginia Boards, Commissions, and Councils (HJR 159): Staff Support**

House Joint Resolution 159 of the 2002 Session established a Joint Subcommittee to study the operations, practices, duties, and funding of the Commonwealth's boards, commissions, councils and other governmental entities in the legislative and executive branches. The resolution directed that JLARC provide staff support to the Joint Subcommittee. JLARC staff work and the subsequent legislative initiatives of the Joint Subcommittee resulted in the 2003 General Assembly eliminating 43 unnecessary or inactive State boards and commissions. This work continues, and the JLARC Fiscal Analysis Section is also examining some of the areas included in HJR 159 as a component of other mandated study activities.

### **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 costs.

**<http://jlarc.state.va.us>**

## **JLARC's Internet Site Increasingly Utilized by the Public**

Since 1996, the Commission has maintained a World Wide Web internet site to distribute publications and to make other information available to the public. The award-winning 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, a discussion of the research process, and a gallery of photographs taken during various research projects. The website is also proving useful as an additional way of conducting study-related surveys.

Use of the site by the public has grown incrementally since its inception. During the most recent fiscal year, more than 26,000 unique visitors accessed JLARC online, many of them returning multiple times for a total of 96,000 visits. Somewhat surprisingly, JLARC's recently released report on workforce training accounted for 12,000 user downloads. It is perhaps not surprising that a two-report series on Revolutionary War veteran gravesites heads the list of frequently downloaded documents, with over 14,000 total downloads.

In addition to disseminating the Commission's work to interested citizens, an added benefit is the reduction of publication costs as far fewer "hard" copies of JLARC reports are needed.

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**A note on JLARC publications:** Before JLARC established a site on the World Wide Web, this biennial *Report to the General Assembly* included an annotated listing of all JLARC reports. For cost efficiency considerations, this lengthy bibliography of 300 reports has been relocated to the web site.

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## YEAR BY YEAR: JLARC MILESTONES

*The timeline which begins below provides selected examples of the scope and significance of JLARC's work over its 30-year history. They show that versatility is essential in order for the Commission to respond to the wide range of study requests. The documented study impacts demonstrate that JLARC can examine complex issues affecting politically sensitive programs, yet maintain a position of objectivity and impartiality.*

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- 1973** Joint Legislative Audit and Review Commission established as a permanent legislative commission by the General Assembly. Commission appoints subcommittee to hire Director.
- 1974** JLARC staffed and operational; first study request is for a review of the Virginia Community College System.
- 1975** An evaluation of the Virginia Community College System is the first report prepared and accepted by the Commission. The report describes a community college system in which Virginians can take considerable pride. At the same time, the review identifies administrative and educational issues that require the attention of VCCS and the Legislature to ensure the Commonwealth receives maximum return from its public expenditures.
- 1976** JLARC study uncovers numerous financial and general management problems at the Virginia Institute of Marine Science. The JLARC assessment is the beginning of a series of legislative and executive activities which eventually lead to VIMS being merged with the College of William and Mary.
- 1977** Study series on the “sunset” and zero-base budgeting approaches in vogue across the country recommends an alternative strategy for legislative oversight, which becomes the basis for the Legislative Program Review and Evaluation Act passed by the 1978 General Assembly. The Act provides for periodic review of the programs in all areas of State government.
- 1978** On-site assessments reveal that many homes for adults provide satisfactory quality of resident life, but many homes — especially those housing auxiliary grant recipients

or mental health aftercare clients — continue to operate with significant violations of licensure standards.

- 1979** A special study of deinstitutionalization and community services is prepared for the Legislative Commission on Mental Health and Mental Retardation (the Bagley Commission). The report's ten recommendations are endorsed by the Commission.
- 1980** A study of federal funds finds that State agencies are consistently underestimating federal fund revenues and, consequently, major portions of State expenditures are not going through the legislative appropriations process. Immediate responses include \$29 million added to the 1980 budget bill as a result of last-minute agency-initiated amendments. Long-term response is implementation of comprehensive new control procedures and improved fund management by executive agencies.
- 1981** In response to a 1980 JLARC special study, Legislature creates set-off debt collection program, which is soon bringing in about \$4 million annually. Through FY 2002, this continuing program has netted the State over \$280 million in real cash savings.
- 1982** JLARC completes two comprehensive reports on occupational and professional regulation under the Evaluation Act.
- 1983** JLARC begins its continuing series on State/local relations that will eventually include assessments of local mandates and financial resources, local fiscal stress and State aid, and State/local service responsibilities.
- 1984** JLARC studies of the equity of highway and transportation fund allocations begin to reshape the funding structure of this "big ticket" item. Recommendations ensure that funds will be allocated on an objective, rational basis that includes a clear relationship to needs.
- 1985** A JLARC-sponsored Conference on Legislative Oversight reviews and reaffirms the Legislative Program Review and Evaluation Act.
- 1986** JLARC staff wrap up a two-year study series on Virginia's correctional system. Hundreds of recommendations point the way to improvements in population forecasting, staffing, facility utilization, community diversion, security procedures, and capital outlay planning.
- 1987** A three-year study is completed assessing the funding of the educational Standards of Quality. The JLARC methodology for calculating SOQ costs is adopted by the General Assembly. The study ultimately results in a restructuring of the school aid funding formula.
- 1988** In accordance with a proposal in JLARC's study of information technology in Virginia State government, the 1988 General Assembly creates the Council on Information Management, which is responsible for statewide strategic planning, standard setting, and procurement.
- 1989** JLARC's review of child day care in Virginia identifies inconsistencies in the way regulation is applied. The study recommendations are embraced over the next two years by both the legislative and executive branches, effectively doubling the number of children in day care who are subject to State regulation.
- 1990** A comprehensive follow-up study of homes for adults outlines a new blueprint for regulation, which will subsequently be implemented with strong support from the Joint Commission on Health Care, the full Legislature, and the Administration.

- 1991** A Commission study series on State financial management has significant outcomes: (1) A review of the Department of Taxation estimates a tax gap of more than \$500 million. The General Assembly directs the department to implement a \$65 million revenue enhancement program. (2) JLARC proposes a revenue stabilization or “rainy-day fund” that is approved by the Legislature in two successive sessions, then overwhelmingly approved by voters, becoming the first JLARC-originated amendment to the Virginia Constitution.
- 1992** A major staff study effort is devoted to a comprehensive review of Virginia’s Medicaid program, producing a series of eight reports and over 100 recommendations. One study examines the extent to which applicants take advantage of legal “loopholes” to shift the cost of their care to the taxpayer while preserving assets for their heirs. As recommended, the General Assembly enacts legislation that restricts some forms of asset transfers and implements an estate recovery program. These actions will eventually result in an estimated \$15 million in annual savings to the Medicaid program.
- 1993** JLARC embarks on a comprehensive review of the Virginia Retirement System, which leads to a major restructuring of VRS, a permanent VRS oversight role for the Commission, and JLARC’s second Constitutional amendment, which redefines VRS funds as independent trusts.
- 1994** A staff study of the siting of Virginia’s solid waste facilities uses innovative methodologies to assess the impact on minority communities. This award-winning report also sounds an early alert concerning the volume of out-of-state trash being imported into the Commonwealth.
- 1995** A two-year, in-depth look at juvenile corrections assesses court processing, sentencing outcomes, and the operation and impact of treatment services across varied settings. Juvenile recidivism is conclusively documented as a grave societal and correctional issue.
- 1996** The Commission concludes its comprehensive study of the Department of Environmental Quality. The General Assembly demands a prompt return to the agency’s statutory mission of safeguarding the environment.
- 1997** A follow-up study of child day care in Virginia finds that daycare centers are seriously under-inspected, along with other enforcement shortcomings. A responsive General Assembly allocates new inspector positions and strengthens sanctions. Study receives national impact award.
- 1998** First-ever review of the Board of Elections uncovers weaknesses in voter registration which allow thousands of felons and deceased persons to remain on voting rolls. With support from the General Assembly, new linkages are forged between the registrars, the State Police, and the Health Department.
- 1999** Concerns about DEQ’s possible withholding of information on PCB’s in the Roanoke River comes to light. The Commission is able to utilize its staff resources for a quick but thorough investigation into this fast-breaking environmental issue. DEQ’s leadership concurs with the study’s findings and recommendations.
- 2000** A series of studies of the Child Support Enforcement program within the Department of Social Services finds that the program, though understaffed due to the loss of numerous federally funded positions, needs to respond to the increasing performance expectations of the federal mandates. JLARC recommendations help the agency

close hundreds of thousands of unproductive cases, reducing the drain on staff and resources. Increased efficiencies lead to Virginia being awarded a substantially increased federal incentive payment.

- 2001** JLARC staff complete a Commission-directed study of capital punishment in Virginia, which examines 75% of all murder cases occurring between 1995 and 1999. The findings clearly refute a commonly held belief that the defendant's or victim's race influences the prosecutor's decision to seek the death penalty. Instead, the study reveals that the most important factor is the jurisdiction in which the murder occurred -- prosecutors in more highly populated localities are much less likely to seek the death penalty than their counterparts in less populated jurisdictions.
  - 2002** Responding to critical budgetary challenges, the Commission asks its staff for several special reports to help identify possible savings.. Timely reports on tax compliance, research institutes in higher education, and State spending on pharmaceuticals identify more than \$67 million in savings and new revenues, which are enacted by the General Assembly and reflected in the FY 2004 budget.
  - 2003** The General Assembly enacts legislation that significantly reforms the regulation of doctors. To better protect patients, the new statutes significantly toughen the standards for physician negligence and for reinstatement of revoked licenses, while also providing more support for prosecuting unlicensed practice. These improvements implement recommendations made in an older (1998-99) JLARC report -- an example of how a Commission study can have a long "shelf life," yet ultimately prove effectual.
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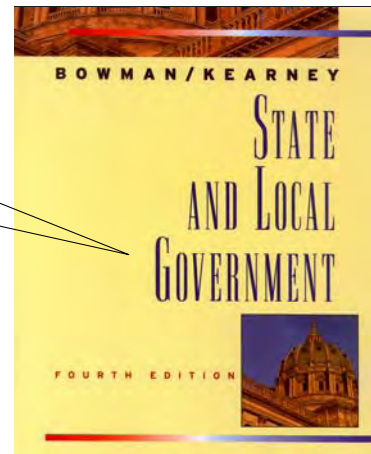
## NATIONAL RECOGNITION OF JLARC: AWARDS AND HONORS

- 1975** ➤ The JLARC staff receive national award for “most distinguished research” from the Governmental Research Association for a review of the Virginia Community College System.
- 1979** ➤ JLARC staff receive the annual “outstanding legislative research report” award from National Conference of State Legislatures (NCSL) for a review of Virginia’s capital outlay process
- 1981** ➤ JLARC staff receive award from the Executive Committee of NCSL’s Legislative Program Evaluation Section for “outstanding contributions to the field of legislative program evaluation.”
- 1983** ➤ The Eagleton Institute of Politics at Rutgers University conducts a national study of legislative oversight, ranking JLARC as one of the best such groups in the country. The Commission and General Assembly are lauded for their strong commitment to legislative oversight.
- 1991** ➤ NCSL’s Legislative Program Evaluation Society recognizes JLARC for “excellence in research design and method” for a technical review of staffing standards for the funding of sheriffs.
- 1991** ➤ JLARC is cited by the journal *Education Evaluation and Policy Analysis* as an exemplary model for legislative oversight in state governance of education.
- 1993** ➤ *Financial World* magazine ranks Virginia as the best managed state. Among the reasons listed are “unmatched” legislative and executive program evaluation and the JLARC-recommended, constitutionally established rainy-day fund.
- 1994** ➤ *State Legislatures* magazine devotes its cover article to the Commission, entitling it “Virginia’s JLARC: A Standard of Excellence.” The article provides a history of the Commission, enumerates its accomplishments, and calls it a model for other states.
- 1995** ➤ NCSL’s Legislative Program Evaluation Society recognizes JLARC for “excellence in research design and method” for a study of the impact on minority communities of solid waste facility siting.
- 1998** ➤ JLARC receives the highest national honor, the “Award for Excellence in Program Evaluation” from NCSL’s Legislative Program Evaluation Section (LPES). This award recognizes a strong combination of demonstrated impacts, contributions to the field, and sustained service to the legislature.

**1998** ➤ JLARC is also selected as the 1998 recipient of the LPES “Certificate of Recognition of Significant Impact” for the study *Follow-Up Review of Child Day Care in Virginia*. This award recognizes studies that have had significant impact on improving governmental operations and programs.

**1999** ➤ Newest edition of a respected university government textbook includes a substantial citation about JLARC, including the following description:

“... a model for the rest of the country.  
... was reinventing government before it became fashionable.  
... has saved the state millions of dollars.”



**1999** ➤ Virginia ranked best in the nation by the Government Performance Project, a nationwide management study conducted by the Maxwell School of Citizenship and Public Affairs at Syracuse University and *Governing* and *Government Executive* magazines. The Secretary of Finance, coordinator of the submission process for the award, credits JLARC’s work in program evaluation and performance measures as a significant factor in the award.

**2000** ➤ JLARC receives the year’s LPES study impact award for a report on DEQ’s and VDH’s activities to identify water toxic problems and notify the public.

**2001** ➤ LPES recognizes JLARC for “excellence in research methods” for a study of the costs of raising children.

**2001** ➤ JLARC receives the year’s LPES study impact award for a report on Virginia’s Medicaid reimbursements to nursing facilities.

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■ Indicates JLARC staff with primary assignment to this publication.



Above: The JLARC staff.

Left: The Governor and two JLARC staffers display awards the staff earned for participation in the most recent Charitable

Virginia Campaign. JLARC was one of only a handful of State agencies to receive CVC's Platinum Award. About 80 percent of staff participated, with an average contribution of \$400 and total staff giving of well over \$8,000.



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