

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

**Acclimation of Virginia's  
Foreign-Born Population**

**REPORT OF THE  
JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**

# **Acclimation of Virginia's Foreign-Born Population**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 9**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2004**

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## Preface

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House Joint Resolution 604 of the 2003 General Assembly directed the Joint Legislative Audit and Review Commission (JLARC) to study the acclimation of the Commonwealth's ethnically diverse population. Between 1990 and 2000, Virginia experienced a substantial increase in the number of its foreign-born residents, far outstripping previous periods of growth. As of the 2000 Census, there were over 570,000 foreign-born residents in Virginia, representing eight percent of the population. While two-thirds of Virginia's foreign-born population reside in Northern Virginia, there have been a growing number of foreign-born people settling in other portions of the State in recent years.

Overall, this review found that Virginia's foreign-born population is an integral part of the Virginia economy. Constituting approximately 12 percent of the State's civilian labor force and 44 percent of Virginia's labor force growth over the last decade, Virginia's foreign-born participate in every major sector of the State's economy. Their labor force participation helps keep the State competitive in industries such as agriculture and poultry processing, supports tourism through substantial participation in the hospitality industry, and supports the State's growth in high tech fields, among others.

Despite this positive impact, the study also identified some service needs and costs specifically associated with the foreign-born population. JLARC staff found that there are three primary needs that are unique to or disproportionately experienced by the foreign-born population: access to opportunities to improve English proficiency, access to services and information in their native languages, and access to affordable health care. While the foreign-born, in general, do not appear to use major governmental services at disproportionate rates, the State and local governments do incur costs in attempting to meet the unique needs of this population, particularly for English language instruction and interpretation services. Further, in the health care area, use of services by the foreign-born, particularly at local health departments, appears to be increasing, and in some cases is creating a strain on local service delivery.

Throughout this study JLARC staff have identified activities that individual State agencies and local governments are undertaking to help immigrants in their adjustment to their new communities. However, overall the approaches taken have led to inefficiencies and added costs. This report identifies a number of possible options for more effectively and efficiently addressing the needs of Virginia's foreign-born population, as well as assisting local governments in their efforts.

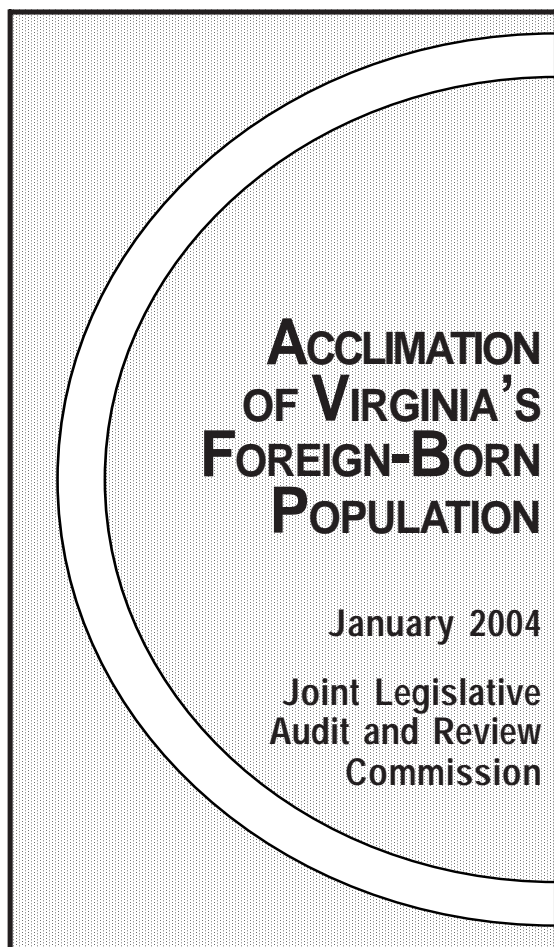
On behalf of the JLARC staff, I would like to thank the ethnic community leaders, non-profit organizations, and local and State government staffs for their assistance in our review.



Philip A. Leone  
Director

January 12, 2004

# JLARC Report Summary



**H**ouse Joint Resolution (HJR) 604 of the 2003 General Assembly directed the Joint Legislative Audit and Review Commission (JLARC) to study the acclimation of Virginia's ethnically diverse population. This report discusses Virginia's foreign-born population and addresses the following questions that are detailed in HJR 604.

1. What federal government policies and programs affect the immigrant populations in the Commonwealth and have an impact on State or local initiatives?
2. What are the potential needs for State, regional, and local government services to the immigrant populations in the

Commonwealth that are unique or typically exceed those of the general population?

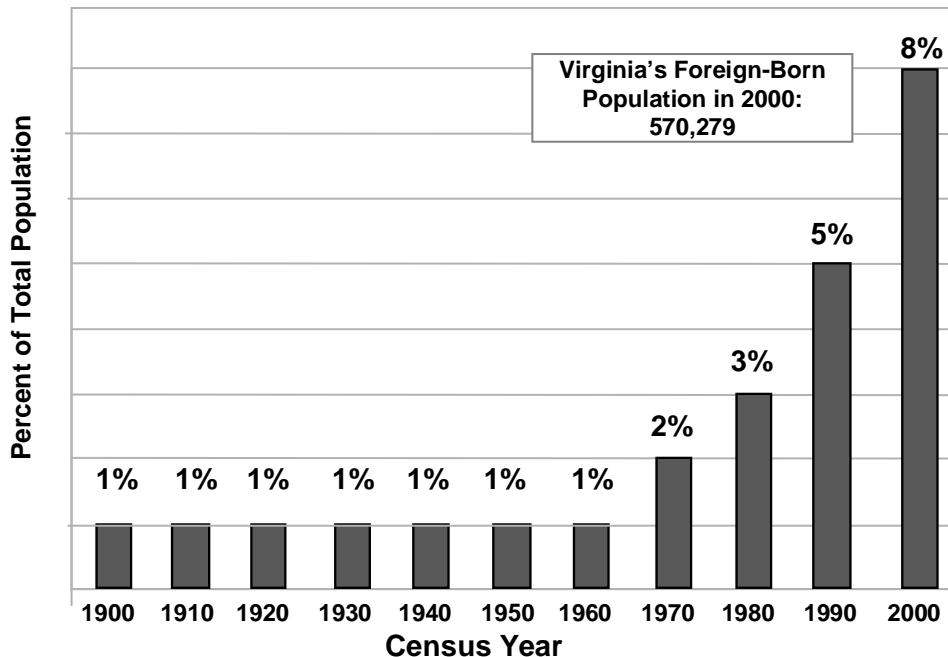
3. What are the benefits and costs of the major immigrant populations to the Commonwealth and its economy?
4. What options are available for local, regional, and State governments to facilitate acclimation of the immigrant populations into the Commonwealth's economy and social fabric while preserving ethnic and cultural identity?

## **Virginia's Foreign-Born Population**

Between 1990 and 2000, Virginia experienced a substantial increase in the number of its foreign-born residents, far outstripping previous periods of growth. As of the 2000 Census, there were over 570,000 foreign-born residents in Virginia, representing eight percent of the population. The majority of Virginia's foreign-born population are from Asian and Latin American countries and almost half have arrived since 1990. Located predominantly in the urban areas of the State, 68 percent of Virginia's foreign-born population reside in Northern Virginia. In recent years, however, there have been a growing number of foreign-born people settling in other portions of the State. For example, Harrisonburg's foreign-born population increased 404 percent between 1990 and 2000, from 740 to 3,733.

The foreign-born include naturalized citizens who benefit from the same services and rights as native-born citizens, legal permanent residents (individuals lawfully residing permanently in the United States who are not currently citizens), and refugees and asylees (those individuals who are legally allowed to reside in the United States because they are unwilling or unable to return to their native countries for fear of persecution). In

## Virginia's Foreign-Born Population as a Percent of Total State Population, from 1900 to 2000



Note: The foreign-born population for 1950-2000 is based on sample data presented by the U.S. Census Bureau.

addition, some of Virginia's foreign-born residents are non-immigrants who seek temporary entry into the United States for a specific purpose such as education or employment. There are also an unknown number of undocumented immigrants who are unlawfully present in the United States.

### **What federal government policies and programs affect the immigrant populations in the Commonwealth and have an impact on State or local initiatives?**

The federal government has the exclusive authority for setting U.S. immigration policy. In addition, the federal government is responsible for setting eligibility requirements for federally funded programs. Two federal laws in particular have had a significant impact on the acclimation of Virginia's immigrants – Title VI of the Civil Rights Act of 1964 and the 1996 Personal Responsibility





and Work Opportunity Reconciliation Act.

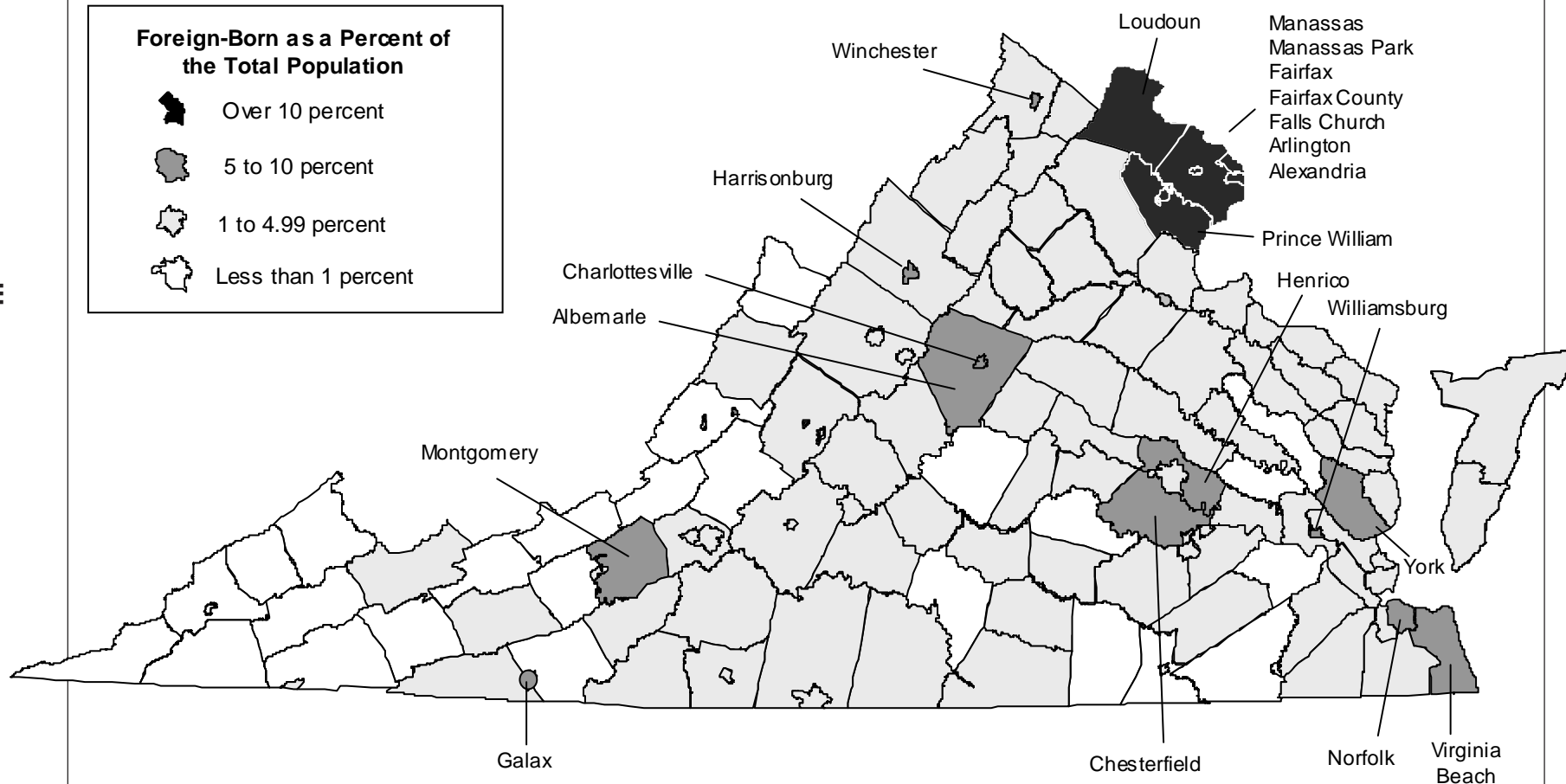
Title VI of the Civil Rights Act prohibits discrimination on the basis of national origin. This provision has been interpreted to require equal access to information and services for non-English speaking individuals. Title VI has substantial implications for both State and local initiatives. For example, if the U.S. Department of Justice finds a state or local agency has failed to comply with Title VI and the matter cannot be resolved informally, compliance could be enforced through the termination of federal assistance.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). PRWORA limited immigrants' access to public benefits. In particular, the law limited the eligibility of non-citizens for the Temporary Assistance for Needy Families (TANF) program, the

## Percent of Population in Virginia Localities that Is Foreign-Born 2000 Census

### Foreign-Born as a Percent of the Total Population

-  Over 10 percent
-  5 to 10 percent
-  1 to 4.99 percent
-  Less than 1 percent



Food Stamps program, the Supplemental Security Income program, the Medicaid program, and the State Child Health Insurance Program (SCHIP). The law drew new delineations between “qualified” versus “non-qualified” immigrants and “pre-enactment” versus “post-enactment” immigrants. In some instances, states were allowed to use their own funds to create substitute programs for immigrants whose access to federal benefits was limited by the law. However, in large measure Virginia followed the basic provisions of the Act and did not create State-funded initiatives.

**What are the potential needs for State, regional, and local government services to the immigrant populations in the Commonwealth that are unique or typically exceed those of the general population?**

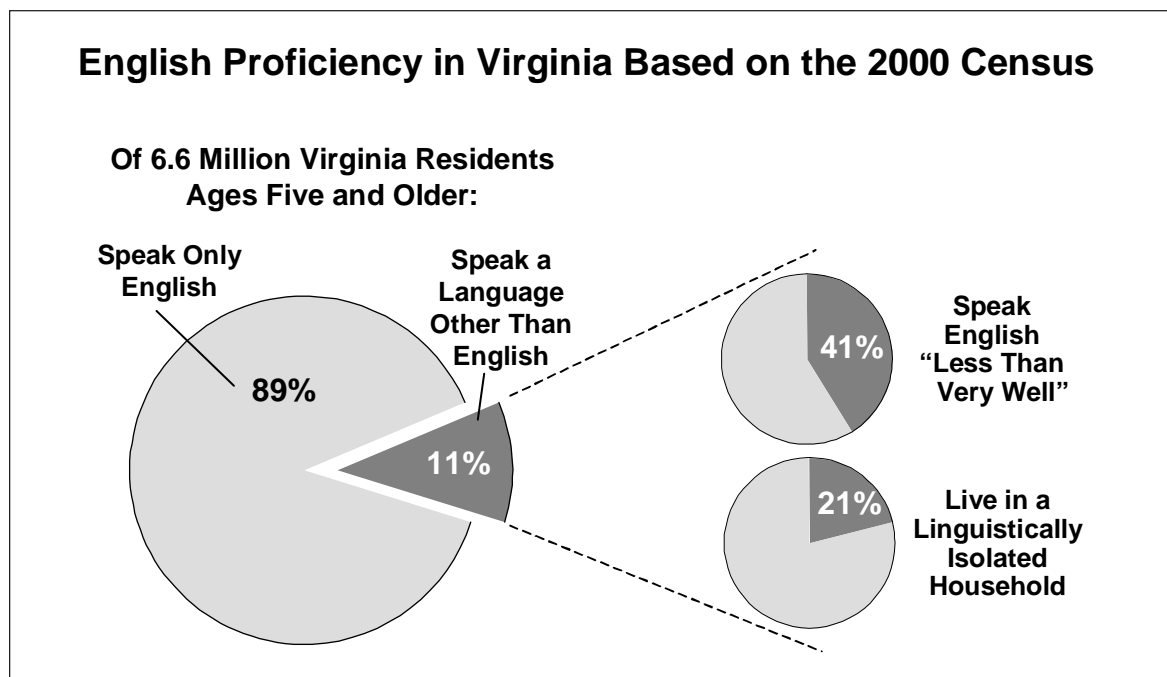
House Joint Resolution 604 asked JLARC staff to examine the unique needs of the State’s foreign-born residents, as compared to the general population. Based on interviews with immigrant community leaders, non-profit service providers, and local government agencies, JLARC staff

found that there are three primary needs that are unique to, or disproportionately experienced by, the foreign-born population:

- access to opportunities to improve English proficiency,
- access to services and information in their native languages, and
- access to affordable health care.

**Language Barriers.** Among service providers and immigrants alike, the most commonly cited challenge many foreign-born residents face in becoming fully acclimated is a limited command of the English language. According to 2000 Census data, 11 percent of Virginia residents over the age of five speak a primary language other than English. Forty-one percent of this population speak English “less than very well” and 21 percent live in “linguistically isolated households,” which are households in which “no member 14 years old and over speaks only English or...speaks English ‘very well’.”

While foreign-born or non-English speaking children have access to opportunities to improve their language skills through





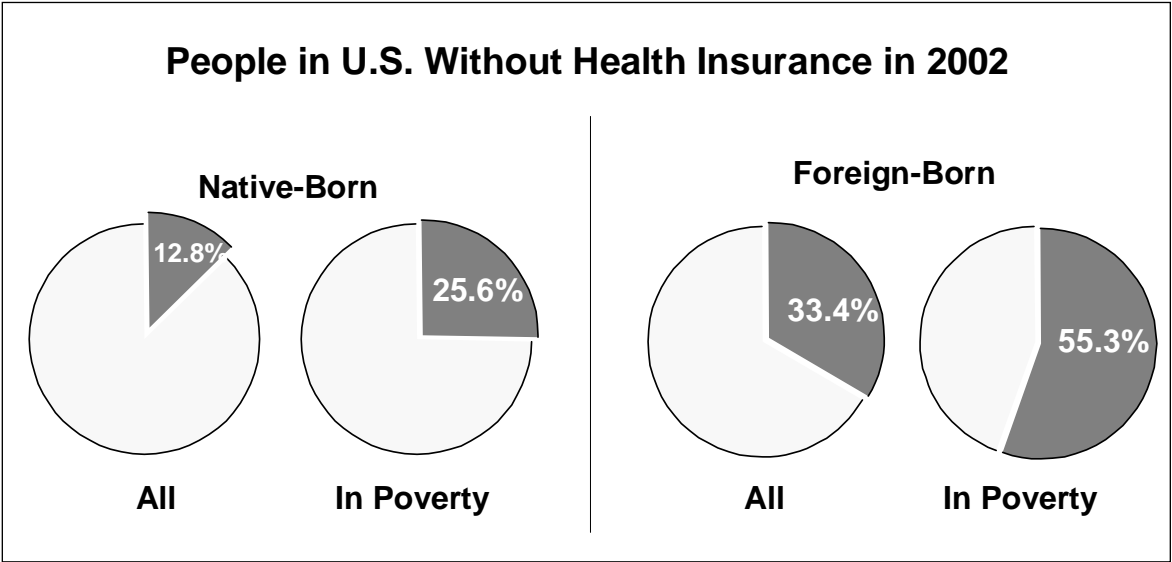
their K-12 curricula, many adults reportedly face barriers in accessing English classes. These barriers include limited availability of classes in some areas of the State, lack of time to attend these classes because of the need to work multiple jobs, a lack of affordable childcare services to allow parents to attend classes, and a lack of transportation. Given these constraints, as well as federal law regarding language access, accommodations are necessary to ensure that these residents have equal access to needed State and local resources, despite their limited English skills.

**Access to Affordable Health Care.** According to Census Bureau data, foreign-born persons are more than twice as likely to be without health insurance as native-born persons. The Census Bureau's Current Population Survey data for March 2002 indicate that, nationally, 33 percent of foreign-born residents are not covered by either private or government health insurance, compared to 13 percent of native-born residents. Of those living in poverty, 26 percent of native-born residents do not have health insurance, while 55 percent of foreign-born residents face the same challenge.

The need for access to affordable health care is particularly salient for more recent immigrants. Recent immigrants are more likely to be poor and employed in jobs that do not offer health insurance benefits. Further, they do not have access to Medicaid and other public benefits programs, because federal law bars immigrants from accessing major federal benefits programs for the first five years of their residence. Various other socioeconomic conditions also create unique challenges for the foreign-born. These include lower levels of educational attainment and higher poverty rates for some segments of this population.

**What are the benefits and costs of the major immigrant populations to the Commonwealth and its economy?**

Review of available data shows that Virginia's foreign-born population is an integral part of the Virginia economy. Constituting approximately 12 percent of the State's civilian labor force and 44 percent of Virginia's labor force growth over the last decade, the Virginia foreign-born participate in every major sector of the State's economy. They play a particularly significant role in the hospitality/food services and construction



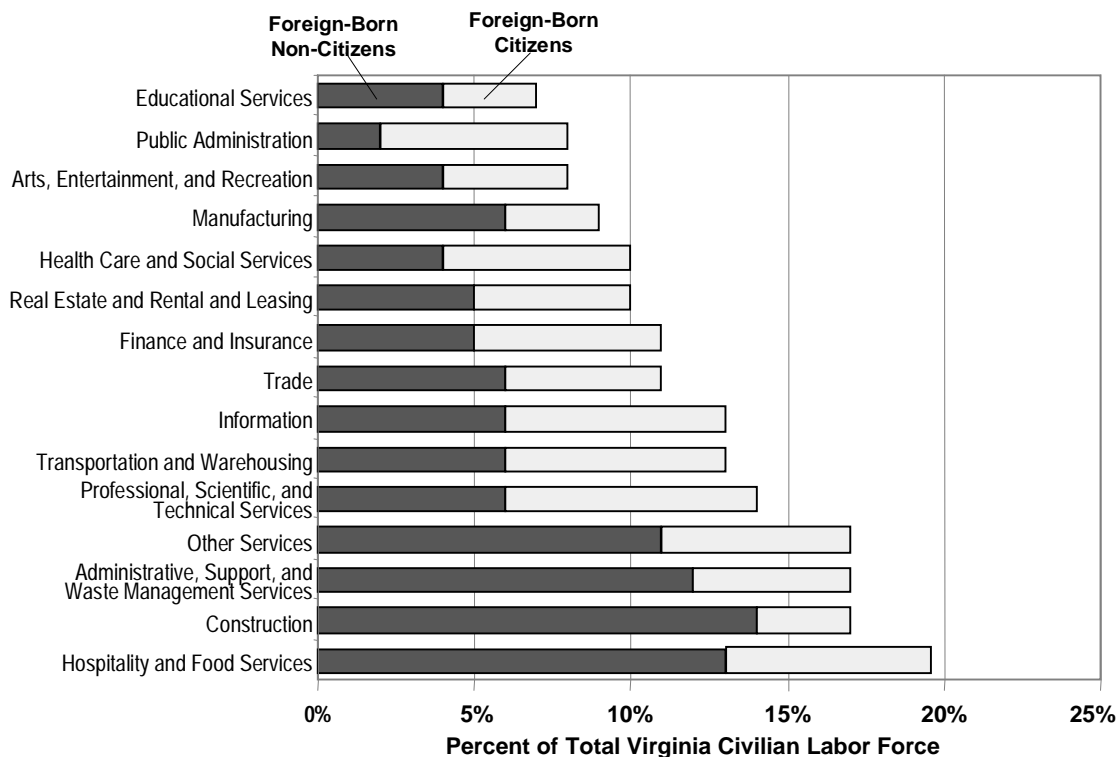
industries, accounting for 19 percent and 17 percent of the workers in these industries, respectively. In addition, the foreign-born play a key role in the industries of agriculture, manufacturing – particularly poultry processing – and information technology. Many immigrants are also members of the U.S. armed forces stationed in military installations located in Virginia. Department of Defense data indicate that the foreign-born represent approximately five percent of the total active duty armed forces. Census data indicate that the foreign-born represent approximately 6.5 percent of Virginia active duty armed forces.

In addition to the benefits the State derives from the foreign-born population, there are costs associated with this population. These costs can be considered within two categories: those costs that are unique to

this population and those costs that are based on a disproportionate use of services by the foreign-born. Unique costs include those costs associated with English language training within the primary and secondary education curricula for limited English proficient children, those costs associated with adult English-as-a-Second-Language (ESL) programs, and those costs associated with the interpretation and translation of documents.

These unique costs can be substantial, particularly for local governments. For example, the Loudoun County Health Department reported spending approximately \$52,000 to \$54,000 per year on interpreter and translator services for its clients. Arlington County's total K-12 ESL program cost for FY 2002 was approximately \$14 million, with \$1 million coming from the State

### Foreign-Born Labor Force Participation in Virginia, 2000



Note: Data on Agriculture, Mining, Utilities, and Management sectors do not appear to be fully representative and are not included.

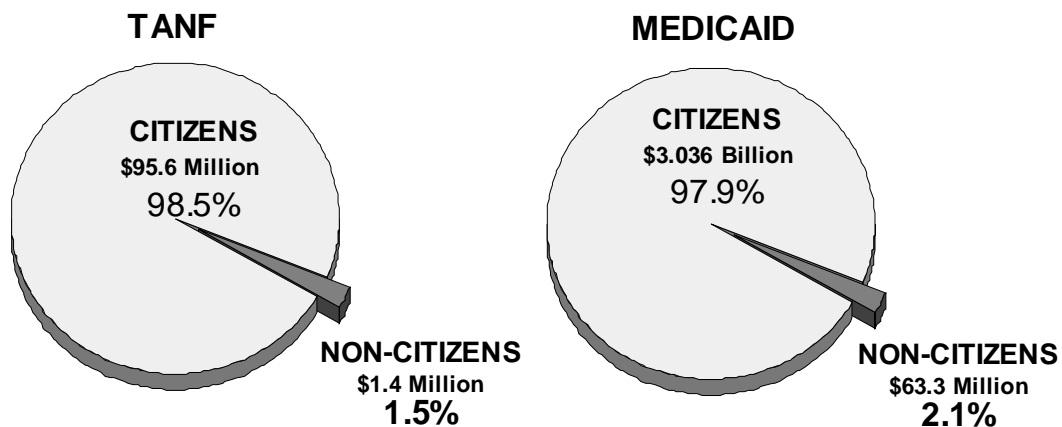
and federal governments. Additionally, the Fairfax County school system reported that its total K-12 ESL budget increased from \$24.3 million in FY 1998 to \$54.1 million in FY 2004 (a 123 percent increase). The federal and State governments provided only \$4.5 million of the Fairfax ESL budget in FY 2003.

In contrast, costs associated with disproportionate usage of services by the foreign-born appear minor. In general, JLARC staff found that the foreign-born do not use State services at a disproportionate rate. Usage levels, in fact, are lower than might be expected, in part due to federal limitations on program participation. For example, non-citizens' usage of major social services benefit programs is negligible. It is estimated that payments for non-citizen TANF (Temporary Assistance for Needy Families) cases were \$1.4 million out of a total \$97 million for FY 2003. Additionally, non-citizen utilization of Medicaid and the Family Access to Medical Insurance Security (FAMIS) Program is minimal. Data provided by DMAS indicated that payments made to non-citizen foreign-born residents comprised only two percent of the total Medicaid payments made in 2002.

JLARC staff also found that the State correctional system does not appear disproportionately impacted by the foreign-born. Based on data from the Virginia Department of Corrections (DOC), the foreign-born represented approximately ten percent of the inmate population in State facilities as of June 30, 2003. While these data indicate that the foreign-born are over-represented in the correctional system, the data also indicate that the foreign-born have substantially lower average prison sentences than native-born inmates. Different average sentence lengths impact correctional costs. Therefore, while foreign-born inmates account for ten percent of the total number of inmates, they account for only six percent of the costs.

While the foreign-born, in general, do not appear to use major State services at disproportionate rates, some localities are experiencing substantial increased usage of their health services by the foreign-born. The greater likelihood that Virginia's foreign-born residents will be without health insurance means that they are more likely to use the services provided by local health departments, charity care services of local hospi-

### Payments on Behalf of Citizens and Non-Citizens, FY 2003



Note: "Citizens" includes both native-born and foreign-born naturalized citizens.

tals, and local federally qualified health centers. For example, Chesterfield County indicated that 45 percent of its maternity patients and 24 percent of its family planning patients in March 2003 were non-English speaking. Additionally, the Alexandria health department staff reported that more than half of the department's expenses are for services to the foreign-born.

**What options are available for local, regional, and State governments to facilitate acclimation of the immigrant populations into the Commonwealth's economy and social fabric while preserving ethnic and cultural identity?**

State and local government approaches to acclimating the foreign-born vary from comprehensive to informal. Some agencies and localities have established innovative programs to assist foreign-born individuals (see examples, next page). Others appear to do very little to support this population. Overall, the current approach is inefficient and does not meet the needs of the foreign-born population.

JLARC staff have identified several options available to local and State governments to facilitate the acclimation of the immigrant populations. First, the State, in coordination with local governments, needs to develop a comprehensive plan for addressing access to services by Virginia's limited English proficient (LEP) residents. It appears that this plan could best be developed through a secretarial-level committee, overseen by the Secretary of Health and Human Resources. Components of this plan should include:

- assessment of each agency's need for LEP resources,
- identification of current resources available to assist the State in its efforts,
- identification of cost-effective ways of providing high quality interpretation and written translations, and

- development of hiring policies conducive to addressing language access issues.

In addition to State-level planning, the State may wish to provide non-financial technical assistance for local programs. For example, case study data from ESL providers indicate that local governments and non-profit organizations are unable to meet the demand for adult ESL classes. By increasing technical assistance to alternative ESL providers through Virginia Commonwealth University's Adult Learning Resource Center and by encouraging partnerships between the private sector and adult education programs, the State may be able to help meet the needs of both the localities and their foreign-born populations.

The State could also provide information on "best practices" to school divisions with K-12 ESL programs. Following the initial results of the yearly assessments for the No Child Left Behind Act, it is clear that school divisions will need to focus additional attention toward improving the academic performance of their LEP students. The State could play an increased role by collecting data and identifying best practices for improving the English proficiency of this student population.

In addition, there are other activities that could assist with acclimating Virginia's foreign-born population. For example, it appears that additional outreach activities by State and local government agencies would assist immigrants in learning about available resources and help in orienting them to the American "system." The State could also help its non-citizen residents better understand and navigate the federal naturalization process, enabling more residents to become fully participating citizens of the Commonwealth. Moreover, local agencies have expressed a need for State-sponsored regional forums that could be used to better coordinate local efforts aimed at addressing the needs of immigrants. The State could

also help by seeking out additional federal funding that could be used to assist Virginia's foreign-born residents. Finally, a review of

how Virginia's new "legal presence" law is being implemented may be warranted.

### **Selected "Best Practices" of Programs Serving the Foreign-Born Population**

The Alexandria Commonwealth's Attorney's office opened a "storefront" office, which is staffed with a full-time prosecutor and an outreach specialist. The storefront addresses crime through street-level cooperation and teamwork between police, prosecutors, and the Hispanic community in which it is located. The staff at the storefront speak Spanish and the office maintains convenient hours for people with long workdays. A goal of the office is to stop nuisance crimes before they become serious crime and to educate immigrants about, and build their trust in, the criminal justice system.

\* \* \*

The Chesterfield Limited English Speaking Program (LESP) is a coalition of county agencies and private, faith-based, and civic organizations that facilitates the provision of neighborhood-based services for limited English speakers. For example, the coalition has created a central location for county residents to enroll in local public and private adult ESL programs. The program is coordinated by the Chesterfield Extension Office and Refugee and Immigration Services.

\* \* \*

The Northern Virginia Area Health Education Center (NoVa AHEC), through its health care interpreter service, provides interpreters competent in 20 of the most commonly spoken languages in the region. These interpreters have completed a 40-hour course in health care interpretation, which is widely considered the national standard for the training of health care interpreters. Interpreters trained by the NoVa AHEC are used by various governmental and nongovernmental entities in Northern Virginia. The NoVa AHEC also works with health care providers to train their bilingual staff in medical interpretation.

\* \* \*

The Virginia Employment Commission has developed an LEP policy in response to the Title VI guidance issued by the U.S. Department of Labor. The policy identifies the roles of central and local office staff in assessing the need for interpreter services and in identifying the appropriate mix of resources for their clientele. It has designated a "language access coordinator" to maintain an inventory of language access services available to agency personnel. Further, it has developed a web page on its agency intranet which provides information to its employees on how to access needed language services, such as a telephone interpretation service.

\* \* \*

Through a collaboration of ethnic and community-based organizations, Santa Clara County, California developed a guidebook for immigrants titled "Immigrant Rights, Responsibilities, and Resources in Santa Clara County." This guidebook is issued in 11 different languages and covers a wide range of topics, including: "How Does Local Government Work?," Housing and Tenant Rights, Transportation, Child Abuse and Discipline in the United States, "What Happens When You Are Arrested?," Finding a Lawyer, and Starting a Small Business. This document is available through the Internet, but is also widely distributed through community groups and service providers.

\* \* \*

A Missouri university offers a free, online citizenship-preparation course that prepares non-U.S. citizens for the federal naturalization process. The course, which may be taken at any time and at any pace, offers lessons in American history and government and provides a sample test using questions found on the actual citizenship exam. Information is also available on the eligibility requirements for U.S. citizenship.

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# Table of Contents

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	<u>Page</u>
<b>I. Introduction .....</b>	<b>1</b>
The Foreign-Born Population .....	2
Governmental Roles Regarding Immigrants.....	6
Trends in the Foreign-Born Population in Virginia.....	8
JLARC Review .....	18
 <b>II. What Federal Government Policies and Programs Affect the Immigrant Populations in the Commonwealth and Have an Impact on State or Local Initiatives? .....</b>	 <b>23</b>
Federal Government Sets Immigration and Naturalization Policies .....	23
Federal Law Requires Equal Access to Information and Services for Non-English Speakers .....	26
Federal Law and Case Law Impact Foreign-Born Students' Access to Public Education.....	27
1996 Welfare Reform Limited Immigrants' Access to Public Benefits .....	29
 <b>III. What Are the Potential Needs for State, Regional, and Local Government Services to the Immigrant Populations in the Commonwealth that Are Unique or Typically Exceed Those of the General Population?.....</b>	 <b>33</b>
Issues Raised by Ethnic Community Groups and Non-Profit Service Providers .....	33
Primary Unique Needs of the Foreign-Born .....	35
 <b>IV. What Are the Benefits and Costs of the Major Immigrant Populations to the Commonwealth and Its Economy? .....</b>	 <b>51</b>
Foreign-Born Participation in Virginia's Economy .....	51
Costs Associated with the Foreign-Born Population.....	57
 <b>V. What Options Are Available for Local, Regional, and State Governments to Facilitate Acclimation of the Immigrant Populations Into the Commonwealth's Economy and Social Fabric While Preserving Ethnic and Cultural Identity? .....</b>	 <b>75</b>
Meeting the Needs of the State's Limited English Proficient Population .....	75
Additional Activities that Could Assist with Acclimating Virginia's Foreign-Born Population.....	89
 <b>APPENDIXES.....</b>	 <b>103</b>

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## I. Introduction

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Between 1990 and 2000, Virginia experienced a substantial increase in the number of its foreign-born residents. As of the 2000 Census, there were over 570,000 foreign-born residents in Virginia, representing eight percent of the population. The majority of foreign-born residents live in Northern Virginia, although an increasing number are moving to other parts of the State. In fact, some of the localities with the largest percentage increase in foreign-born residents are located in the Shenandoah Valley and other relatively rural parts of the State. Thus, while the increasing presence of foreign-born residents has previously been largely a Northern Virginia trend, it is now an emerging issue in other areas of the Commonwealth. House Joint Resolution 604 of the 2003 General Assembly requested JLARC to study the acclimation of the Commonwealth's foreign-born residents, as well as the benefits and costs associated with this population segment (Appendix A).

Much national attention regarding the foreign-born population has been focused on whether the presence of foreign-born residents is economically beneficial to the nation, individual states, and local communities. Over the years there have been a number of immigration studies that attempted to identify the net financial cost or benefit of immigrants, generally comparing the taxes paid to the cost of services used by immigrants. However, the outcomes of these studies depend heavily on the assumptions made about what factors should be included in the analysis.

For two primary reasons, JLARC staff have not attempted to develop a net financial cost or benefit of the immigrants residing in Virginia. First, much of the data that would be needed to accurately quantify financial impacts are not available. For example, the Department of Taxation does not collect data on the citizenship status of taxpayers. Second, and more importantly, while net impact studies may be relevant to the discussion of federal immigration policy, they do not appear relevant to the examination of state policies regarding immigrants, for the simple fact that states have no control over the number of immigrants who choose to live within their borders.

Instead, JLARC staff have assessed the participation of the foreign-born in Virginia's labor force as an indication of their current contribution to Virginia's economy. Other measures that may point to the foreign-born population's overall financial well-being, compared to the native-born, are examined as well. These measures help identify the extent to which the foreign-born may need a different level of services in comparison to the native-born population.

While states do not control immigration policy, they do retain some control over what services are provided to immigrants and how they choose to assist immigrants in their acclimation into the social, political, and economic structures of the state and local communities. Therefore, the report also explores the services available to and used by immigrants in Virginia.



This chapter of the report defines the population examined in this study, discusses the roles of each level of government with regard to immigrants, identifies major governmental services and the extent to which Virginia's immigrants are eligible for these services, and presents demographic information concerning the foreign-born population in Virginia. Subsequent chapters address the foreign-born population's participation in Virginia's workforce, the unique needs of Virginia's foreign-born, particularly those who are not yet citizens, and measures the State could take to help its foreign-born residents in acclimating to Virginia. This report is intended as one step in exploring the contributions and service needs of Virginia's foreign-born residents.

## **THE FOREIGN-BORN POPULATION**

The term "foreign-born" refers to people who were born outside of the United States to parents who are both non-U.S. citizens. Generally, a person who is born in the United States or its territories is automatically granted U.S. citizenship, and is considered "native-born." (There is one exception: children of foreign heads of state or foreign diplomats who are born in the United States are not granted U.S. citizenship.) Because U.S. citizenship is automatically granted to those born on U.S. soil, aside from the aforementioned exception, there are likely thousands of children who are citizens, but whose parents are not. In some cases, these children may have needs similar to the foreign-born, such as the need for English language instruction. However, since statistical information on the children of immigrants is not readily available, these children are not included as a separate study group, apart from other native-born persons, in this report.

There are several categories of foreign-born persons based on citizenship status and legal presence in the United States. It is important to understand these categories of the foreign-born before describing trends associated with these populations. In many cases, eligibility for governmental services varies according to these classifications. The five major classes of foreign-born individuals are: naturalized citizens, legal permanent residents, refugees and asylees, non-immigrants, and undocumented immigrants. Table 1 provides summary information on the legal status and citizenship status of these five types of foreign-born individuals. Appendix B includes a glossary of immigration-related terms.

### **Naturalized Citizens**

Individuals who legally immigrate to the United States may apply for U.S. citizenship through the naturalization process. A naturalized citizen enjoys the same services and rights as a native-born citizen (except the opportunity to become the U.S. President). The Bureau of Citizenship and Immigration Services (BCIS), formerly the Immigration and Naturalization Service, considers individuals who



**Table 1**  
**Descriptive Terms for Virginians**  
**by Birthplace, Citizenship, and Legal Status**

<b>Term Used in Report</b>	<b>Native-Born or Foreign-Born</b>	<b>Citizen or Non-Citizen</b>	<b>Legally or Not Legally Present</b>
Native-Born Citizens	Native-Born	Citizen	Legal
Naturalized Citizens	Foreign-Born	Citizen	Legal
Legal Permanent Residents (LPR)	Foreign-Born	Non-Citizen	Legal
Refugees and Asylees	Foreign-Born	Non-Citizen	Legal
Non-Immigrants	Foreign-Born	Non-Citizen	Legal
Undocumented Immigrants	Foreign-Born	Non-Citizen	Not Legal

Source: JLARC staff analysis.

are naturalized to be citizens and no longer refers to them as immigrants or aliens. According to the 2000 Census, 232,767 Virginia residents (41percent of foreign-born residents) are naturalized citizens. The number of Virginians who become naturalized citizens varies each year, but during the past three years has ranged from approximately 7,400 to 12,500 annually.

Federal law requires that immigrants be lawfully present in the United States for five years before becoming eligible for citizenship, in addition to fulfilling other requirements. Exhibit 1 summarizes the eligibility criteria for naturalization.

### **Legal Permanent Residents**

Foreign-born individuals who are not citizens are referred to by BCIS as aliens. Aliens lawfully residing permanently in the country are legal permanent residents (LPRs). These residents are not allowed to vote or to have a U.S. passport, but are eligible for some government benefits. An estimate is not available for the total number of LPRs currently in Virginia. BCIS only estimates the number of legal non-citizen aliens, which includes LPRs as well as other legal immigrants, such as asylees, refugees, and non-immigrants. In 2000, a total of 234,512 persons resided in Virginia as legal non-citizen aliens. Table 2 provides a breakdown of the number of LPRs and other legally-present aliens who entered Virginia in each of the past five years.

Immigrants may apply to be legal permanent residents from within the United States (adjusting to LPR status) or from another country before arriving. To obtain LPR status, an immigrant must have a sponsor who submits a petition to the

<b>Exhibit 1</b> <b>Eligibility Criteria for Naturalization</b>	
<b>Age</b>	<ul style="list-style-type: none"> <li>• 18 years old</li> </ul>
<b>Lawful Admittance</b>	<ul style="list-style-type: none"> <li>• Proof of legal permanent residence in the United States</li> </ul>
<b>Residency</b>	<ul style="list-style-type: none"> <li>• Continuous residence for at least five years prior to filing with no single absence from the United States of more than one year*</li> <li>• Physically present in United States for at least 30 months out of the previous five years</li> <li>• Residence within a state or district for at least three months</li> </ul>
<b>Good Moral Character for Five Years</b>	<ul style="list-style-type: none"> <li>• Permanently barred if ever convicted of murder or aggravated felony</li> <li>• Barred if, in the last five years, the person: <ul style="list-style-type: none"> <li>• was convicted of 1+ crimes of moral turpitude</li> <li>• was convicted of 2+ offenses with a total sentence of 5+ years</li> <li>• was convicted of any controlled substance law (except for single offense of simple marijuana possession)</li> <li>• was confined to a penal institution for an aggregate of 180+ days</li> <li>• was convicted of 2+ gambling offenses</li> <li>• has current or past income that was principally earned from illegal gambling</li> <li>• is or has been involved in prostitution or commercialized vice</li> <li>• is or has been involved in smuggling illegal aliens into United States</li> <li>• is or has been a habitual drunkard</li> <li>• is practicing or has practiced polygamy</li> <li>• has willfully failed or refused to support dependents</li> <li>• has given false testimony, under oath, in order to receive a benefit under the Immigration and Nationality Act</li> </ul> </li> </ul>
<b>Attachment to the Constitution</b>	<ul style="list-style-type: none"> <li>• Must demonstrate support for the United States Constitution</li> </ul>
<b>Language</b>	<ul style="list-style-type: none"> <li>• Must be able to read, write, speak, and understand words in ordinary usage in English (some exemptions for age)</li> </ul>
<b>U.S. Government and History Knowledge</b>	<ul style="list-style-type: none"> <li>• Passage of civics test (some exemptions for age)</li> </ul>
<b>Favorable Disposition to the United States</b>	<ul style="list-style-type: none"> <li>• Oath of allegiance</li> </ul>
* 3 years for the spouse of a citizen Source: "A Guide to Naturalization," United States Department of Justice, Immigration and Naturalization Service.	

BCIS on the immigrant's behalf. Often a family member or employer submits the petition because the majority of immigrant visas issued are reserved for family members and for employees who have skills particularly needed by U.S. businesses. Visas are issued based on a preference system that was established by the Immigration Act of 1990. Depending on an immigrant's country of origin, it may be

<b>Table 2</b> <b>New Immigrants Whose Destination of Residence Is Virginia<sup>1</sup></b>				
Year	Legal Permanent Residents <sup>2</sup>	Refugees	Asylees <sup>3</sup>	Non-Immigrants <sup>4</sup>
2002	25,411	565	1,157	302,742
2001	26,876	1,787	1,277	338,932
2000	20,087	2,154	1,083	330,533
1999	15,144	2,132	1,060	292,129
1998	15,686	1,627	1,048	262,284

<sup>1</sup> The number of undocumented aliens arriving in Virginia each year is not available. The INS estimated the total number of undocumented aliens in Virginia was 55,000 in 1996 and 103,000 in 2000.

<sup>2</sup> Those counted include persons newly arriving in Virginia and those who already reside in Virginia that adjust their immigration status to LPR.

<sup>3</sup> Not all persons who file for asylum will receive it, but cases may take several months to resolve.

<sup>4</sup> Non-immigrants are aliens who seek temporary entry to the United States for a specific purpose. Over two-thirds of non-immigrants come to Virginia on short-term business trips or vacations.

Source: INS Statistical Yearbooks for 1998-2002, and DSS Office of Refugee Services.

several years before he or she is allowed to come to the United States as a legal permanent resident.

### **Refugees and Asylees**

Refugees and asylees are people who are legally allowed to reside in the United States because they are unwilling or unable to reside in their native countries for fear of persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group. The difference between refugees and asylees is the location of the person upon application for the status. Refugees are outside of the United States when they apply for refugee status. Asylees are already in the United States or at a port of entry when they apply. In 2000, 1,083 Virginia residents applied for asylum status and 837 petitions (77 percent) were granted. An additional 2,154 refugees moved to Virginia in 2000.

Refugees and asylees are not legal permanent residents but may apply for adjustment to LPR status after residing continuously in the United States for one year. In 2000, 942 Virginia refugees and asylees were granted LPR status.

### **Non-Immigrants**

Non-immigrants are aliens who seek temporary entry to the United States for a specific purpose. The alien must establish that he or she meets the qualifications of the non-immigrant category sought and meets various standards for admissibility. In most cases, an alien must provide proof of non-immigrant intent, such as showing proof of a permanent residence abroad. Non-immigrant classifications include: foreign government officials, visitors for business and for pleasure, aliens in transit through the United States, investors, students, international representa-

tives, temporary workers, exchange visitors, and others. The BCIS reported that over 330,000 non-immigrants arrived in Virginia in 2000. Over two-thirds of non-immigrants come here on short-term business trips or vacations.

### **Undocumented Immigrants**

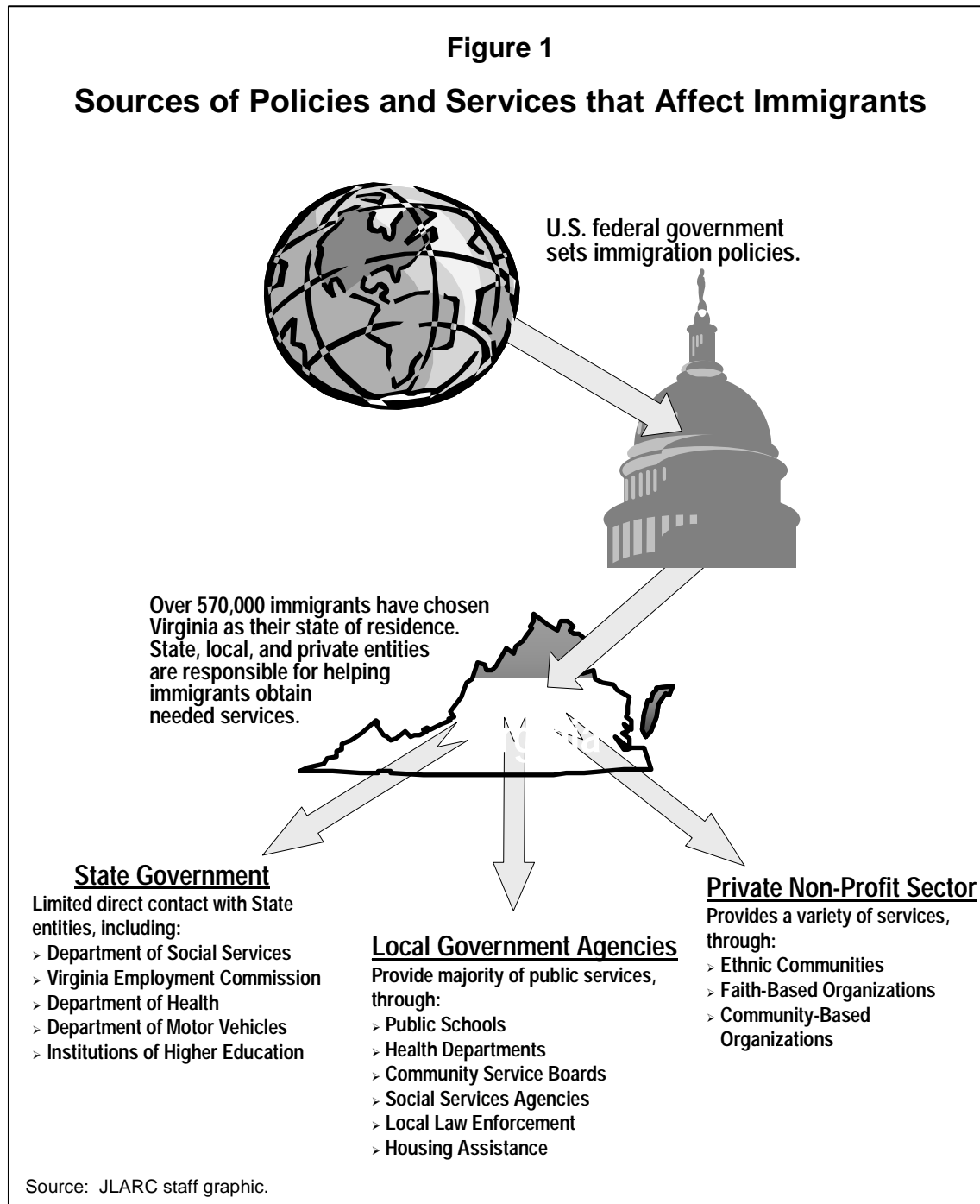
Another category of non-citizen is an undocumented immigrant, or undocumented alien. These individuals are unlawfully present in the United States. Included as undocumented immigrants are those persons who enter the United States without inspection and those who overstay their visas. These individuals have not gained legal permanent residence or temporary protection from removal and may be deported if discovered by BCIS. The BCIS estimated that there were approximately 103,000 undocumented immigrants residing in Virginia in 2000.

## **GOVERNMENTAL ROLES REGARDING IMMIGRANTS**

In literature about U.S. immigration issues, a distinction is often made between “immigration policy” and “immigrant policies.” Immigration policy refers to the laws that establish who will be granted entry to the United States. This responsibility rests solely with the federal government. In contrast, immigrant policies refer to the ways in which governments choose to assist foreign-born residents in acclimating to their new home, in part through the services made available to that population. Immigrant policies are a shared responsibility between all levels of government. The private sector, through non-profit service providers, also shares in the task of providing needed services to this population. Figure 1 broadly illustrates the responsibilities of public and private entities in providing assistance to Virginia’s foreign-born population.

**Federal Government.** In 1952, the federal government first codified comprehensive immigration law with the passage of the Immigration and Nationality Act (INA). The INA, which established a ceiling for the number of visas that could be issued each year, remains the basic law for immigration in the United States. Since then, Congress has passed several pieces of legislation that further define immigration policy. In particular, the Immigration Act of 1990 created the current preference system for entry into the United States and set the current immigration limits.

In addition to deciding who will be allowed to enter the United States, the federal government also sets parameters for immigrants’ access to major federally funded services. Eligibility for services varies based on an immigrant’s legal status. For example, naturalized citizens have access to services at the same level as native-born citizens. Legal permanent residents, refugees, and asylees have somewhat more limited access to services or may have to wait several years before becoming eligible for certain federal programs. Undocumented immigrants are ineligible for



most programs, particularly the primary “safety net” programs such as full-service Medicaid and TANF. These laws create a framework within which Virginia must operate its programs. Federal laws that impact service delivery at the State and local levels will be discussed in greater detail in Chapter II of the report.

**State Government.** States exercise no control over the flow of immigrants into the United States, but possess some control over the types of services they provide to immigrants. For example, while the federal government sets basic eligibility for programs such as Medicaid and TANF, states are allowed to serve non-federally eligible immigrants, provided they fund these services using state and other non-federal funds. In addition, states can establish their own eligibility rules for non-citizen residents for programs created at the state level. In Virginia, there are very few State laws regarding the foreign-born population. Most of these laws pertain to notification of the federal government of certain activities involving aliens. For example, the *Code of Virginia* requires that the BCIS be notified when a non-citizen alien is admitted to a public mental health facility or correctional institution. In addition, Virginia law states that the estate tax be calculated differently for immigrants, depending upon whether they were residing in Virginia at the time of their deaths.

Table 3 identifies some of the major governmental services provided in Virginia and broadly identifies immigrants' eligibility for these services. In most cases, these services are partially funded by the federal government, and therefore, are governed by federal eligibility requirements. (It should be noted that eligibility requirements are complex, and can vary by immigrant classification. For example, major public benefit programs impose substantially different eligibility requirements for refugees compared to legal permanent residents.)

**Local Governments.** Most direct provision of governmental services occurs at the local government level. Local governments are responsible for carrying out service provision in accordance with federal and state regulations. In addition, local governments may choose to provide locally-funded services to immigrants as needs are identified. It appears that, where policies aimed specifically at acclimating immigrants into U.S. society have been established, this has largely occurred at the local level.

## **TRENDS IN THE FOREIGN-BORN POPULATION IN VIRGINIA**

Between 1990 and 2000, the foreign-born population in Virginia increased 83 percent, from 311,809 to 570,279. The foreign-born population now accounts for eight percent of the State's total population. About two-thirds of Virginia's foreign-born reside in Northern Virginia. However, some localities in the Shenandoah Valley and southwest portions of the State have experienced the most rapid growth in their immigrant populations during the past decade.

In evaluating demographic data on the foreign-born, whether national, state, or local data, it is critical to keep in mind that the averages frequently mask wide variations within different states and counties. The national trends do not

**Table 3**  
**Immigrant Eligibility for Major Services Available in Virginia <sup>1</sup>**

KEY: ● = Eligible    ○ = Ineligible    ◐ = Partial Eligibility

Program	Description	Legally Present Immigrants	Immigrants Who are Not Legally Present
<b>Cash Assistance Programs</b>			
<b>Temporary Assistance for Needy Families (TANF):</b> Cash assistance and services to low-income families with dependent children			
<i>TANF Pre-enactment</i>	Immigrants arriving in the U.S. before the enactment of welfare reform, 8/22/96	●	○
<i>TANF Post-enactment</i>	Immigrants arriving in the U.S. after the enactment of welfare reform, 8/22/96	○ = First 5 years ● = After 5 years	○
<b>Supplemental Security Income (SSI)</b>	Cash assistance for seniors and blind or disabled persons	●	○
<b>General Relief Programs</b>	Locally designed program designed to provide assistance not obtainable through other means	●	○
<b>Health Programs</b>			
<b>Medicaid:</b> Medical assistance for low-income persons. Covers doctors' and clinic services, hospital care, family planning, and prescription drugs			
<i>Medicaid Pre-enactment</i>	Immigrants arriving in the U.S. before the enactment of welfare reform, 8/22/96	●	○
<i>Medicaid Post-enactment</i>	Immigrants arriving in the U.S. after the enactment of welfare reform, 8/22/96	○ = First 5 years ● = After 5 years and 40 work quarters	○
<i>Emergency Services Medicaid</i>	Medical assistance for conditions that could put a patient's health in serious jeopardy	●	●
<b>Family Access to Medical Insurance Security (FAMIS):</b> Health insurance for children in low-income families whose income makes them ineligible for Medicaid			
<i>FAMIS Pre-enactment</i>	Immigrants arriving in the U.S. before the enactment of welfare reform, 8/22/96	●	○
<i>FAMIS Post-enactment</i>	Immigrants arriving in the U.S. after the enactment of welfare reform, 8/22/96	○ = First 5 years ● = After 5 years	○
<b>Food Stamps:</b> Supplemental food assistance			
<i>Food Stamps Pre-enactment</i>	Immigrants arriving in the U.S. before the enactment of welfare reform, 8/22/96	●	○
<i>Food Stamps Post-enactment</i>	Immigrants arriving in the U.S. after the enactment of welfare reform, 8/22/96	○ = First 5 years, adults only ● = After 5 years	○
<b>Medicare</b>	Medical insurance for seniors and disabled persons	●	○
<b>Child Nutrition Programs</b>	School lunch and breakfast programs	●	●
<b>Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)</b>	Nutrition assistance and education for low-income pregnant women, new mothers, infants, and children under five years old at nutritional risk	●	●
<b>Other common nutrition assistance programs</b>	Includes food banks and "meals-on-wheels"	●	●
<b>Local Health Departments</b>	Immunizations, testing/treatment for communicable diseases, family planning, etc.	●	●
<b>Mental Health Institutions, Mental Retardation Training Centers, Community Services Boards</b>	Mental health and substance abuse treatment services	●	●
<b>State and Local Hospitalization</b>	Cooperative effort between State and local governments to provide health care services to persons who are indigent and ineligible for Medicaid	●	○

(Continues, next page)

Table 3 (continued)

Program	Description	Legally Present Immigrants	Immigrants Who are Not Legally Present
<b>Children's Programs</b>			
<b>Adoption Assistance</b>	Payments and services for children who cannot be returned to their families	●	● Only if covered under adoption agreements signed before 8/22/96
<b>Foster Care</b>	Care for children who cannot remain in their own homes due to safety issues	●	●
<b>Child Welfare Services</b>	Programs for families at risk of being unable to care for their children. Includes Head Start, community food and nutrition grants, and runaway and homeless youth programs	●	●
<b>TANF Funded Child Care</b>	Child care assistance to low-income families	●	○
<b>Employment-Related Programs</b>			
<b>Workforce Investment Act Programs</b>	Job training and placement services	●	● Only informational or self-help services
<b>Small Business Development Assistance</b>	Counseling and training to current and potential small business owners	●	●
<b>Small Business Financing Authority Loan Program</b>	Provides financing to small business owners that meet certain criteria	●	○
<b>Worker's Compensation</b>	Provides financial assistance to workers injured on the job	●	●
<b>Unemployment Insurance</b>	Periodic payments to unemployed workers	●	○
<b>Social Security</b>	Retirement and disability benefits	●	○
<b>Earned Income Tax Credit</b>	Tax credit for low-income workers	●	○
<b>Housing and Shelter</b>			
<b>Home Energy Programs</b>	Assists low-income households with the cost of heating/cooling homes	●	○
<b>Weatherization Assistance</b>	Assists low-income families with the cost of insulation or other energy-related repairs	●	●
<b>HUD Public Housing and Section 8 Programs</b>	Housing programs for low-income families	●	○
<b>Rural Housing Programs</b>	Housing programs in rural areas for low-income families	●	● Ineligible for farm labor housing
<b>Virginia Housing Development Assistance programs</b>	Loan assistance to home owners	●	○
<b>Public Education</b>			
<b>Admission to Public Institutions of Higher Education</b>	Postsecondary education	●	● <sup>2</sup>
<b>Federal Financial Aid for Higher Education</b>	Financial assistance to defray the cost of higher education, such as Pell grants	● If in U.S. on a more than temporary basis with intent to become an LPR or naturalized citizen	○
<b>K-12 Education</b>	Public primary and secondary education (Federal case law requires it for all children)	●	●
<b>Adult Education</b>	Programs offered through school divisions, including English as a Second Language programs	●	● Local practices may vary
<b>Other</b>			
<b>Disaster Assistance</b>	Food, shelter, cash assistance for victims of major disasters	●	● Eligible only for services provided in short-term, non-cash, or in-kind relief

<sup>1</sup> This table presents a broad overview of immigrant eligibility for public benefits. While many legally present immigrants are eligible for these programs, it should be noted that some categories of legally present immigrants are not. This varies by benefit as well as other factors. For example, refugees are eligible to receive Medicaid benefits for the first seven years after their arrival in the U.S. Most other legally present immigrants face an initial five-year bar from accessing these benefits.

<sup>2</sup> Undocumented immigrants and immigrants on temporary visas are not eligible for in-state tuition, due to residency requirements.

Source: JLARC staff graphic.



necessarily mirror the trends in Virginia. Similarly, the overall trends in Virginia fail to capture the rapid influx of immigrants into some localities.

### **Virginia Within the Context of National Immigration Levels**

U.S. Census data show that the number of foreign-born people residing in the United States grew by 11.3 million between 1990 and 2000. This population increase represents a 57.4 percent growth rate among the foreign-born, compared to an overall U.S. population increase of 13.2 percent. Excluding the foreign-born, the population increase would have been nine percent. In 2000, the foreign-born represented 11.1 percent of the U.S. population.

Traditionally, six states have accounted for most of the foreign-born population – California, New York, Texas, Florida, Illinois, and New Jersey – and likewise, most of the growth in this population. In 1990, these six states accounted for 75 percent of the foreign-born population. However, the decade of the 1990s saw a shift in settlement patterns of the foreign-born to an increasing number of states not traditionally known as immigrant destinations.

Virginia's foreign-born population places it neither among the fastest growing states, as measured by the percentage increase in the foreign-born population between 1990 and 2000, nor among those states traditionally considered immigrant destinations. However, at 570,279 people, Virginia's foreign-born population as measured by the 2000 Census was the 11<sup>th</sup> highest of all states. Table 4 shows Virginia's ranking relative to other states.

While Virginia's foreign-born population grew at a higher rate than the U.S. as a whole, the foreign-born population is still a smaller percentage of its population (8.1 percent), as compared to the U.S. average (11.1 percent). Further, although Virginia ranks 11<sup>th</sup> among states based on the size of its foreign-born population, there is a wide gap between those states ranked in the top six and Virginia. Virginia has about half the number of foreign-born people as sixth-ranked Illinois. Appendix C provides data on the number of foreign-born residents by state.

### **Virginia's Foreign-Born Population Has Grown Substantially**

During the last three decades, Virginia's foreign-born population has grown dramatically. As shown in Figure 2, foreign-born residents represented only one percent of the State's population for most of the past century. However, beginning in the 1970s, the foreign-born share of the population began to increase. The greatest increase occurred during the 1990s, when the number of foreign-born residents increased by 83 percent.

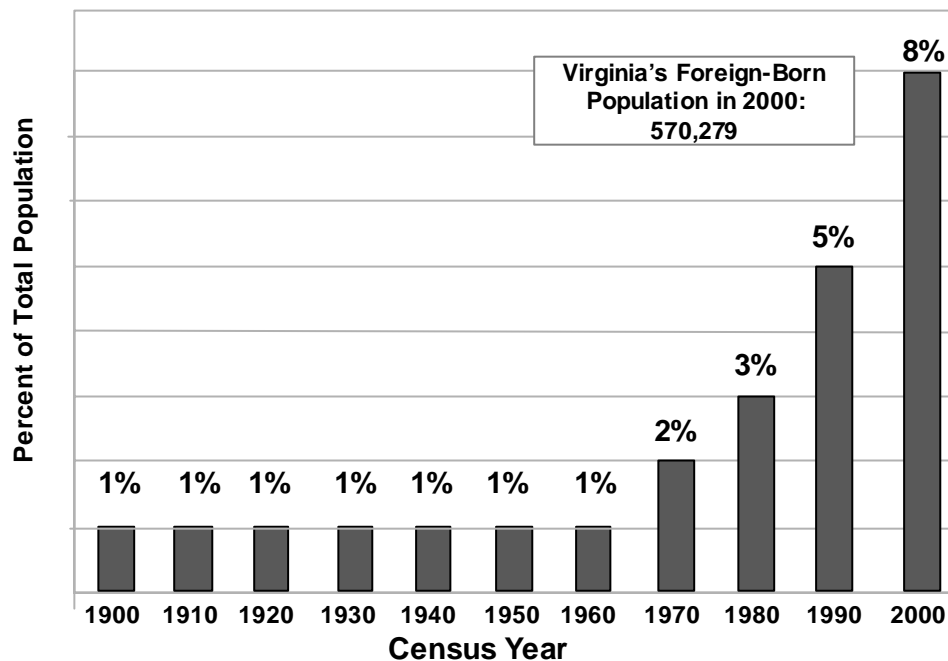
**Table 4**  
**Virginia's Ranking Among States**  
**Based on Size of Foreign-Born Population in 2000**

Category	Ranking*
Size of the foreign-born population	11 <sup>th</sup>
Percent foreign-born in the total population	19 <sup>th</sup>
Numeric change in the foreign-born population, 1990 to 2000	11 <sup>th</sup>
Percent change in the foreign-born population, 1990 to 2000	25 <sup>th</sup>

\* Rankings include the 50 states and the District of Columbia.

Source: Migration Policy Institute.

**Figure 2**  
**Virginia's Foreign-Born Population as a Percent of**  
**Total State Population, from 1900 to 2000**

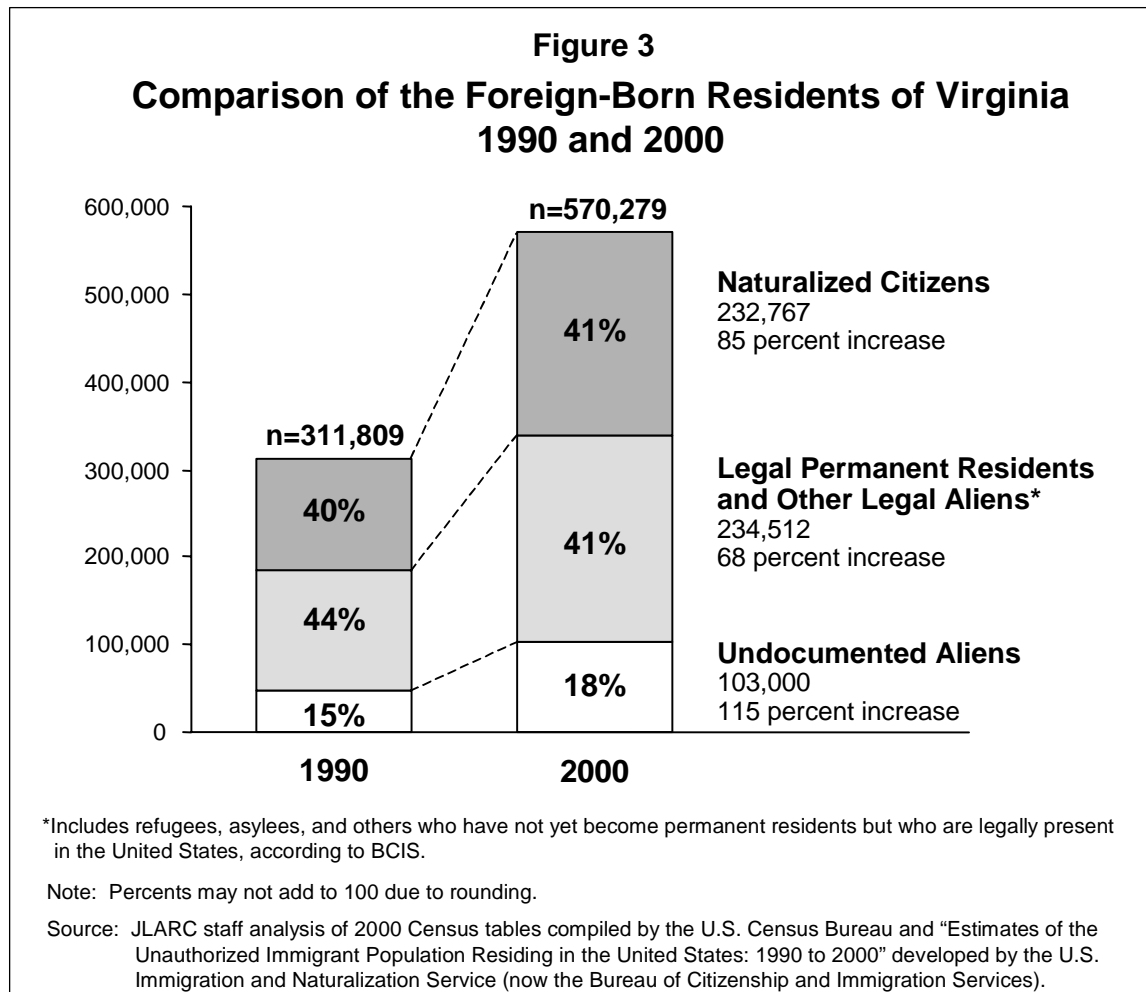


Note: The foreign-born population for 1950-2000 is based on sample data presented by the U.S. Census Bureau.

Source: United States Census Bureau, "Historical Census Statistics on the Foreign-Born Population of the United States: 1850-1990" and the 2000 Census.

Most of the foreign-born people residing in Virginia - 59 percent - are aliens, or non-citizens, according to the 2000 Census. The Census does not separately identify alien status by legal or non-legal residence in the country. The BCIS, however, does estimate the number of undocumented aliens who are present in the United States, based on the identification of the foreign-born population (from the 2000 Census) less the number of legal aliens residing in the country (from BCIS administrative data).

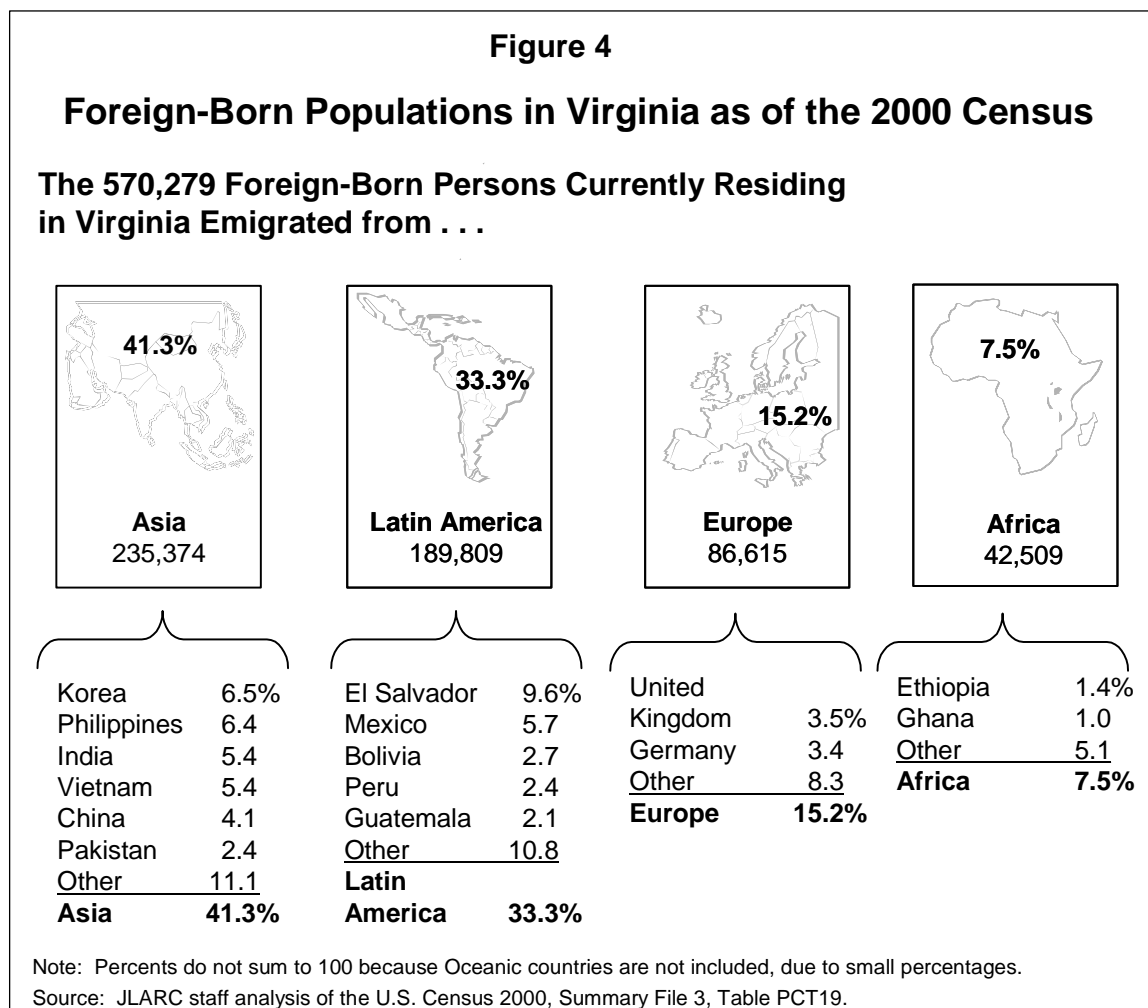
Figure 3 shows that 82 percent of the foreign-born residents of Virginia in 2000 were legally present, either as naturalized citizens (41 percent) or legal permanent residents, refugees, or asylees (41 percent). The remaining 18 percent of foreign-born residents were undocumented, or illegally present. The number of undocumented aliens increased at the highest rate of any category, 115 percent, between 1990 and 2000. Overall, however, the composition of Virginia's population changed only slightly, with the percentages of naturalized citizens, legal permanent residents and other legal aliens, and undocumented aliens changing by three percentage points or less.



## Most Foreign-Born Residents Are from Asian and Latin American Countries

Three quarters of Virginia's foreign-born population emigrated from Asia or Latin America (Figure 4). Whereas the majority of U.S. foreign-born residents emigrated from Latin America (51.7 percent), the plurality of Virginia's foreign-born residents are from Asia (41 percent). As of the 2000 Census, 23 percent of the foreign-born residents emigrated from Europe or Africa, with the remaining emigrating from all other parts of the world. While the largest source country of immigrants *nationally* is Mexico, immigrants from El Salvador are most represented in Virginia.

It is important to point out that, although immigrants are broadly grouped as being of "Asian" or "Latin American" origin and those within each category may share some common characteristics (such as race or language), the social and economic climates of the countries within these broad groupings may be very different. As such, there can be substantial differences in the general service needs of the people within these broad groupings.

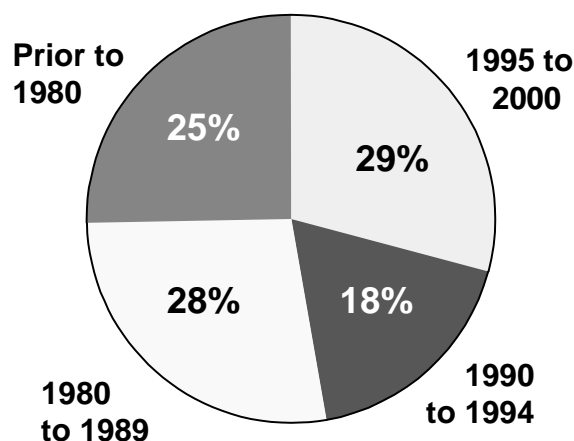


### **Almost Half of Virginia's Foreign-Born Residents Arrived in the United States Since 1990**

According to the 2000 Census, 47.2 percent of Virginia's foreign-born immigrated to this country in the last decade (Figure 5). Twenty-nine percent have been in the United States five years or less. Although the plurality of Virginia's foreign-born emigrated from Asia, many of the more recent immigrants are of Hispanic ethnicity. About 35 percent of Virginia's foreign-born Hispanic population arrived between 1995 and 2000, compared to 25 percent of Virginia's foreign-born Asian population.

As would be expected, the longer immigrants have resided in the United States, the more likely they are to have become U.S. citizens. About 80 percent of Virginia's foreign-born residents who arrived in the United States prior to 1980 have become naturalized citizens. In contrast, only 14 percent of those arriving between 1990 and 2000 have become naturalized citizens. The relatively low naturalization rate of recent immigrants is due, in part, to the fact that an immigrant must reside in the United States for at least five years before being able to apply for citizenship. As will be discussed in greater detail in Chapter III of this report, relative newcomers often have a greater need for assistance in adjusting to life in the United States. In particular, recent immigrants tend to have lower incomes and are less likely to be proficient in English than their more established counterparts. These two factors alone are likely to place these residents at a substantial disadvantage as they attempt to acclimate to their new circumstances, which makes them more likely to be in need of various services.

**Figure 5**  
**Year of Virginia Immigrants' Arrival in United States**



Source: JLARC staff analysis of the U.S. Census 2000, Summary File 3, Table P22.

## **Foreign-Born Population Is Predominantly Located in Urban Areas of Virginia**

According to the 2000 Census, 68 percent of the foreign-born population in the State reside in Northern Virginia. Figure 6 illustrates the percentage of each locality's population that is foreign-born. From ten to 28 percent of the population in Northern Virginia localities is foreign-born. Other large segments of foreign-born residents can be found in the Richmond metropolitan area and Hampton Roads. In recent years there has been a growing number of foreign-born people settling in other portions of the State, particularly in Galax, Harrisonburg, and Winchester. For example, Harrisonburg's foreign-born population increased 404 percent between 1990 and 2000, now accounting for over nine percent of its population (Appendix D includes the population increase for each of Virginia's counties and cities included in the U.S. Census). It should be noted, however, that the Census may undercount the number of undocumented immigrants and data are now three years old. For example, Galax officials reported twice the immigrant population than is indicated by Census data for that area.

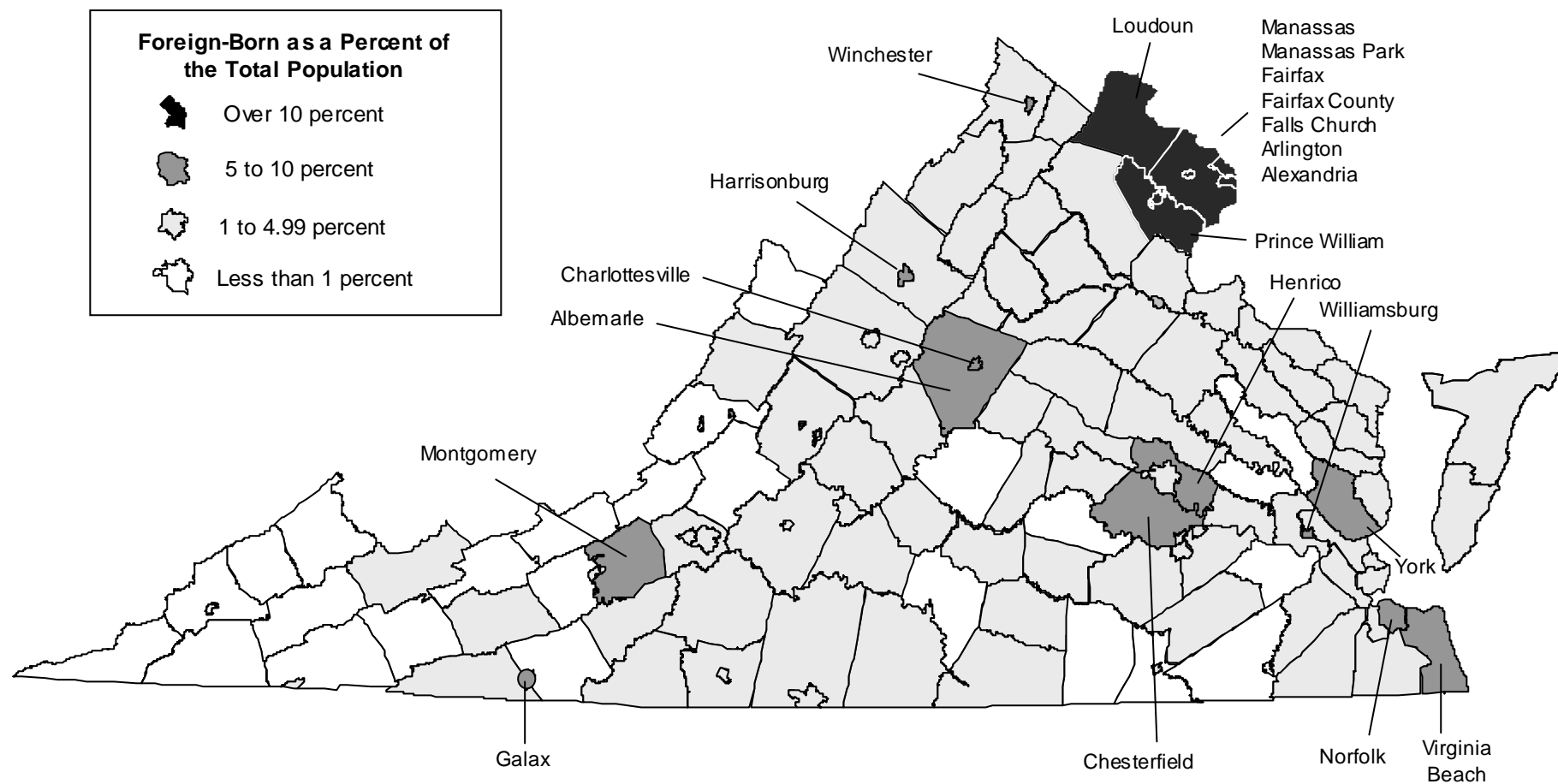
It also warrants mention that there may be a larger influx of immigrants into some localities than the net change in the foreign-born population indicates. For example, while Arlington County's net foreign-born population change between 1990 and 2000 was 16,177, it was the destination of over 30,000 new immigrants over that time period. In Norfolk, the net change was 1,868, although almost 5,000 new immigrants arrived in the city during that decade.

It appears that the reasons foreign-born residents settle in certain areas of the State vary by location. One explanation for why these residents relocate where they do is the presence of family members who previously immigrated to these areas. Immigrants' choice of destination is also largely driven by various job markets in certain areas. For example, Accomack County has a large foreign-born migrant farm-worker population. In Galax, many foreign-born people reportedly come to work in the furniture manufacturing industry. The poultry plants located around Harrisonburg are a significant source of work for foreign-born people living in that area of the State. In Northern Virginia, the foreign-born residents reportedly are integrated in all facets of the workforce, from the "high tech" to the hospitality industries. And in Tidewater, many foreign-born residents serve in and work for the military.

In urban areas of the State where a sufficient private service provider network exists, JLARC staff found that community-based organizations, faith-based organizations, and other non-profit or charitable entities are a vital resource to the foreign-born. Such organizations are frequently an initial resource for this population in finding needed services and information. Principally in Northern Virginia, a sophisticated network of private service providers has developed to assist these foreign-born residents. For other regions of the State, particularly areas in which there has been a more recent increase in the number of foreign-born newcomers, it appears that the non-profit service structure is less equipped to handle the needs of this new population.

### Figure 6

## Percent of Population in Virginia Localities that Is Foreign-Born 2000 Census



## JLARC REVIEW

This study is based on House Joint Resolution 604 of the 2003 General Assembly Session, which directed JLARC to study the acclimation of the Commonwealth's foreign-born residents. JLARC staff were asked to address the following issues:

- What State, regional, and local government services do immigrants need that are unique or typically exceed those of the general population?
- What are the benefits and costs of the major immigrant populations to the Commonwealth and the Commonwealth's economy?
- What federal government policies and programs affect the immigrant populations in the Commonwealth and have an impact on State and local initiatives?
- What options are available for local, regional, and State governments to facilitate acclimation of the immigrant populations into the Commonwealth's economy and social fabric while preserving ethnic and cultural identity?
- Are changes needed in the Commonwealth's laws and regulations to ensure equal opportunity for all ethnic groups?

Each of these questions is addressed in subsequent chapters of this report.

## Research Activities

A number of research activities were undertaken to assess the study issues, including: individual and group meetings with ethnic community leaders around the State, structured interviews with staffs of State agencies and local governments, a survey of non-profit service providers, a web-based discussion forum for immigrants, a review of best practices in other states, document reviews, and analyses of Census and other secondary data. Data may be described in reference to the foreign-born or immigrants. For purposes of this report, the word "immigrant" is used interchangeably with the word "foreign-born," unless otherwise noted.

***Meetings with Ethnic Community Leaders and Non-Profit Service Providers.*** Numerous group and individual meetings with community members were held in locations around the State. Discussions with leaders of various ethnic communities focused on identifying the needs of Virginia's immigrants and how the State could address the problems identified. These meetings primarily included members of Asian and Hispanic communities in the Northern Virginia, Richmond, and Tidewater areas of the State. Ethnic community members from other parts of the State, such as Galax and Harrisonburg, were also interviewed. JLARC staff also interviewed staff of non-profit organizations that provide services to immigrant



communities. These activities helped provide JLARC staff with an understanding of some of the major issues faced by immigrants when they first come to Virginia.

In addition, JLARC staff conducted interviews with various employer associations and employee unions, such as those from the construction, hospitality, and poultry industries. These interviews provided JLARC staff with information on the foreign-born population's participation in and impact on Virginia's labor force.

***Interviews with State and Local Government Agencies.*** JLARC staff interviewed staff from several local governments, targeting those localities with either large foreign-born populations or those which experienced a substantial growth in their foreign-born population between 1990 and 2000. These localities included: Accomack, Alexandria, Arlington, Chesterfield, Fairfax County, Galax, Harrisonburg, Henrico, Manassas, Virginia Beach, and Winchester. Staff interviewed included representatives from the local offices for social services, health, community services boards, law enforcement, housing, school divisions, and selected other offices. These interviews were used to better understand the issues faced by local government staffs, who are the frontline service providers for their foreign-born residents. The interviews were also used to get local staffs' perspectives on the needs of their respective immigrant communities and to identify services available to foreign-born residents. In addition, JLARC staff conducted an informal email survey of teachers and administrators of local English-as-a-Second-Language (ESL) programs to identify the structures of various ESL programs across the State.

JLARC staff also interviewed staff at 17 State agencies, including the:

- Department of Social Services;
- Department of Medical Assistance Services;
- Department of Health;
- Department of Mental Health, Mental Retardation and Substance Abuse Services;
- Department for the Aging;
- Department of Motor Vehicles;
- Virginia Housing Development Authority;
- Department of Education;
- Virginia Community College System;
- State Council for Higher Education in Virginia;
- Department of Criminal Justice Services;
- Department of Corrections;
- Department of Juvenile Justice;
- Virginia Employment Commission;
- Department of Business Assistance;
- Department of Minority Business Enterprise; and the
- Supreme Court Executive Secretary's Office.

These agencies were contacted to obtain information on immigrant eligibility for services, the extent to which the increase in Virginia's foreign-born has impacted those agencies' services, and the extent to which the agencies have provided

guidance and assistance to local governments regarding service provision to the foreign-born in Virginia.

***Survey of Non-Profit Service Providers.*** JLARC staff also conducted a survey of non-profit organizations that serve immigrant clients across the State. Non-profit organizations were identified based on a listing of non-profit groups maintained by the Department of Agriculture and Consumer Services and information obtained through various interviews and web site reviews. The survey included questions on the types of services provided, the adequacy of services in the area, and the sources of funding for the non-profits. In addition, non-profits were asked to provide information on the unmet needs of Virginia's foreign-born population and to suggest options for the State to further assist immigrants. JLARC staff received responses from 58 of the 212 non-profit organizations surveyed.

***Discussion Forum on JLARC Web Site.*** JLARC staff developed a discussion forum on its web site that was directed at Virginia's immigrants. The discussion forum contained a series of questions on which immigrant input was sought. The forums were available in both English and Spanish. Flyers directing people to the web site were posted in grocery stores, libraries, and other public places, and were given to ethnic community leaders for further distribution. This forum was provided as an additional avenue for obtaining input from Virginia's immigrants, although the web site was not widely used.

***Review of Best Practices in Other States.*** During the course of this review, JLARC staff examined various programs and practices of states with large immigrant populations, such as California, Illinois, and Florida, as well as those of neighboring states, including North Carolina and Maryland. JLARC staff specifically targeted programs that had been identified as "best practices" in various literature or through interviews. By reviewing written materials and conducting telephone interviews, JLARC staff identified a number of activities undertaken in other states that specifically target the needs of immigrant communities. These activities are discussed in this report to illustrate some additional ways in which Virginia could assist its foreign-born residents.

***Document Reviews.*** JLARC staff also reviewed numerous documents related to immigration and immigrant policies. This included a review of federal and State laws and regulations regarding immigrants and eligibility for certain services. JLARC staff also reviewed a number of academic publications on immigration topics as well as immigration policy analyses produced by various non-partisan national research entities. Reviews of publications produced by immigrant advocacy organizations and immigration restrictionist groups were also conducted.

***Analysis of Secondary Data.*** JLARC staff examined quantitative data from the U.S. Census of Population and Housing and Current Population Surveys to identify various demographic and socio-economic characteristics of the foreign-born in Virginia. Census data were used to examine trends in the number and location of Virginia's foreign-born residents. Using the 2000 Census' five percent sample, comparisons were made between foreign-born and native-born residents to identify similarities and differences between the populations. Factors examined include:

income, poverty, educational attainment, health insurance coverage, occupations, English language proficiency, and home ownership rates. In addition, data provided by State agencies, such as the Department of Education, Department of Social Services, and Department of Corrections, were used to evaluate immigrants' use of various governmental services.

### **Report Organization**

Chapter I of this report has provided a brief overview of Virginia's foreign-born population. Chapter II discusses federal laws and policies that have an impact on Virginia's immigrants. Chapter III addresses the potential needs of Virginia's foreign-born residents. Chapter IV addresses the benefits and costs of the immigrant population in Virginia. Options for assisting immigrants in their acclimation to Virginia are included in Chapter V.



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## **II. What Federal Government Policies and Programs Affect the Immigrant Populations in the Commonwealth and Have an Impact on State or Local Initiatives?**

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As described in Chapter I, the federal government has sole responsibility for setting U.S. immigration policy. States have no ability to promulgate laws and regulations that impact immigration policy, including the enforcement of that policy. In addition, the federal government is responsible for setting eligibility requirements for federally funded programs, and in this way also influences how immigrants may be acclimated into the United States. Table 3 from Chapter I broadly summarized immigrants' eligibility for many programs that receive federal funding. However, there are two federal laws in particular that have far-reaching impacts on the acclimation of Virginia's immigrants – Title VI of the Civil Rights Act of 1964 and the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). In addition, immigrant acclimation through the educational system is impacted by federal case law.

### **Federal Government Sets Immigration and Naturalization Policies**

For the first one hundred years of the United States' existence immigration remained unimpeded. Immediately following this period, Congress began passing laws to regulate immigration. However, the current, comprehensive immigration policies have their roots in legislation passed in the 1950s, specifically the Immigration and Nationality Act. Since the 1950s, Congress has passed legislation at various times to change the number of immigrants allowed into the country, to set a priority system for certain immigrant groups, and to prevent foreign nationals from illegally entering and remaining in the country. In addition, the federal government has established the eligibility rules and procedures for attaining U.S. citizenship.

**Immigration Laws.** Major federal immigration legislation and the key provisions of these laws are listed in Exhibit 2. The changes in U.S. immigration law between 1952 and 2001 reflect shifting policy concerns with regard to immigrants. These concerns range from maintaining a particular balance of immigrants based on their countries of origin, to maintaining the economic interests of the United States and protecting the security of U.S. citizens. In the 1950s, the United States set its immigration policy based on immigrants' countries of origin. A decade later, it was evident that the majority of immigrants had entered without being subject to those quotas. Instead, most immigrants had been admitted to the United States based on temporary laws enacted to allow reunification with family members or to admit refugees. In 1965, the Immigration and Nationality Act (INA) was amended to reflect the goals of reunifying families and filling employment gaps.

In the 1980s, Congress became concerned with both the growing undocumented immigrant population and the need to support the country's economic growth. Congress

<b>Exhibit 2</b> <b>Major Federal Legislation Relating to Immigrants</b>		
<b>1952</b>	<b>The Immigration and Nationality Act (INA)</b>	<ul style="list-style-type: none"> <li>• First codification of immigration law</li> <li>• Established a ceiling on visas</li> <li>• Established a preference system</li> </ul>
<b>1965</b>	<b>The Immigration Act of 1965</b>	<ul style="list-style-type: none"> <li>• Ended national origins quota system</li> <li>• Added a new preference system for family reunification</li> <li>• Added provisions such that immigrants could not replace American workers</li> </ul>
<b>1986</b>	<b>Immigration Reform and Control Act (IRCA)</b>	<ul style="list-style-type: none"> <li>• Established penalties for employers that hire illegal immigrants</li> <li>• Granted amnesty to broad categories of illegal immigrants residing in the United States</li> </ul>
<b>1990</b>	<b>The Immigration Act of 1990</b>	<ul style="list-style-type: none"> <li>• Increased the number of legal visas</li> <li>• Created a three-tiered preference system for immigrants</li> </ul>
<b>1996</b>	<b>Illegal Immigration Reform and Immigrant Responsibility Act of 1996</b>	<ul style="list-style-type: none"> <li>• Increased enforcement of undocumented immigrants</li> <li>• Expanded the scope of those immigrants who were inadmissible or deportable</li> <li>• Required states to phase in tamper-proof identification documents</li> <li>• Required that immigrant sponsors have income of 125 percent of the poverty level</li> <li>• Made affidavits of support legally binding</li> </ul>
<b>1996</b>	<b>Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)</b>	<ul style="list-style-type: none"> <li>• Placed limitations on legal immigrants' access to certain public benefits, such as Medicaid and Food Stamps</li> </ul>
<b>2001</b>	<b>Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act)</b>	<ul style="list-style-type: none"> <li>• Increased State Department and BCIS access to criminal histories of visa/admissions applicants</li> <li>• Broadened scope of immigrants ineligible for admission or deportable due to terrorist activities</li> </ul>
Source: JLARC staff analysis.		

responded by enacting the Immigration Reform and Control Act (IRCA) in 1986, which created a special temporary worker program for agriculture and streamlined the temporary worker program to expedite the availability of immigrant labor. It also established protection for temporary immigrant workers and penalties for employers who knowingly hire undocumented immigrants. Because many undocumented workers had established themselves in the United States already and enforcement would prove difficult, IRCA established a legalization program for those undocumented workers who entered prior to January 1, 1982 and who met other qualifications.

In response to concerns about the growing visa waitlist, the limited number of visas available for some countries, and the balance between family-based immigration and non-family immigration, Congress enacted the Immigration Act of 1990. The legislation primarily focused on altering the number and types of immigrants admitted. Changes included increasing total immigration and significantly increasing employment-based immigration. A “diversity” provision for increasing immigration from underrepresented countries was also included.

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act. Its primary objectives were to deter illegal immigration through adopting stronger penalties and to streamline the deportation process. The legislation provided for more border control agents and directed states to phase in modified driver’s licenses and identification cards that were more resistant to forgery. In 1996, Congress also enacted the Personal Responsibility and Workforce Opportunity Reconciliation Act to reform certain aspects of the welfare system. This legislation resulted in reducing new immigrants’ access to major public benefits.

In 2001, after the events of September 11, protecting the security of U.S. citizens became a top priority. Under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), new rules were established for tracking foreign students, financial transactions, and suspected criminals, with the goal of enhanced public safety.

As stated earlier, Virginia and other states cannot set their own immigration laws. The State and its localities can only respond to the outcomes of these federal policies. Current law gives immigration preference to family members of U.S. citizens as well as for certain types of employees. These preferences may result in the clustering of particular immigrant populations. For example, the successful settlement of families in a particular locality can become a draw for additional family members to that locality. In addition, the federal government designates certain non-profit agencies to help in resettling refugees. The presence of such an agency in a locality tends to increase the number of refugees settling in that area.

***Naturalization of Foreign-Born Residents.*** In addition to immigration policies that determine who is allowed within the U.S. borders, the federal government controls the process for attaining citizenship. Chapter I of this report identified the basic requirements for obtaining U.S. citizenship. Once a foreign-born person becomes a naturalized citizen, he or she acquires all the same access to governmental services and benefits as a native-born citizen. While the State and local governments have no control over the basic naturalization requirements, they can impact the degree to which their foreign-born residents choose to become citizens, for example through the provision of citizenship and English language classes.

## **Federal Law Requires Equal Access to Information and Services for Non-English Speakers**

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funds from discriminating against individuals on the basis of race, color, or national origin. Section 601 of Title VI, 42 U.S.C. §2000d holds that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Entities covered by Title VI must insure that persons of limited English proficiency (LEP) have meaningful access to the benefits they provide. If necessary, the covered entity is required to provide language assistance, and this assistance must be provided at no cost to persons with limited English proficiency. A wide range of service providers receive federal financial assistance and therefore must comply with Title VI. Examples of these service providers include social services offices, health departments, departments of motor vehicles, elementary and secondary public schools, and police departments. Although State and local service providers that receive federal funds must provide language assistance to clients who need it, many do not receive funding to cover the costs associated with this mandated service. Consequently, the provision of such language assistance has been limited.

Executive Order 13166, signed by President Clinton in August 2000 and later affirmed by President Bush, required federal agencies providing financial assistance to publish guidance on the obligations of federal fund recipients under Title VI. The Executive Order gave the U.S. Department of Justice (DOJ) lead responsibility for developing guidance and for assisting other federal agencies in development of their guidance. Most federal agencies have recently issued their own guidance, consistent with the DOJ guidance.

Policy guidance issued from the DOJ encourages recipients to apply a “four factor analysis” in determining what accommodations are necessary for compliance with the provisions of Title VI. These four factors are:

- 1) the number or proportion of LEP persons served or encountered in the eligible service population;
- 2) the frequency with which LEP individuals come in contact with the program;
- 3) the nature and importance of the program, activity, or service provided by the program; and
- 4) the resources available to the recipient to provide this assistance.

DOJ guidance states that “the greater the number or proportion of LEP persons, the more likely language services are needed.” The guidance also provides that, in determining the frequency of contact with LEP individuals, the agency should consider whether “appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.” As a guidance document, it provides examples of ways in which compliance with Title VI can be met, for example through use of interpreters, community volunteers, and



bilingual staff. It does not, however, set threshold limits for determining when certain accommodations must be provided. The DOJ guidance does not dictate, based on the potential number of non-English speaking clients, at what point a document must be translated into another language.

Some states, including Virginia, have declared English the official language. Section 7.1-42 of the *Code of Virginia* states that:

English shall be designated as the official language of the Commonwealth of Virginia. Except as provided by law, no state agency or local government shall be required to provide and no state agency or local government shall be prohibited from providing any documents, information, literature or other written materials in any language other than English.

The DOJ guidance makes clear that, even in jurisdictions in which English has been declared the official language (as in Virginia), federal fund recipients must still ensure compliance with the provisions of Title VI.

DOJ guidance emphasizes that the goal for Title VI enforcement is “voluntary compliance.” The federal agencies responsible for overseeing Title VI compliance on the part of their funding recipients will “investigate whenever [they] receive a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI.” If there is a finding of noncompliance and the matter “cannot be resolved informally,” compliance may be achieved through the termination of federal assistance. The federal agencies have made commitments, however, to provide technical assistance to recipients of federal assistance to ensure that they are appropriately meeting the language needs of their clients.

The Office for Civil Rights within the Department of Health and Human Services is responsible for overseeing the language access policies of health and human service agencies receiving federal assistance. That office is currently investigating complaints related to Title VI compliance within three jurisdictions in Virginia. The results of these audits have not yet been released.

### **Federal Law and Case Law Impact Foreign-Born Students’ Access to Public Education**

Access to public primary and secondary education for all foreign-born children was guaranteed in *Plyler v. Doe* (1982) when the Supreme Court held that, based on the Equal Protection Clause of the Fourteenth Amendment to the Constitution, children are eligible for elementary and secondary education regardless of immigration status. The Supreme Court stated that although the children involved in the case were in the United States illegally, they should not be faulted for the actions of their parents. The Court also cited the “specter of a permanent caste of undocumented resident aliens” that could result from denying these children access to education. Further, in *Lau v. Nichols* (1974), the Supreme Court ruled that a school district’s failure to provide English-language instruction for non-English speaking children violated the national origin provision of Title VI. The rights of

LEP students were further clarified in 1974 when Congress passed the Equal Educational Opportunity Act (EEOA), which made it unlawful for a state to fail to “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”

The Office for Civil Rights (OCR) in the United States Department of Education is responsible for enforcing Title VI of the Civil Rights Act, as it applies to public elementary and secondary education. OCR requirements for Title VI compliance do not specify that schools must adopt a particular approach to meeting the needs of LEP students. However, school districts must meet four basic criteria: take “affirmative steps” to overcome language deficiencies in LEP students, avoid designating LEP students as academically deficient based on their limited command of English, ensure that students’ needs are met as soon as possible, and notify parents of school activities in a language that they can understand. As the State has not mandated that schools structure their ESL programs in a certain way, Virginia’s school divisions have considerable latitude in implementing programs to overcome English language deficiencies.

In addition to primary and secondary education, federal law also impacts some immigrants’ access to higher education. One provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 states that:

An alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less amount, duration and scope) without regard to whether the citizen or national is such a resident. [8 U.S.C. 1623].

As a result of this provision, many immigrants formerly able to pay in-state tuition now must pay out-of-state tuition. Some states that wanted to continue providing the benefit of in-state tuition to these immigrants have responded by changing the basis for charging in-state tuition. Instead of state residency, tuition rates are based on factors such as attending high school in the state or participating in the state education system for a number of years. States that base college tuition on factors other than state residency include California, Texas, and New York, among others.

Virginia provides the benefit of in-state tuition to all foreign-born residents who are either legal permanent residents or citizens of the United States. Unable to meet the State residency requirement for in-State tuition, undocumented immigrants are denied in-state tuition benefits. Virginia’s policy is consistent with federal law. Although undocumented immigrants are not provided in-State tuition rates, they are still allowed to attend Virginia’s public institutions of higher education, but must pay the out-of-State tuition rate. A legislative Subcommittee on Undocumented Alien Students in the Commonwealth is currently studying immigrants’ access to higher education and will report its findings to the General Assembly in 2004.

## **1996 Welfare Reform Limited Immigrants' Access to Public Benefits**

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) with the goal of reforming certain aspects of the welfare structure. This law had substantial ramifications for immigrants' access to major means-tested benefits. In particular, the law limited eligibility of non-citizens for the following programs:

- Temporary Assistance For Needy Families (TANF): This program provides cash welfare payments to low-income families.
- Food Stamps: This program provides food coupons to assist low-income individuals with food purchases.
- Supplemental Security Income (SSI): This program provides cash assistance to low-income elderly or disabled persons to assist with basic living expenses.
- Medicaid: This program provides health insurance for low-income children, families, the elderly, and the disabled.
- State Child Health Insurance Program (SCHIP): SCHIP was created to expand health insurance for low-income uninsured children under 19 whose families do not qualify for Medicaid.

Prior to welfare reform, legal non-citizens had the same access to means-tested public benefits as citizens.

The new welfare law drew two new distinctions to define access to federally-funded benefits: (1) "qualified" versus "non-qualified" immigrants and (2) pre-enactment residency (immigrants arriving in the country prior to August 1996) versus post-enactment residency (arriving after August 1996). "Qualified" immigrants include categories of individuals legally in the United States, such as legal permanent residents and refugees. "Non-qualified" immigrants primarily include undocumented immigrants. "Non-qualified" immigrants are eligible for few public benefits. Although access to these benefits has been amended slightly by Congress since 1996, many of the distinctions made by the welfare reform legislation remain. Exhibit 3 summarizes current eligibility for federal benefits.

PRWORA placed a five-year bar on TANF, Medicaid, and SCHIP benefits for post-enactment (those coming to the United States after August 22, 1996) legal permanent residents. (These immigrants remained eligible for emergency Medicaid services, however, which are only provided in life-threatening situations and in labor and delivery.) After the five-year bar, states have the option of providing these benefits to the foreign-born population using federal funds. It is the states' option, as well, to provide these benefits to immigrants residing in the United States prior to August 22, 1996, using federal funds.

Virginia, along with 48 other states, chose to extend TANF benefits to "qualified" pre-enactment residents. Virginia also chose to extend eligibility to "qualified" residents following the five-year bar, along with 42 other states. PRWORA also built in a "state op-

<b>Exhibit 3</b> <b>Immigrant Eligibility for Public Assistance</b> <b>Based on the 1996 Welfare Reform Law</b>			
<b>Program</b>	<b>Qualified Immigrants In U.S. Prior to August 22, 1996</b>	<b>Qualified Immigrants in U.S. After August 22, 1996</b>	<b>“Unqualified” Aliens</b>
<b>Food Stamps</b>	<u>Eligible if:</u> <ul style="list-style-type: none"> <li>• Lawful permanent resident (LPR) adults with 5 years residence</li> <li>• Children, regardless of residency period</li> <li>• Receiving disability assistance</li> <li>• Credit for 40 quarters of work history</li> <li>• Sixty-five years old or older on Aug 22, 1996</li> </ul>	<u>Eligible if:</u> <ul style="list-style-type: none"> <li>• Children, regardless of residency period</li> <li>• Lawful permanent residents (LPR) after first 5 years of residence</li> <li>• Receiving disability assistance</li> <li>• Credit for 40 quarters of work history</li> <li>• Refugees</li> </ul>	<u>Eligible if:</u> <ul style="list-style-type: none"> <li>• Victims of trafficking**</li> </ul>
<b>TANF</b>	<ul style="list-style-type: none"> <li>• Eligible <b>at state option*</b></li> </ul>	<ul style="list-style-type: none"> <li>• LPRs after first 5 years of residence, <b>at state option*</b>.</li> <li>• State may create State-funded safety-net program for five-year bar. (Not in Virginia)</li> <li>• Refugees</li> </ul>	<ul style="list-style-type: none"> <li>• Victims of trafficking</li> </ul>
<b>Medicaid</b>	<ul style="list-style-type: none"> <li>• Eligible <b>at state option*</b></li> </ul>	<ul style="list-style-type: none"> <li>• LPRs after first 5 years of residence, <b>at state option*</b>.</li> <li>• State may create State-funded safety-net program for five-year bar. (Virginia funds for some.)</li> <li>• Refugees***</li> </ul>	<ul style="list-style-type: none"> <li>• Victims of trafficking</li> <li>• Receiving SSI on August 22, 1996</li> </ul>
<b>SCHIP</b>	<ul style="list-style-type: none"> <li>• Eligible <b>at state option*</b></li> </ul>	<ul style="list-style-type: none"> <li>• LPRs after first 5 years of residence, <b>at state option*</b>.</li> <li>• State may create State-funded safety-net program for five-year bar. (Not in Virginia)</li> <li>• Refugees</li> </ul>	<ul style="list-style-type: none"> <li>• Victims of trafficking</li> </ul>
<b>SSI</b>	<ul style="list-style-type: none"> <li>• Receiving SSI on August 22, 1996</li> <li>• Disabled</li> <li>• LPRs with 40 work quarters</li> <li>• Refugees during first 7 years</li> </ul>	<ul style="list-style-type: none"> <li>• LPRs with 40 work quarters, but must wait five years to apply</li> <li>• Refugees, for first 7 years</li> </ul>	<ul style="list-style-type: none"> <li>• Victims of trafficking</li> <li>• Receiving SSI on August 22, 1996</li> </ul>
<p>*Virginia chose to extend eligibility for TANF, and SCHIP eligibility for “qualified” immigrants arriving prior to August 22, 1996 and for those arriving after that date, once they have met the five-year residency requirement. Virginia also extended Medicaid benefits to qualified immigrants residing in Virginia prior to August 22, 1996 and to those arriving after that date who have met the five-year residence requirement and have worked for 40 quarters. Virginia also created a State-funded Medicaid initiative to cover adults receiving Medicaid benefits and in long-term care facilities as of August 22, 1996 and children during the five-year bar period.</p> <p>**Trafficking Victims are aliens who are induced by force, fraud, or coercion into engaging in commercial sex acts or subject to involuntary servitude, peonage, debt bondage, or slavery. If the victim is under 18 years of age, evidence of force, fraud, and coercion is not required for the victim to be granted a visa under special legal provisions for trafficking victims.</p> <p>***In Virginia, refugees are only eligible for Medicaid for the first 7 years after their arrival.</p> <p>Source: JLARC staff analysis of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.</p>			

tion,” which allows states to use their own funds to provide these benefits during the five-year bar. Virginia has not developed a State-funded TANF program for immigrants during the five-year bar. Nineteen other states have funded such an initiative.

As with TANF, the majority of states acted to extend Medicaid eligibility to pre-enactment immigrants (48 states) and to immigrants after the five-year bar without restriction (40 states). Virginia, along with nine other states, extended full-scope Medicaid benefits to pre-enactment immigrants and immigrants after the five-year bar as long as they had worked in the United States for 40 quarters, or ten years. (It should be noted that quarters worked by an immigrant’s spouse or by the immigrant’s parents while the immigrant was under 18 years of age count toward this requirement.)

In addition, 14 states including Virginia funded Medicaid programs, using state funds, for at least a portion of immigrants during the five-year bar. Effective July 1, 1997 Virginia extended State-funded Medicaid benefits to those immigrants who were made ineligible for Medicaid after welfare reform, but who had already been enrolled in Medicaid and who had been residing in nursing facilities as of June 30 of that year. Virginia also chose not to apply the Medicaid reform provisions to immigrants under the age of 19 who were or would have been eligible for full Medicaid benefits prior to the passage of welfare reform. Virginia provided State-funded Medicaid benefits for these children, regardless of their date of entry into the country.



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### **III. What Are the Potential Needs for State, Regional, and Local Government Services to the Immigrant Populations in the Commonwealth That Are Unique or Typically Exceed Those of the General Population?**

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House Joint Resolution 604 asked JLARC staff to examine the unique needs of the State's foreign-born residents, as compared to the general population. To address this issue, JLARC staff held numerous discussions with ethnic community leaders and non-profit service providers around the State. These discussions revealed many challenges that are faced by this population in their attempts to acclimate to their new communities. Another approach taken to address this question was to compare the different socio-economic characteristics of foreign-born and native-born residents, including income, poverty rate, and educational attainment, based on 2000 Census sample data. Based on this research, JLARC staff found that there are three primary needs that are unique to or disproportionately experienced by the foreign-born population: access to opportunities to improve English proficiency, access to services and information in their native languages, and access to affordable health care.

#### **ISSUES RAISED BY ETHNIC COMMUNITY GROUPS AND NON-PROFIT SERVICE PROVIDERS**

JLARC staff conducted numerous interviews of ethnic community members, non-profit service providers, and local government staff in Virginia to gain a basic understanding of the challenges faced by the State's foreign-born residents. Exhibit 4 identifies the range of topics and concerns raised during these meetings. These challenges ranged from broad, complex problems such as the limited availability of health insurance, to more specific problems such as concerns with the new legal presence law for obtaining a driver's license. Some of these issues, such as the need for affordable housing and the need for public transportation, transcend issues of national origin. While some of these issues are complex, nationwide problems, such as a lack of health insurance, they often impact a higher proportion of the foreign-born as compared to the native-born. Fully addressing such complex issues is beyond the scope of this study. However, in State and local discussions of potential solutions to these problems, it is important to consider their unique relevance to the foreign-born.

By all accounts, the language barrier is the most common challenge faced by Virginia's foreign-born residents. Ethnic leaders reported that the language barrier not only causes difficulty in communicating, but may deter non-English speakers from seeking needed services or assistance. This issue will be further discussed later in this chapter.

**Exhibit 4****Primary State/Local Issues Raised by Virginia's Immigrant Community****LANGUAGE AND CULTURE**

Language barrier is the principal challenge to acclimation

Insufficient opportunities for adults to learn English

Difficulty navigating different systems (for example, health insurance may be a new concept)

Lack of school resources, such as interpreters, to assist parents in participating in children's education

Children learn English and become acclimated more quickly than parents - leads to family conflicts

Mistrust of financial institutions - people carry cash and become targets for victimization

Fear of police or government – crime goes unreported or people do not know their rights

Difficulty understanding the American way of maintaining housing (for example, certain appliances)

**LACK OF INFORMATION**

Lack of information on laws, individual responsibilities, and societal expectations

No central information source on how to access services or navigate the public sector

Difficulty enrolling children in school because parents are unsure of the documentation that is needed

Lack of information on how to naturalize or obtain assistance with immigration matters

**HEALTH**

Lack of affordable health insurance and health care

Mental health needs of some foreign-born are extreme, particularly those from war-torn countries

**EMPLOYMENT**

Lack of access to jobs that are consistent with skill level

Difficulties having credentials from native countries transferred (for example, nursing)

Often work for lower wages, used not only to support family in the U.S., but in countries of origin as well

Work multiple jobs - barrier to attending English classes or taking advantage of other opportunities

Exploitation by some employers

**TRANSPORTATION**

Insufficient public transportation

Difficulties getting a driver's license and cultural insensitivity on the part of some DMV employees

**OTHER ISSUES**

Insufficient income or credit for housing

Insufficient childcare resources

Ineligibility for public benefits and complex eligibility guidelines

Inadequate financial assistance for refugees

Limited access to higher education (if have to pay out-of-state tuition)

The State makes no effort to promote the attainment of citizenship

Difficulty in opening bank accounts

Source: JLARC staff analysis.



Another notable challenge experienced by Virginia's foreign-born residents is the lack of access to basic information on the rights and responsibilities of Virginia's residents and information on how to access needed services and resources. While some information of this nature may be available, it does not appear to be widely accessible to the foreign-born population or to the service providers who serve them. Further, service providers and members of immigrant communities reported that societal institutions in the United States are often very different than in other countries. It appears that much of the information available to the public assumes a certain level of knowledge about American institutions, such as health care, the educational system, and the judicial system. Local governments, private service providers, and local representatives of foreign-born communities have all expressed the need for a centralized source of information that is sensitive to the foreign-born community's potential lack of knowledge about American culture. For those localities in which strong private sector support for this population does not exist, this kind of centralized information source is particularly important and could benefit all of Virginia's residents, not exclusively the foreign-born.

Other studies have also found the lack of information on societal expectations and how to access needed services to be a problem for the foreign-born population.

*In a 1999 survey of Alexandria's Hispanic residents, the Alexandria United Way found that 51 percent of survey respondents who reported barriers to accessing needed medical services said that they did not know how to access these services. The same was true of 36 percent of respondents who reported barriers to accessing needed English language learning resources.*

\* \* \*

*A study conducted in 1999 by the National Learning Institute in three Northern Virginia localities found that, among the foreign-born, "the biggest impediments to school readiness are parents' lack of information on: services available; the school system and how families can interact with schools; [and] parenting as it relates to school readiness in our culture."*

Other issues raised in these discussions include a fear of police or government authority, problems obtaining jobs that are consistent with skill levels, insufficient public transportation, and the cumbersome nature of the naturalization process. This section will discuss those needs that appear to be most widely experienced by Virginia's foreign-born residents.

### **PRIMARY UNIQUE NEEDS OF THE FOREIGN-BORN**

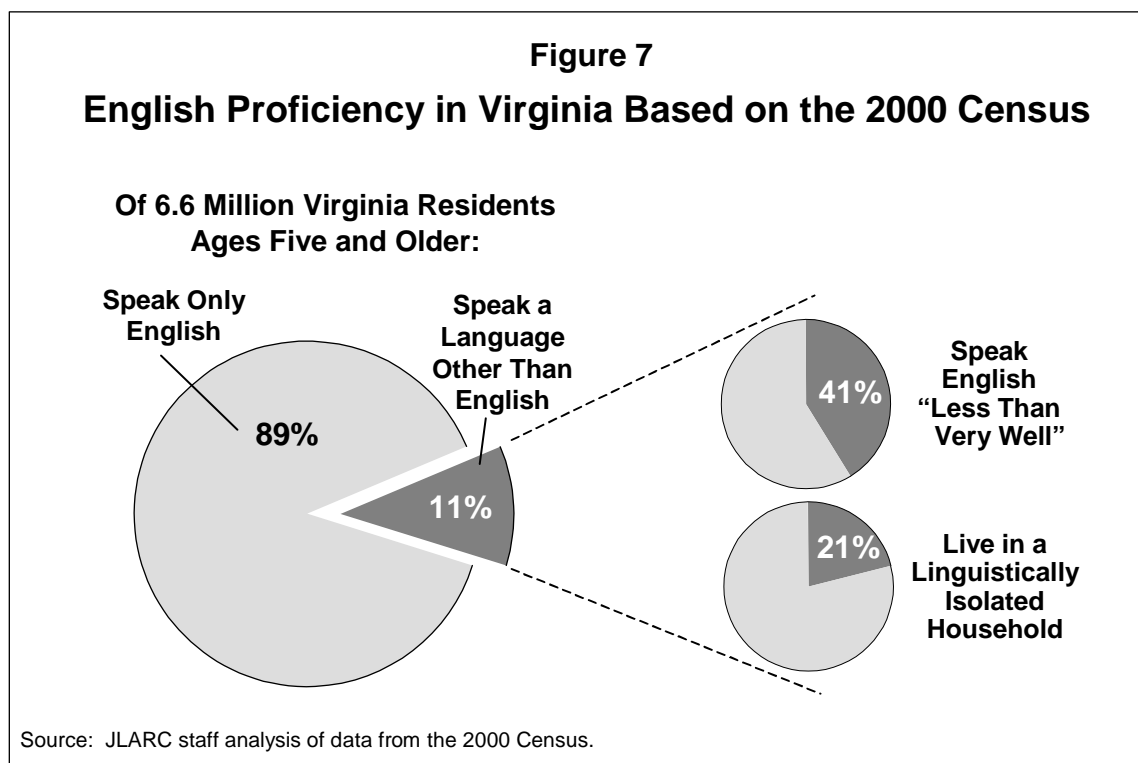
Three needs experienced by Virginia's immigrants stand out as disproportionately or uniquely experienced by these residents. These are the need to improve English skills, the need for services and information in a language that the foreign-

born can understand, and access to affordable health care. Data show that recent immigrants are more likely than more established foreign-born residents to be in need of this kind of assistance.

### Language and Culture Differences

Among service providers and immigrants alike, the most commonly cited challenge to the ability of many foreign-born residents to become fully acclimated in their communities is a limited command of the English language. Foreign-born individuals arrive in the United States with varying levels of English language proficiency. Many are already proficient in English, but others are not even literate in their own primary language. Research indicates that there is a need for opportunities for foreign-born residents to improve their English abilities as well as a need for greater efforts on the part of service providers and other entities to accommodate their varying English proficiencies. Accommodations may include the provision of interpreter services or the translation of critical documents.

***The Foreign-Born Have Varying Levels of English Proficiency.*** According to 2000 Census data, 11 percent of Virginia residents over the age of five speak a primary language other than English. Forty-one percent of this population speak English “less than very well” and 21 percent live in “linguistically isolated households,” which are households in which “no member 14 years old and over speaks only English or...speaks English ‘very well.’” These data are shown in Figure 7. Some of these individuals may not be foreign-born, but may be citizen children of foreign-born parents.



As would be expected, the ability to speak English varies by duration in the United States. As illustrated in Figure 8, only 34 percent of Virginia adults who entered the United States prior to 1980 are limited English proficient (LEP), while 63 percent of those entering in 1990 or after are in this category. Differences between the foreign-born populations in various areas of the State are partially reflected in varying levels of English proficiency. This variance may be attributable to the transience of immigrants in some areas, such as those with large migrant worker populations.

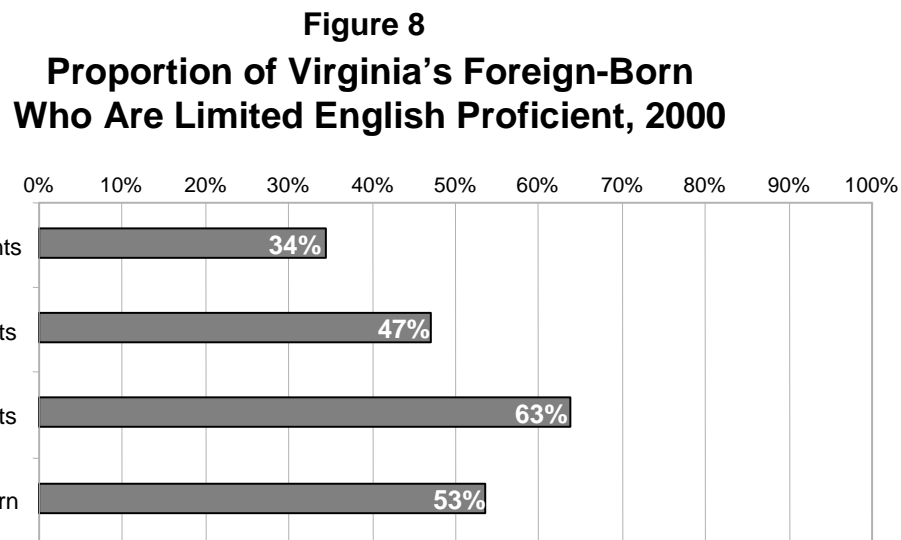
*In Accomack, a locality with a sizeable foreign farmworker population, just 22 percent of the foreign-born population reports speaking English “very well.”*

\* \* \*

*In Galax, a locality in which over ten percent of the population is foreign-born, only 13 percent of the foreign-born population report speaking English “very well.”*

\* \* \*

*In Virginia Beach, 61 percent of foreign-born residents report speaking English “very well.” This may be due in part to the sizeable number of foreign-born who are retired military (and their families) as well as the large population of individuals from the Philippines where individuals learn English as part of primary school training.*



Note: Limited English proficient adults are those who speak English less than “very well.”

Source: JLARC staff analysis of 2000 Census Five-Percent Public Use Microdata Sample (PUMS) files.

***Limited English Proficient Children Can Improve Their English Skills Through K-12 English-as-a-Second-Language (ESL) Programs.*** All foreign-born school-age children are eligible to receive a publicly funded primary and secondary education in the United States. It should be noted that limited English proficient students are not necessarily foreign-born, but may be United States citizens raised in homes in which English is not the primary language spoken. Non-English speaking children have access to English language training as a part of the K-12 curriculum. These programs are commonly referred to as English-as-a-Second-Language (ESL) or English for Speakers of Other Languages (ESOL). Nationally, the Urban Institute estimates that there are 10.5 million students who are the children of foreign-born parents, but 75 percent of these students are native-born. While Virginia-specific statistics are not available, most school officials interviewed by JLARC staff estimated that a substantial proportion of their ESL students are native-born citizens who have been raised in a household in which English is not the primary language spoken.

As of September 30, 2002 there were 49,840 students enrolled in K-12 ESL programs throughout the State, which comprised 4.3 percent of the total student enrollment that year. Appendix E provides data on the number of LEP students in each school district. Localities with the largest percentage of LEP students in 2002-2003 were Harrisonburg (30 percent), Arlington (26 percent), Alexandria (22 percent), Manassas Park (21 percent), Manassas (18 percent), and Fairfax County (13 percent).

Limited English proficient student enrollment in Virginia has increased 200 percent since the 1992/1993 school year. This is larger than the growth in LEP students nationally, which was approximately 105 percent over this ten-year period. In comparison, the increase in total school enrollment from 1992/1993 to 2002/2003 was only 16 percent, as shown in Figure 9. For some localities, substantial growth in LEP student enrollments occurred over a short period of time. For example:

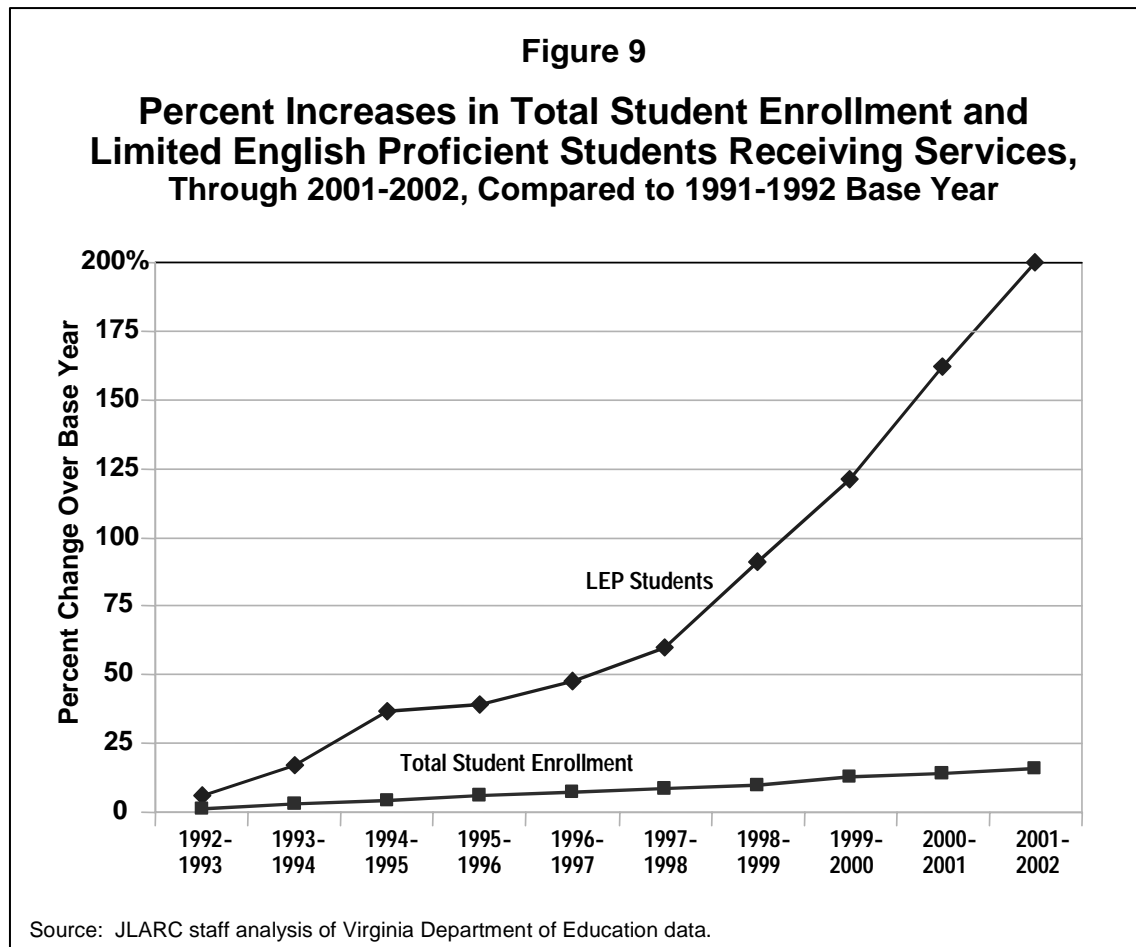
*Harrisonburg City schools experienced an increase in its LEP student population of 128 percent in three years. In 1999, Harrisonburg had 524 LEP students. By 2002, LEP enrollment had grown to 1,195 students. In 1992, there were only 93 LEP students in the school system.*

\* \* \*

*Chesterfield County LEP enrollment increased by 125 percent from 1999 to 2002, from 543 students to 1,222. In 1992, there were only 216 LEP students enrolled.*

\* \* \*

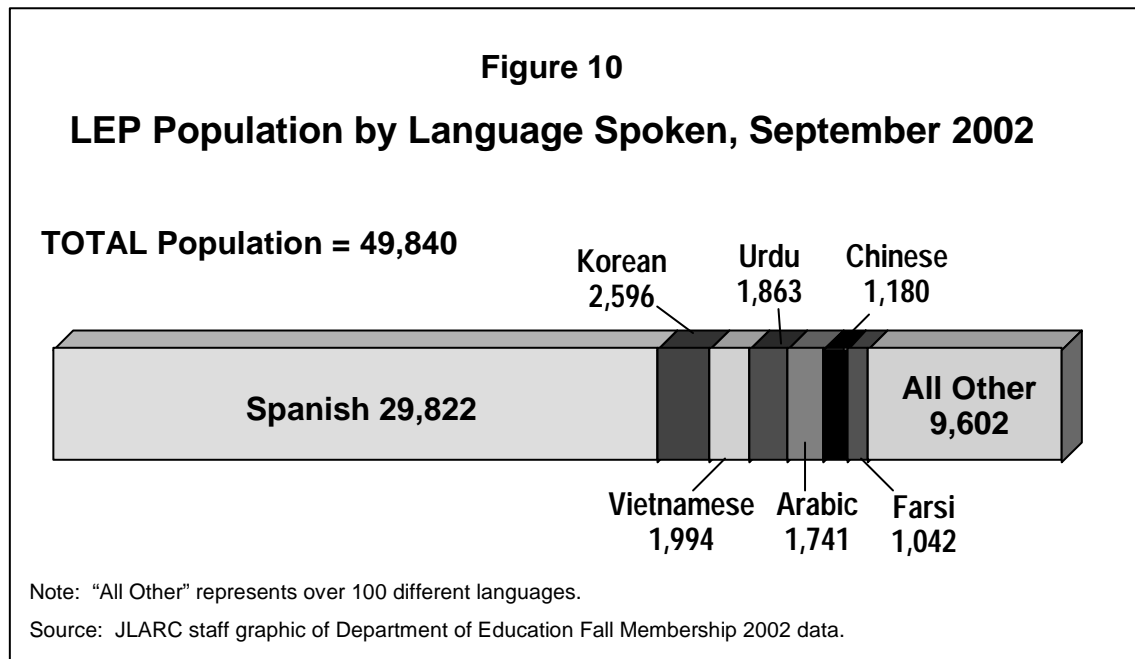
*LEP student enrollment in Prince William County increased by 210 percent, from 1,781 in 1999 to 5,523 in 2002. In 1992, only 444 LEP students were in the County's schools.*



Such rapid increases substantially challenge the ability of these school divisions to establish an appropriate infrastructure for adequately meeting the needs of these students.

Virginia schools reported a total of at least 118 languages spoken by their LEP students in 2002/2003. Figure 10 identifies the most prevalent languages spoken by Virginia's LEP students. The large variety of languages spoken by these students adds to the complexity of providing services to them and to communicating with their parents. School divisions with the largest variety of languages include Fairfax (77), Arlington (68), Prince William (62), Henrico (57), Alexandria (56), Loudoun (54), Virginia Beach (45), and Harrisonburg (34). (Schools also reported that 793 students spoke a language labeled as "other" in 2002/2003. Data for "other" languages are not included in these totals.)

There are notable differences in the size of LEP enrollment and the linguistic diversity of those students across school divisions. Some schools may have a relatively small LEP enrollment, but these students may speak a variety of different languages. For example, Hanover County schools have a relatively small number of LEP students (99), but these students speak 23 different languages, with the most frequently spoken being Spanish at 36 percent. Other divisions have a larger LEP enrollment, but the majority of these students speak a single language. For exam-



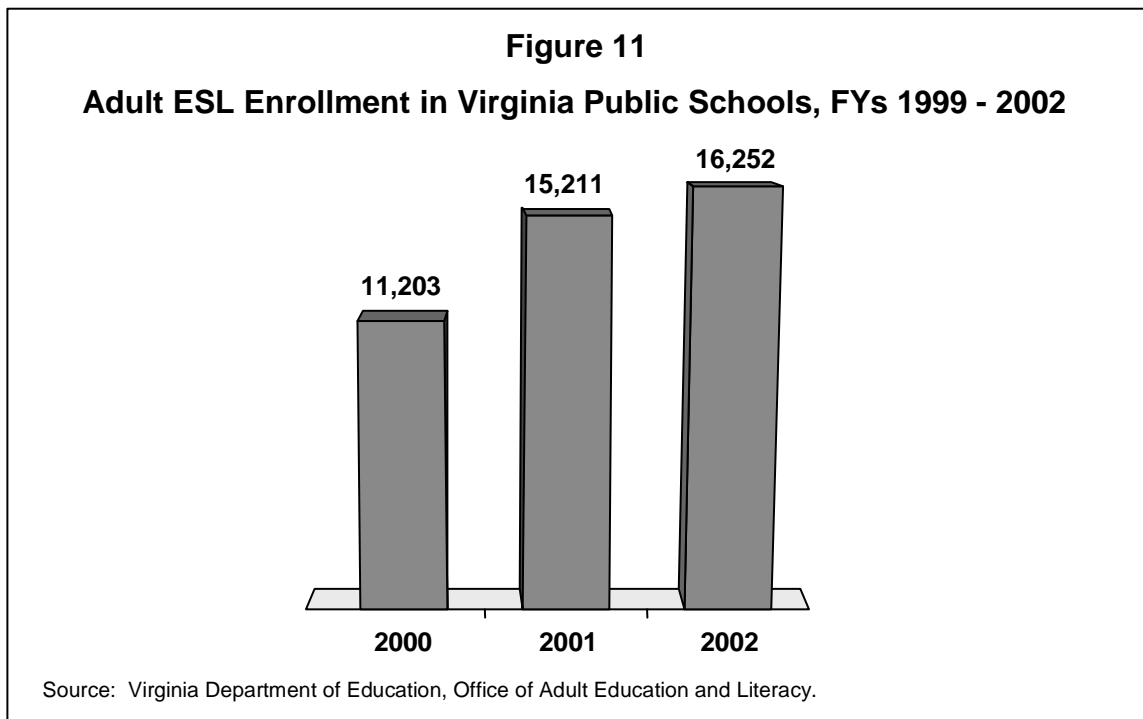
ple, there are 361 LEP students in Winchester City schools, but 80 percent of these students speak Spanish. Meeting the needs of students, and their parents, in Hanover may require a different approach, and result in different challenges, than meeting the needs of students in Winchester.

***Opportunities for Adults to Learn English Are Reportedly Limited.***

Interviews conducted with leaders of Virginia's ethnically diverse communities and of non-profit groups that serve this population indicate that Virginia's non-English speaking residents are eager for opportunities to improve their English-speaking skills. One representative of a non-profit organization with predominantly foreign-born clients told JLARC staff that the primary need expressed by these clients is the desire to learn English. This sentiment was substantiated through a survey conducted by Fairfax County of its foreign-born residents, in which 93 percent of Somali, 84 percent of Hispanic, and 82 percent of Korean respondents indicated a desire to attend English classes.

State-funded adult ESL programs are administered by the Virginia Department of Education through the Office of Adult Education and Literacy and are funded through the Workforce Investment Act of 1998. Classes are generally held in public middle and high schools and adult learning centers, but may also take place in nearby churches and community centers. As shown in Figure 11, adult ESL enrollment in Virginia's public schools increased by 45 percent between 2000 and 2002. English language classes are also offered by non-profit organizations, the faith-based community, and community colleges. However, the full extent of privately initiated efforts to provide adult English classes could not be determined.

There are no State guidelines that mandate a specific curriculum for adult ESL courses and individual instructors are generally given the freedom to determine



their approach to instruction. Most adult ESL instructors in Virginia are part-time teachers and are paid an hourly rate with no benefits. Some ESL centers, especially those located near colleges and universities, depend on unpaid volunteers to work as teacher aides or individual tutors.

The scope of adult ESL programs has evolved to include not only language acquisition, but American civics and education about various practical, everyday skills as well. Some adult ESL programs focus on preparing students to take the U.S. citizenship exam. Others tailor the curriculum to a particular employment sector. For example, Northern Virginia Community College sponsors an ESL class exclusively for construction workers. Adult ESL classes may also teach basic skills such as grocery shopping, maintaining a budget, and opening a bank account.

Case study evidence from adult ESL program staff across the State indicates that they are unable to meet the growing demand for these services. Adult learning centers reported to JLARC staff that there are always waiting lists for their adult ESL courses. Efforts are reportedly made to accommodate students placed on waiting lists, but some programs stop the enrollment process early and turn people away.

JLARC staff found that, even if the availability of these classes were adequate, other factors might impede many interested individuals from taking advantage of them. These factors include constraints associated with having to work multiple jobs, a lack of affordable childcare services to allow parents to attend classes, or a lack of transportation. Some strategies have been developed for counteracting these barriers:

*In Fairfax County, LEP students and their parents can attend an after-school English tutorial program. They receive separate instruction for most of the class, and then come together for a joint lesson on computer skills. Parents are able to improve their English skills without having to be concerned about childcare options. There is a similar program for preschool children held during the day.*

\* \* \*

*JLARC staff were told that some employers in the poultry industry sponsor English classes for their employees during work hours.*

Despite efforts such as these, barriers remain to accessing needed English language instruction. Given these constraints, as well as federal law regarding language access, accommodations are necessary to ensure that these residents have equal access to needed services and information, despite their limited English skills.

***Access to Services Is Problematic for the LEP Population.*** The language barrier not only limits the ability of non-English speakers to fully access needed services and information, but may also decrease the likelihood that these persons are even aware of available resources and their rights with respect to receiving them. The language barrier may also deter non-English speakers from seeking assistance. For example:

*Staff from one health department reported that, although they do not turn patients away because of the language barrier, it is probable that patients have gotten discouraged with the inability to communicate and have not come back [for services].*

Complications associated with this challenge are particularly evident in the human services area. For example, miscommunication in health care settings may result in harm to the patient and substantial costs to the health care system.

*According to Virginia Department of Health (VDH) staff, there are currently eight to ten tuberculosis patients in need of treatment costing approximately \$25,000 per patient. Because of language barriers and cultural ideas of sickness, these patients did not follow the prescribed treatment for active tuberculosis patients and are now in need of this more intensive treatment.*

Further, communication gaps may result in persons not seeking needed treatment until they are in need of emergency care. This not only results in the need for more costly medical services, but may also have public health consequences.

JLARC staff also found that the provision of mental health services to LEP clients presents a unique set of challenges because of the necessity of verbal intervention in some mental health treatment strategies. The mental health needs of some foreign-born groups may be great, especially those coming from war-torn re-



gions of the world. In addition, different cultural attitudes toward mental illness may result in reluctance to seek assistance until emergencies arise.

Virginia's foreign-born residents may also face unique challenges in navigating the criminal justice system. The U.S. approach to criminal justice is potentially very different from practices and philosophies in other countries. Immigrants coming to the United States from countries ruled by oppressive governments may be particularly fearful of the judicial process. Language barriers may contribute to this fear and hinder the ability of the foreign-born to better understand and participate in the U.S. criminal justice system.

Local government service providers interviewed by JLARC staff report undertaking numerous approaches to providing language access for these clients. These approaches are often independently devised by these agencies and tend to be based on the limited resources immediately available to them, such as bilingual staff. Typically, because no single strategy is adequate for meeting the needs of these clients, agencies use a combination of approaches to accomplish this. A few agencies indicated relying upon clients to bring their own interpreters, which may include their children, despite discouragement from this practice by the federal government. One of the most common approaches to providing language access includes the use of bilingual employees. Some bilingual staff are recruited specifically to provide needed interpreter assistance. For example:

*Chesterfield County social services has someone on staff whose job is solely interpretation. This person accompanies social workers on Child Protective Services visits and sits in on conferences between benefits staff and Spanish-speaking clients.*

\* \* \*

*The Eastern Shore health district has one person whose exclusive job is interpretation. This employee is responsible for interpretation in both health departments on the Eastern Shore.*

Some local governments, however, do not have the resources to create such specialized positions. Therefore, even if a locality employs bilingual staff, the provision of language assistance is often not their primary responsibility.

Bilingual staff must sometimes negotiate the demands of interpretation and translation requests along with the routine demands of their jobs. Utilizing bilingual staff to assist non-English speaking clients can negatively affect staff productivity and efficiency. Some agencies report that the workloads of bilingual social workers may increase because it takes longer to work with limited English speaking clients, resulting in a backlog of cases.

*The Virginia Beach social services office estimates having approximately 20 bilingual staff. However, these employees are reluctant to volunteer for language assistance because this may have a negative impact on the performance of their other job duties.*

\* \* \*

*Accomack Social Services employs bilingual employees who are well-known in the community. Residents will bring documents from other agencies, such as Department of Motor Vehicles, for the bilingual staff to translate. This places an increased burden on these staff that is not reflected in their official duties.*

In some localities, supervisors are reportedly sensitive to the increased demand on bilingual workers and tend to allocate fewer responsibilities to these employees. In some cases, however, this has reportedly fostered resentment among other staff.

Many local government service providers interviewed by JLARC staff reported using telephonic interpreter services as a resource for communicating with LEP clients. Interpreter assistance is provided over the telephone in a large variety of languages. This service can reportedly be costly to use, however, so some agencies tend to rely more upon bilingual staff or other community resources.

Local government agencies also report relying upon the professional interpreter services provided by private companies or organizations. For example, the Northern Virginia Area Health Education Center (AHEC) runs an interpreter service that is utilized by a number of public service providers in that region. In the Western part of the State, service providers have reportedly used interpreters provided by the Blue Ridge AHEC. Agencies also report using the bilingual skills of the staff employed by local community based organizations. For example, in the Tidewater region, members of the Organization of Chinese-Americans have been called upon by public agencies to provide interpretation and translation services.

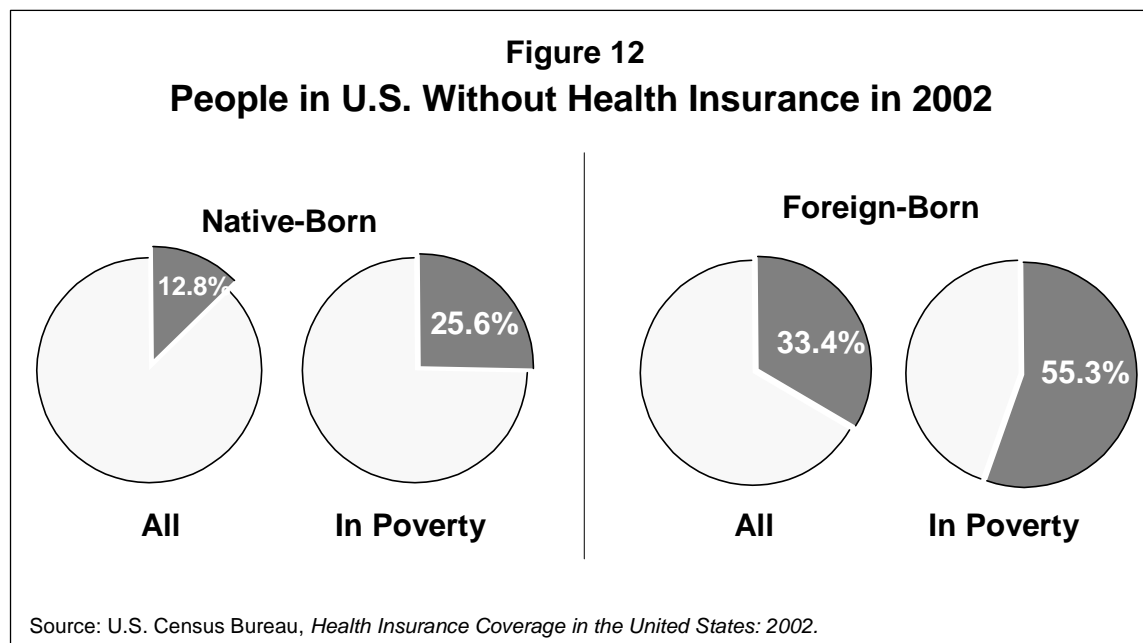
Local government service providers also report using their own resources to translate key documents, such as information on eligibility and human rights, into needed languages. These translations may be completed by community organizations, professional translators, or bilingual staff. This has reportedly resulted in a duplication of effort across many localities and in an uneven quality of translations. Most health departments and social services agencies visited by JLARC staff report that the State has not provided many needed official State documents in any language besides English. Overall, State-level approaches to addressing language needs have been piecemeal. Options for ways the State can improve its efforts to provide accommodations for LEP clients will be discussed in Chapter V of the report.

### **The Foreign-Born Need Access to Health Care Resources**

JLARC staff found that the foreign-born population has a disproportionate need for public health care services, principally because they are more likely to be without health insurance. According to Census Bureau data, foreign-born persons are more than twice as likely to be without health insurance as native-born persons. The Census Bureau's Current Population Survey (CPS) data for March 2002 indicate that, nationally, 33 percent of foreign-born residents are not covered by either private or government health insurance, compared to 13 percent of native-born residents. In Virginia, 28 percent of foreign-born residents are uninsured, compared to

11 percent of native-born. Of those living in poverty, nationally, 26 percent of native-born residents do not have health insurance, while 55 percent of foreign-born face the same challenge. These data are shown in Figure 12. Foreign-born non-citizens are also more likely than naturalized citizens to have no health insurance coverage, at 43 percent compared to 18 percent. In Virginia, 33 percent of non-citizens are uninsured, compared to 11 percent of naturalized citizens. Moreover, based on 1999 CPS data, citizen children of non-citizen parents are more likely to be uninsured (19 percent) than citizen children of native-born parents (13 percent). One factor that likely impacts these rates is the fact that most legally present immigrants who have been in the United States less than five years are ineligible to participate in the Medicaid and FAMIS health insurance programs, options which are available to the State's native-born population.

The greater likelihood that Virginia's foreign-born residents will be without health insurance means that they are more likely to have health care needs that go unmet. This was found to be the case in a 2003 health needs assessment conducted of the greater Richmond area's immigrant residents by the Bon Secours Richmond Health System and the Central Virginia Health Planning Agency. This assessment discovered that the greatest unmet needs were prenatal and obstetrical care. This study also reported that "more than half of all the focus group participants [in this study] said that they or a family member needed medical care in the last year, but were unable to get it," primarily due to expense and language barriers. In an interview with VDH staff, JLARC staff were told that the prenatal or obstetrical needs of many immigrant women go unmet because they are reticent to seek care due to immigration status. This requires public health nurses to be more proactive in finding these patients to ensure that they receive adequate care during their pregnancies. According to the March of Dimes, uninsured women receive fewer prenatal care services and Hispanic mothers were nearly three times as likely in 2000 to have received late or no prenatal care.



Many health care needs of the uninsured may be met by local health departments. However, services provided by health departments vary, which means that some needs are likely to go unmet. For example, as shown in the case examples below, the ability of health departments to provide prenatal care will vary, based largely on resources.

*Alexandria's Arlandria Health Center for Women and Children was created to meet the unmet maternal health needs of the area's Hispanic population. Funded with eight percent State funds, 23 percent local funds, and 67 percent private funds, this center has been operating for ten years and provides a range of health services to the area's Hispanic women and their children. These include child health services, prenatal care, and family planning. All clinic staff are bilingual and all clinic literature is provided in Spanish. The clinic served nearly 3,000 clients in FY 2003.*

\* \* \*

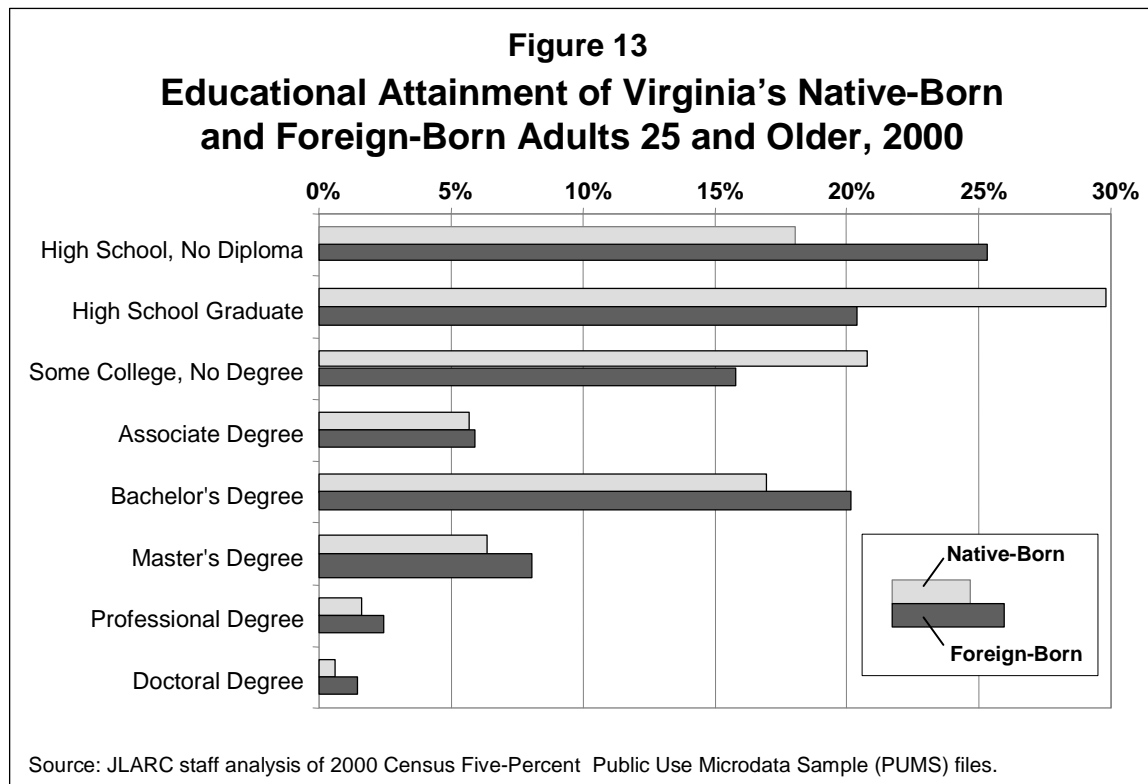
*In Winchester, the health department does not provide prenatal care services. In the past, the health department would perform a one-time prenatal check-up and then arrange for the patient to visit a private physician. However, due to a large increase in the number of Medicaid-ineligible patients (primarily foreign-born) being referred to area physicians, doctors began to require payment of between \$500 and \$800 for obstetrical services to be paid in full prior to the appointment. This policy has effectively meant that Medicaid-ineligible patients will not be seen by a private physician. The health department has discontinued its practice of providing a one-time prenatal check-up, citing the fact that knowledge of any health conditions these patients might be facing, coupled with the fact that these patients no longer have area private physicians as a resource, places added liability on the health department to provide further treatment for these patients. It was reported to JLARC staff that pregnant women are now simply going to emergency rooms to give birth and are not receiving prenatal care.*

The need for access to affordable health care is not unique to the foreign-born population. However, this need may be disproportionately experienced by some immigrants because they lack private insurance and are unable to access public health programs, such as Medicaid. Factors such as lack of health insurance and communication barriers may also mean that the needs of this population are more likely to go unmet. This is particularly true of more recent immigrants who are more likely to be poor, employed in jobs that do not offer health insurance benefits, and restricted from programs such as Medicaid and the Family Access to Medical Insurance Security (FAMIS) program for the first five years of their residence.

## Newer Immigrants Fare Worse in Terms of Educational Attainment and Poverty Levels

There are two factors that raise concerns about the ability of some of Virginia's foreign-born residents to become fully participating members of the State's social and economic structures: lower educational attainment and somewhat higher poverty rates. Poor native-born residents have safety nets to assist them with their needs. However, because poor immigrants are more likely to be recent arrivals, access to these services has been restricted by welfare reform, which prevents many immigrants from accessing major public benefits programs for the first five years of their residence.

***The Educational Levels of Virginia's Foreign-Born Vary.*** Education is an essential factor in the ability to obtain sufficient employment and income. Based on an analysis of 2000 Census data, it appears that the educational attainment of Virginia's foreign-born is more concentrated on the high and low ends. As compared to Virginia's native-born population over 25, the foreign-born population over 25 is less likely to have a high school diploma and more likely to have an advanced or professional degree. As illustrated in Figure 13, a slightly greater percentage of the foreign-born population (12 percent) have advanced degrees - masters, professional, or doctoral degrees - as compared to the native-born (nine percent). These individuals, if able to transfer their degrees and skills, may be represented in the high-skill, higher income segments of the economy.



However, a greater percentage of the foreign-born do not have a high school diploma. Approximately 26 percent of the foreign-born over 25 did not graduate from high school, compared to 18 percent of the native-born. This low education level is a significant barrier to gainful employment. Those with low education levels are more represented in the low-income sectors of the economy. Census data indicate that further educational achievement enables individuals to move out of the low poverty levels. Fourteen percent of immigrants with less than a high school education live below the poverty line, compared to eight percent for those with a high school diploma and five percent for those with education beyond high school.

***More Recent Immigrants Are More Likely to Have Low Incomes.***

Similar to educational attainment, when income levels are analyzed, Virginia's foreign-born residents are more likely to be in lower brackets than the native-born, but they are also more likely to be in the highest brackets (\$100,000 of income or more). This is illustrated in Figure 14.

Overall, foreign-born and native-born poverty rates are not very different, at 11 percent and ten percent respectively. However, these overall rates mask the effect on poverty of time spent in the United States. Figure 15 shows that 20 percent of foreign-born residents who have been in the country for fewer than five years have incomes below the poverty line. Data also show that more *recent* immigrants are four times more likely to be below the poverty line than more established immigrants. This suggests that more recent immigrants may be more likely to need cer-

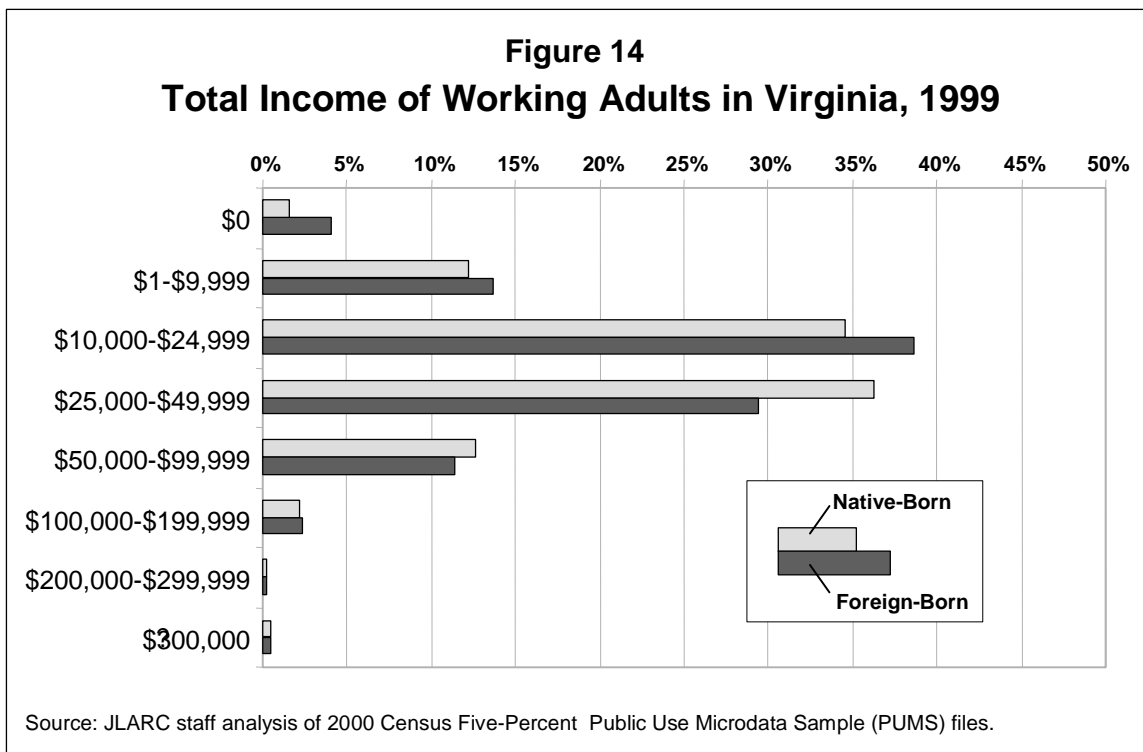
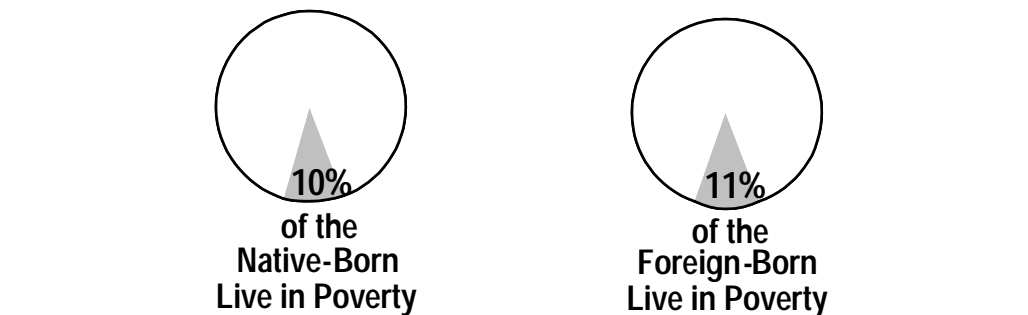
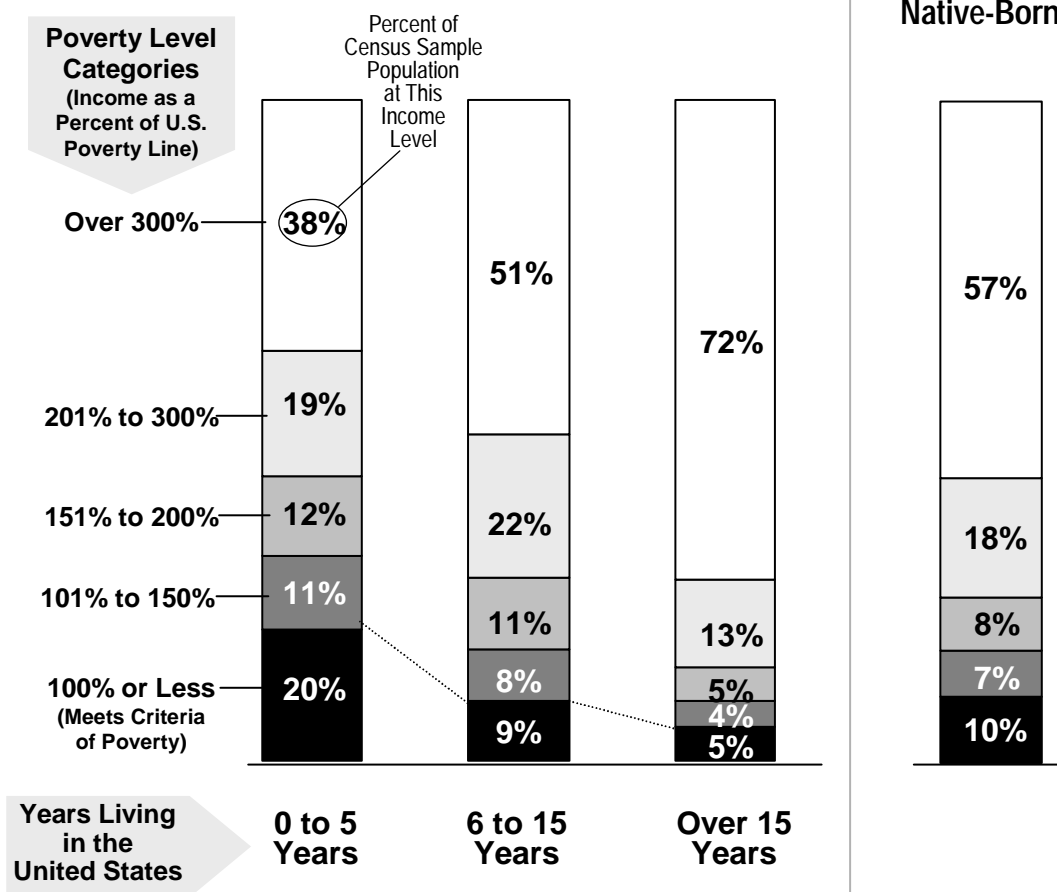


Figure 15

## Virginia Native-Born and Foreign-Born Poverty Data, 2000



## Foreign-Born Poverty Levels Based on Years in the U.S.



Source: JLARC staff analysis of 2000 Census Five-Percent Public Use Microdata Sample (PUMS) files.

tain forms of assistance. However, access to public safety nets has been restricted by welfare reform and these residents no longer have the same access to services as their native-born counterparts.

It should be noted that the number of persons living in poverty in high cost-of-living areas of the State may not be reflected in simple poverty rate statistics, because national poverty rates are not cost-of-living adjusted. In Alexandria, for example, the median income is \$56,054, as compared to the national median of \$41,994. This coupled with the fact that the majority (68 percent) of Virginia's foreign-born are located in Northern Virginia, may indicate that significantly more foreign-born are living in a state of poverty in that region than is reflected in the federal poverty rates.



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## **IV. What Are the Benefits and Costs of the Major Immigrant Populations to the Commonwealth and Its Economy?**

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House Joint Resolution 604 directs JLARC staff to “examine the benefits and costs of the major immigrant populations to the Commonwealth and the Commonwealth’s economy.” While many people cite the social benefits associated with cultural diversity, the benefits portion of this report focuses on the foreign-born population’s impact on Virginia’s economy – specifically in terms of its labor force participation. A review of available data shows that Virginia’s foreign-born population is an integral part of Virginia’s labor force. Their labor force participation helps keep the State competitive in industries such as agriculture and poultry processing, supports tourism through substantial participation in the hospitality industry, and supports the State’s growth in the high tech field, among others. The foreign-born are also active participants in the armed forces, accounting for over six percent of Virginia active duty armed forces. Although benefits derived through tax collections could not be determined because Virginia tax data are not linked to ethnicity or citizenship status, it is reasonable to conclude that the foreign-born contribute to the tax base through their income and purchases in Virginia.

In examining costs associated with the foreign-born population, JLARC staff examined program costs that are unique to the foreign-born population as well as costs based on disproportionate use of services. JLARC staff primarily focused attention on those programs and services that comprise a large proportion of the State’s budget – education, social services, health care, and corrections. There are two primary governmental costs that are unique to the foreign-born population – costs associated with English language instruction and costs associated with interpreters and translators (which occur across all governmental services). In general, JLARC staff found that Virginia’s foreign-born residents do not use governmental services at a higher rate than native-born residents. In fact, for many services this population segment appears to use services less than would be expected based on poverty rates and its representation in Virginia’s population. However, in one area – health care – usage of services by the foreign-born, particularly at local health departments, appears to be increasing, and in some cases is creating a strain on local service delivery. For all of these services, data that would fully identify the costs of the foreign-born population are not available. However, JLARC staff were able to identify selected costs. Additional data collection would be needed to develop an accurate total cost attributable to the foreign-born population.

### **FOREIGN-BORN PARTICIPATION IN VIRGINIA’S ECONOMY**

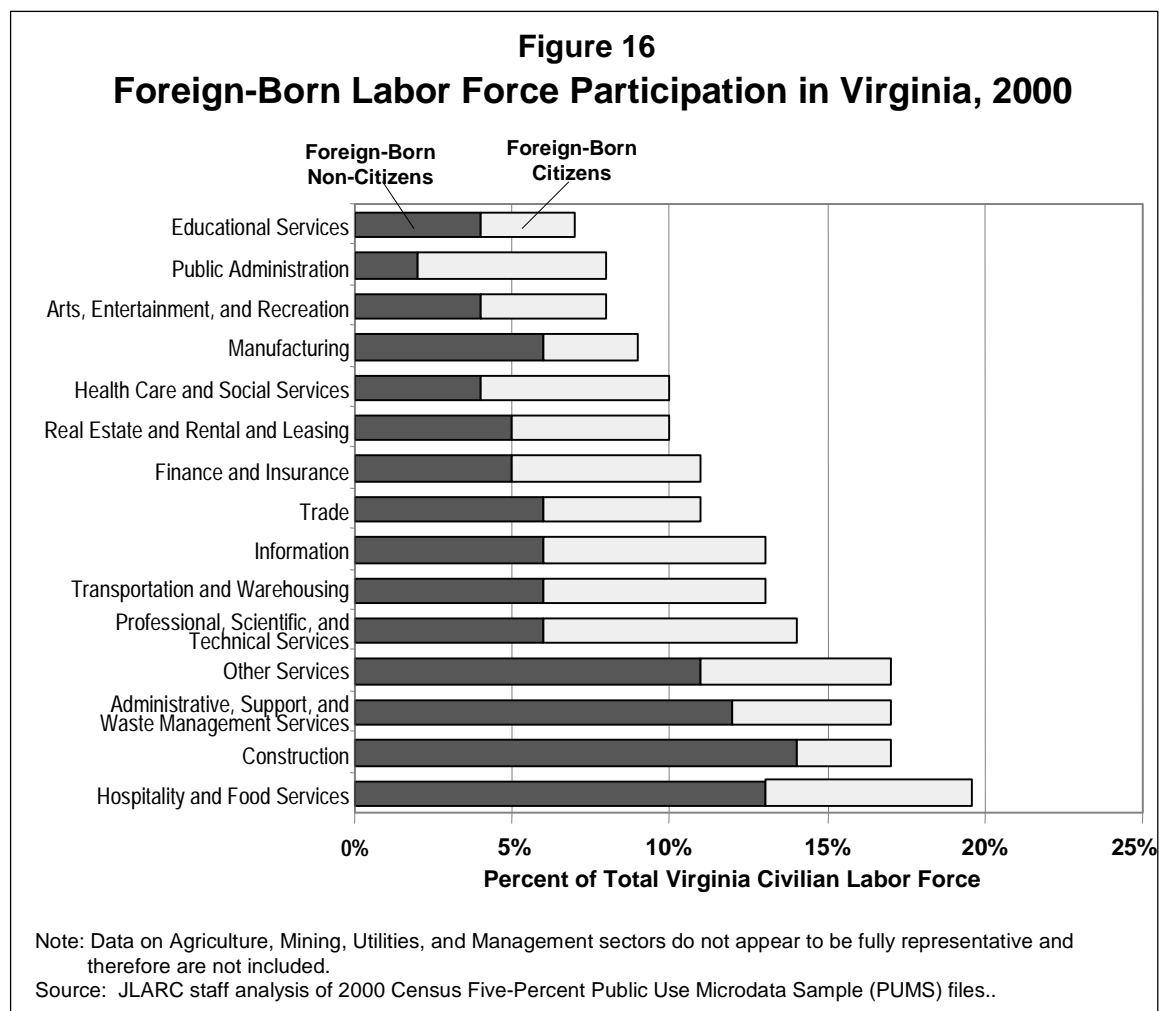
Virginia’s economy is reliant on a variety of industries, including agriculture, manufacturing, hospitality, construction, and trade. In 2001, Virginia’s Gross State Product (GSP) totaled approximately \$273.1 billion. A cornerstone of the Virginia economy is its labor force. According to the 2000 Census, Virginia’s labor force

is comprised of approximately 3.8 million individuals. As of July 2003, the statewide unemployment rate was 4.1 percent, compared to the national rate of 6.1 percent. Census data indicate the foreign-born population accounted for approximately 12.4 percent of the total U.S. civilian labor force and 12 percent of the Virginia civilian labor force.

### The Foreign-Born Workforce

Over the last decade, new immigrants accounted for 44 percent of Virginia's labor force growth. Represented in every major sector of the Virginia economy, the foreign-born are active participants in agriculture, manufacturing, hospitality, construction, new business development, and other sectors. They play a particularly significant role in the hospitality/food services and construction industries, accounting for 19 percent and 17 percent of the workers in these industries, respectively (Figure 16).

As noted in Chapter I, individuals from all over the world come to live and work in Virginia. The majority of Virginia's immigrants are of working age. According to Census sample data, over 70 percent of foreign-born residents are between the ages of 19 and 65.



The foreign-born workforce consists of naturalized citizens, legal permanent residents (LPRs), undocumented immigrants, and temporary workers. The majority of the foreign-born in Virginia are naturalized citizens and LPRs. In addition to LPRs, many individuals enter the United States sponsored by corporations through foreign-worker visas. For example:

*The Virginia Employment Commission reported that there are over 3,200 individuals working in the Virginia agricultural industry through H-2A Certification for Temporary or Seasonal Agricultural Work visas. Tobacco firms employ over 2,000 of these individuals. Fruit and vegetable farmers and nurseries employ many others.*

\* \* \*

*Between October 2001 and September 30, 2002, applications were submitted to the U.S. Department of Labor for approximately 24,734 H-1B Visas for Specialty (Professional) Workers in Virginia. Individuals entering the workforce through this visa type include computer systems analysts, researchers, accountants, teachers, professors, sales managers, engineers, consultants, health professionals, law clerks, and laboratory technicians.*

More information on foreign-worker visas commonly used in Virginia is available in Appendix F.

### **The Foreign-Born Play a Key Role in Virginia's Agricultural Industry**

The Virginia Department of Agriculture and Consumer Services (VDACS) reports that agriculture is a \$35.9 billion industry in Virginia. According to a report commissioned by VDACS from the Virginia Tech Department of Agriculture and Applied Economics, \$26.12 billion of this is directly related to agriculture, and \$9.74 billion is the result of induced effects of agriculture on other sectors of the economy. VDACS reported that agriculture consists of 49,000 farms on 8.8 million acres of Virginia land (34 percent). Additionally, the report indicated that approximately one in every ten jobs in Virginia is directly or indirectly related to agriculture.

The foreign-born play an important role in the agricultural sector. As stated by industry representatives in Virginia, the hand crop agricultural industries, such as fruit, vegetables, and tobacco, are dependent on the foreign-born labor force. Specific to Virginia, the Virginia Department of Labor and Industry stated in its 2000 Annual Report that, "some 18,000 migrant and seasonal farmworkers help tend Virginia's crops annually, serving a critical role in the State's agricultural economy." Nationally, migrant workers constitute approximately 42 percent of the nation's total agricultural workforce and 54 percent of the labor force engaged in short-term agricultural tasks. National Agricultural Workers Survey data indicate that approximately 90 percent of the migrant farmworker labor force is foreign-born.

In an effort to evaluate the role of migrant and seasonal farmworkers (MSFW) in Virginia, the Virginia Tech Department of Agriculture and Applied Eco-

nomics conducted a 1997 study of the Virginia agricultural industry. The report found that migrant and seasonal farmworkers produce a combined 93,100 acres of tobacco, fruits, vegetables, and nursery crops each year. Additionally, they generate approximately \$284 million in annual cash receipts from high-value crop acreage. Finally, the report found that an additional \$460 million is generated annually in Virginia through the production of MSFW-dependent crops compared to the next-best use of the land.

To underscore the impact of the foreign-born on the agricultural industry, the authors of the 1997 Virginia Tech report surveyed farm owners and asked what alternative uses for land they would consider if the current supply of migrant and seasonal farmworkers ceased to exist. Indicating the level of dependence of this industry on its foreign-born labor force, over 80 percent of the respondents reported that they would retire from farming and sell their farms. The report stated:

If all MSFWs disappeared from Virginia, the immediate, short-term impact would be the loss of production in all of the state's vegetable, tobacco, and fruit crops except for that volume which could be handled by family and full time labor.

Currently, no technology exists that would fully substitute for hand labor.

### **The Foreign-Born Contribute to Virginia's Manufacturing Industries**

The State's largest basic industry, with 404,900 employees and 6,932 establishments, Virginia's manufacturing industry directly represents approximately 12 percent of the State's GSP in 2001 (\$31.6 billion). The 2000 Census indicates that the foreign-born represent approximately nine percent of Virginia's manufacturing industry. Approximately six percent of the industry is comprised of non-citizens. Segments of the manufacturing industry employ the foreign-born in sizeable numbers – the poultry processing industry provides one example.

*Poultry processing is the 16<sup>th</sup> largest manufacturing industry in Virginia, as reported by the Virginia Economic Development Partnership. (While raising poultry is considered agriculture, poultry processing is a manufacturing industry). The Virginia Poultry Federation estimated that the foreign-born account for approximately 50 to 60 percent of the poultry processing labor force. A substantial portion are Hispanic, but the labor force has representatives from all over the world. According to the Poultry Federation, the poultry processing companies do not generally hire individuals through foreign-worker visas, but prefer to hire permanent employees for year round jobs.*

Manufacturing industry representatives indicated that the foreign-born are important participants in many sectors of this industry.

### **The Foreign-Born Constitute a Significant Percentage of Virginia's Hospitality Labor Force**

The 1997 Economic Census reported that Virginia accommodations and food services directly generate over \$1.36 billion for Virginia. Nine percent of State employment is represented in the hospitality industry – approximately 314,258 individuals. Made up of 12,531 establishments, Virginia hospitality's annual payroll in 2000 was approximately \$2.9 billion.

Substantially represented in the industry, the foreign-born constitute 19 percent of hospitality employment in Virginia. Eleven percent are non-citizens. As reflected in the quotes below, staff at Virginia hotels reported to JLARC staff that they are “very dependent” on the foreign-born:

We rely heavily on foreign workers to be able to operate during the summer tourist season. If they were not available, we would have to come up with some successful strategies to encourage domestic students to work here during their summer break. In recent years a large enough percentage of qualified domestic students have not submitted applications.

\* \* \*

Many of the Williamsburg properties employ seasonal foreign workers since they cannot find enough low skilled workers in the local work force. Most work through agencies that handle all of the special paper work, visas etc. The properties have to guarantee housing for the workers. There are language and cultural barriers, but without foreign workers, many restaurants, motels/hotels would not have enough of a labor force to operate with a full house. It is an ongoing issue.

Additionally, the hospitality industry reported using foreign-worker visas such as the professional (H-1B), temporary non-agriculture (H-2B), and exchange visitors (J-1) to actively recruit employees to Virginia. (See Appendix F for a full discussion of foreign-worker visas). The Restaurant Association of Metropolitan Washington stated that:

The restaurant industry is very dependent on the foreign-born labor force. The domestic workforce is just not available. Many restaurants sponsor foreign workers through the J- trainee or the H-2B temporary non-agricultural workers to staff their restaurants. This occurs from the dishwasher level up.

Other employers in the hospitality industry, including the Virginia theme parks, reported similar experiences.

## **The Foreign-Born Contribute to the Other Segments of Virginia's Economy**

In addition to agriculture, manufacturing, and hospitality, the Virginia foreign-born participate in other segments of the economy. The Virginia construction industry, for example, represented \$13.3 billion, or just over five percent, of the 2001 GSP. This 19,537-establishment industry touches virtually every sector of the Virginia economy. The VEC reported that the construction industry in Virginia directly employed 215,067 individuals as of the quarter ending December 31, 2002, representing approximately six percent of the Virginia labor force. Census data indicate that approximately 17 percent of the Virginia construction labor force is foreign-born, the majority of which are non-citizens. The numbers may be much higher, however, given the prevalence of potentially undocumented day laborers in the industry who may not be included in those figures.

In addition to participation in the construction industry, the foreign-born participate in the technology sector. The Northern Virginia Technology Council stated that within the Northern Virginia technology corridor the foreign-born are actively recruited. Many technology corporations utilize H-1B professional visas to hire and retain the foreign-born, bringing skills and expertise from countries such as India.

Moreover, foreign-born residents participate in Virginia's economy through the creation of small businesses. Data were not available that specifically quantify the number of Virginia businesses owned by foreign-born residents or the number of foreign-born who acquire visas to create or invest in a new business in the United States. However, data on small business owners are available by ethnicity. In Virginia, minorities account for 72,000, or 14.9 percent, of Virginia's 480,000 business firms. These firms have sales and receipts of \$10.2 billion, 2.5 percent of the State total. Asian and Hispanic firms accounted for 4.7 percent and 2.9 percent respectively of all Virginia firms. The minority-owned firms appear to be clustered in specific industries. For example, 45 percent of Virginia's Hispanic owned businesses are in services industries, 15 percent are in construction, and nine percent are in retail. Similarly, 50 percent of Asian-owned businesses are in service industries and 20 percent are in retail.

Furthermore, many immigrants are members of the U.S. armed forces stationed in military installations located in Virginia. Department of Defense data indicate that the foreign-born represent approximately five percent of the total active duty armed forces. Census data indicate that the foreign-born represent approximately 6.5 percent of Virginia active duty armed forces.

In addition to participation in the Virginia labor force, the foreign-born procure goods in the economy. The total buying power of the foreign-born in Virginia as compared with the native-born is unclear. However, using ethnicity as a rough approximation, the Terry College of Business at the University of Georgia conducted a study to estimate buying power. The study found that Asians in Virginia had buying power in excess of \$6.6 billion dollars in 2000. The same report indicated that Hispanic buying power was approximately \$5.7 billion in that same year. This Uni-

versity of Georgia study clearly indicates that the Hispanic and Asian population segments positively impact Virginia's economy and, by extension, its tax base.

## **COSTS ASSOCIATED WITH THE FOREIGN-BORN POPULATION**

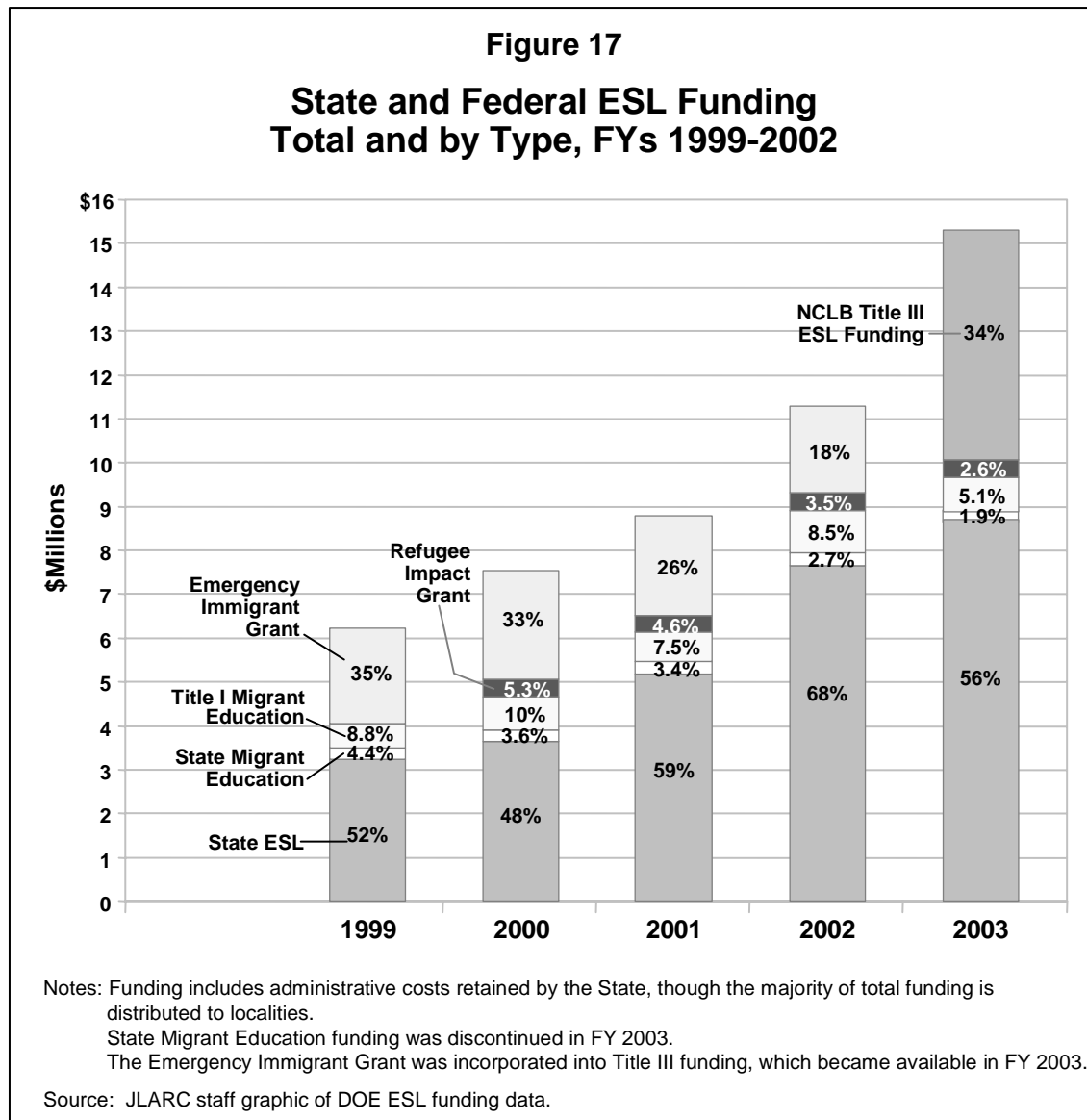
In addition to examining the benefits of the foreign-born to Virginia's economy, JLARC staff examined two types of costs associated with the foreign-born population: those costs which are unique to this population and those costs which are based on a disproportionate use of services by the foreign-born. Unique costs include English language training in the primary and secondary educational system, adult English-as-a-Second-Language programs, and interpretation and translation costs. Additionally, housed in the Virginia Department of Social Services, but funded federally, the Office of Newcomer Services provides a unique service to Virginia's refugees. JLARC staff found that costs associated with disproportionate usage of services appear minimal. In general it appears that the foreign-born do not utilize services disproportionately, with one notable exception – public health services.

### **Costs Associated with English Language Training within Primary and Secondary Education for Foreign-Born Children**

All foreign-born school-age children are eligible to receive a publicly funded primary and secondary education in the United States. This requirement is not without impact on the State's primary and secondary education structure. The most significant impact comes through education of students who are limited English proficient (LEP). In addition to regular classroom instruction, these children receive English language instruction.

English-as-a-Second-Language programs are developed and implemented at the local level. Funding for ESL programs, however, is derived from federal, State, and local funds. While the federal government began allocating funds for LEP students in 1967, the State's funding of ESL programs started in 1991. There are no data available to indicate the amount of total funding that is provided to meet the needs of LEP students in Virginia, but it appears that some local governments bear much of the fiscal responsibility.

***Federal and State Governments Provide Some Funding for Local ESL Programs.*** Figure 17 provides an overview of federal and State funding of ESL programs. In the past four years, State funding for ESL programs has increased, from \$3,226,439 in FY 2000 to \$8,686,941 in FY 2003. Fiscal Year 2004 budgeted appropriations are \$10,322,135. Funding is provided on an entitlement basis and is driven by the LEP student enrollment reports that schools provide to Virginia Department of Education (DOE). The Appropriation Act, and now the State Standards of Quality, hold that add-on funding to school divisions for ESL activities will be based on the ratio of ten teachers per 1,000 students. Add-on funding is used to support resource levels that go beyond the resource needs of pupils receiv-



ing “regular” instruction. The State has also provided Migrant Education funding to schools in areas with large migrant populations. However, this funding, \$299,914 in FY 2003, was discontinued thereafter as a result of budget cuts.

Prior to the 2002/2003 school year, the primary sources of federal ESL funding available for school divisions were the Refugee School Impact Grant, the Title I Migrant Education Grant, and the Emergency Immigrant Grant. The Refugee School Impact Grant was first received by Virginia in 2000. School divisions are eligible to receive this funding as long as they have refugee students enrolled. In 2002, 37 school divisions received refugee impact funding. The Emergency Immigrant Grant, while now part of funding provided through Title III of the No Child Left Behind Act (NCLB), has been available to school divisions with at least 500 LEP students enrolled or whose LEP students comprised at least three percent of their total student body enrollment. An average of nine school divisions per year have received



Emergency Immigrant Funds since 1999. Schools that had LEP students and that did not qualify for these grants only received General Fund appropriations for their programs. Funding has also been available for the past 30 years through Title I of the Elementary and Secondary Education Act and the Bilingual Education Act of 1967.

With the passage of the NCLB Act in 2001, increased federal funding became available to educate LEP students in grades K-12. For many schools, Title III funding was the first federal resource provided to school divisions for LEP students. In school year 2002/2003, Virginia received a total of \$5,256,009 in Title III funding for the education of LEP students. Federal funding retained by the State to cover administrative costs, which averaged less than three percent per year, is included in these figures as well.

***Local Governments Provide the Majority of Funding for ESL Programs in Most of the School Divisions Visited by JLARC Staff.*** While schools reported that newly available federal funding through Title III of NCLB is a valuable resource for the operation of their ESL programs, some schools indicated that these resources comprise only a small proportion of the total funding required to provide ESL services. While DOE does not maintain data on the local funding that is required to educate LEP students, some local school divisions provided JLARC staff with estimates of the local funding allocated for the operation of their ESL programs. Examples of costs incurred by local school systems include the following:

*Arlington County provided data for FY 2002 showing that the county's per-pupil cost for General Education students is \$9,323. Per-pupil costs for students in their ESL program are an additional \$2,752, or a total of \$12,075 spent on each ESL student. Arlington County's total ESL program cost for that year, including teacher salaries, was approximately \$14 million. Arlington received just over \$1 million in State and federal assistance that year for ESL.*

\* \* \*

*Fairfax County reported that its total ESL budget has increased from \$24.3 million in FY 1998 to \$54.1 million in FY 2004. School officials attribute this growth to an increase in the number of ESL students as well as the cost of employee salaries. Fairfax also noted that the additional per-pupil cost for providing ESL services in FY 2004 is \$2,964, or a total of \$11,270 for each student. Fairfax County received \$4.5 million from the State and federal governments in FY 2003 for ESL.*

\* \* \*

*Chesterfield County estimated that its total ESL budget in FY 2004 is approximately \$2.6 million. This includes about \$1.6 million for ESL teachers, \$340,000 for support staff including instructional aides and bilingual translators, and \$75,000 for materials and teacher travel. In addition, because not every school in the division*

*has an ESL center, approximately 75 percent of the ESL students have to be bussed to their ESL classes. This costs approximately \$500,000. In FY 2003, the State provided \$324,608 to Chesterfield County for ESL. Chesterfield received an additional \$97,000 from the federal government.*

To date, the State has not examined the total financial resources required to meet the educational needs of LEP students. Further, school divisions are now dependent on the performance of this subgroup of students to meet the NCLB Act requirement that schools make “adequate-yearly-progress” toward demonstrating 100 percent proficiency among students in certain core subject areas. Given this requirement, it appears that the demands placed on the budgets of local governments will likely increase. In order to ensure that adequate State funding is being provided to assist school divisions in these efforts, the Department of Education should conduct a thorough assessment of the resources required to successfully operate programs for LEP students.

***Recommendation (1).*** The Department of Education should conduct an examination of the add-on costs of operating ESL programs and other initiatives for limited English proficient students. This assessment should take into account educational costs incurred that extend beyond the classroom, as well as the amounts of local funding provided for these efforts.

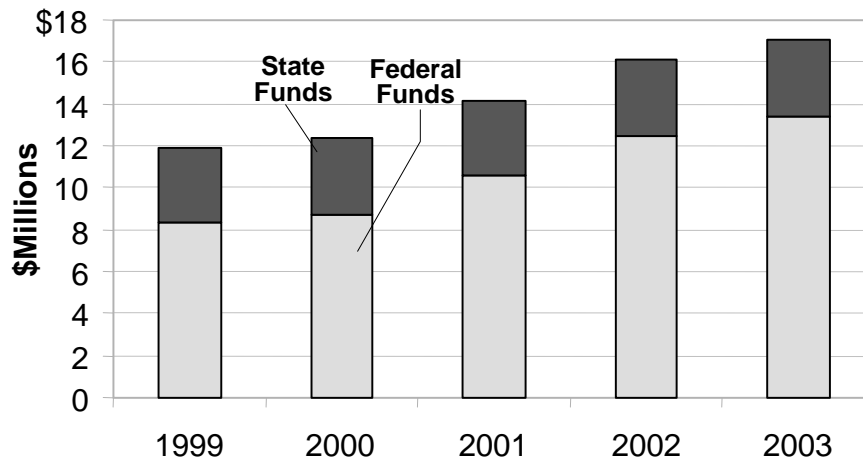
### **Costs Associated with Adult English-as-a-Second-Language Programs**

Adult English-as-a-Second-Language (ESL) programs are a source of additional unique cost associated with serving the State’s foreign-born population. As previously discussed, demand for ESL is rising, with enrollment increasing 45 percent over the last three years.

Funding for adult ESL is appropriated through the Adult Basic Education (ABE) program. Due to the federal and State funding structure for the ABE program, it was not possible to determine what percentage of these funds was used for ESL instruction. As illustrated in Figure 18, State funding for ABE has generally been consistent at approximately \$3.6 million over the last five years. Federal funding has increased from \$8.3 million in FY 1999 to approximately \$13.4 million in FY 2003.

Recently a small portion of federal funding was specifically earmarked for adult ESL. In general, however, the percentage of funding appropriated for ESL is determined by the individual localities. Because adult ESL funding comes from the ABE budget, any proportion spent on ESL is funding that must be diverted from the other two components of ABE: GED training and adult basic education. In addition to federal, State, and local funding, localities can choose to charge tuition for ESL classes. It appears that some localities exercise this option and others do not.

**Figure 18**  
**State and Federal Adult Basic Education Funding,**  
**FYs 1999-2003**



Source: Virginia Department of Education, Office of Adult Education and Literacy.

While JLARC staff were unable to specifically determine how much all localities spend on adult ESL, some localities were able to provide information regarding their adult ESL programs. For example:

*Fairfax County received approximately \$4.2 million in federal, State, and local funding for its ABE program in FY 2003. Approximately 46 percent of that total is dedicated to the ESL program. In addition, Fairfax County has opted to charge participants in their ESL classes tuition. They receive approximately \$1.6 million in tuition fees, 94 percent of which is dedicated to ESL.*

\* \* \*

*Charlottesville receives approximately \$169,000 per year in federal, State, and local funding for ABE. It appropriates approximately 55 percent of this funding to ESL. In addition, the Charlottesville Adult Education Center receives approximately 33 percent of its overall budget through contracts with the private sector.*

\* \* \*

*The Chesterfield County ABE budget totals approximately \$581,000 per year. The county estimates that 30 to 40 percent of the total ABE budget is spent for ESL. Approximately two-thirds of their ABE students are enrolled in ESL programs.*

The localities highlighted above all have relatively significant LEP populations. The experiences and expenditures of other localities may vary.

## Costs Associated with Interpretation and Translation of Documents

Translation and interpretation are unique services provided largely to the foreign-born population. These costs are borne across all service areas including health, social services, and criminal justice. As previously described, given the LEP population in the State and the requirements of Title VI, there is a need for translation and interpretation services at the State level.

While it is clear that providing adequate document translation and interpretation services is an expense to the State and localities, the extent of this cost appears to vary by agency. Typically the total costs associated with providing interpretation and translation are not separately tracked by agencies. Some agencies, however, provided estimates for a portion of these costs. For example:

*The Fairfax Health District (FHD) spends over \$100,000 a year in telephone interpretations for its clients. During June 2003 FHD accessed 17 different languages, with Spanish being the predominant language. Currently, the district translates all documents that clients must understand before signing, or ones that are related to their follow-up care/home instructions.*

\* \* \*

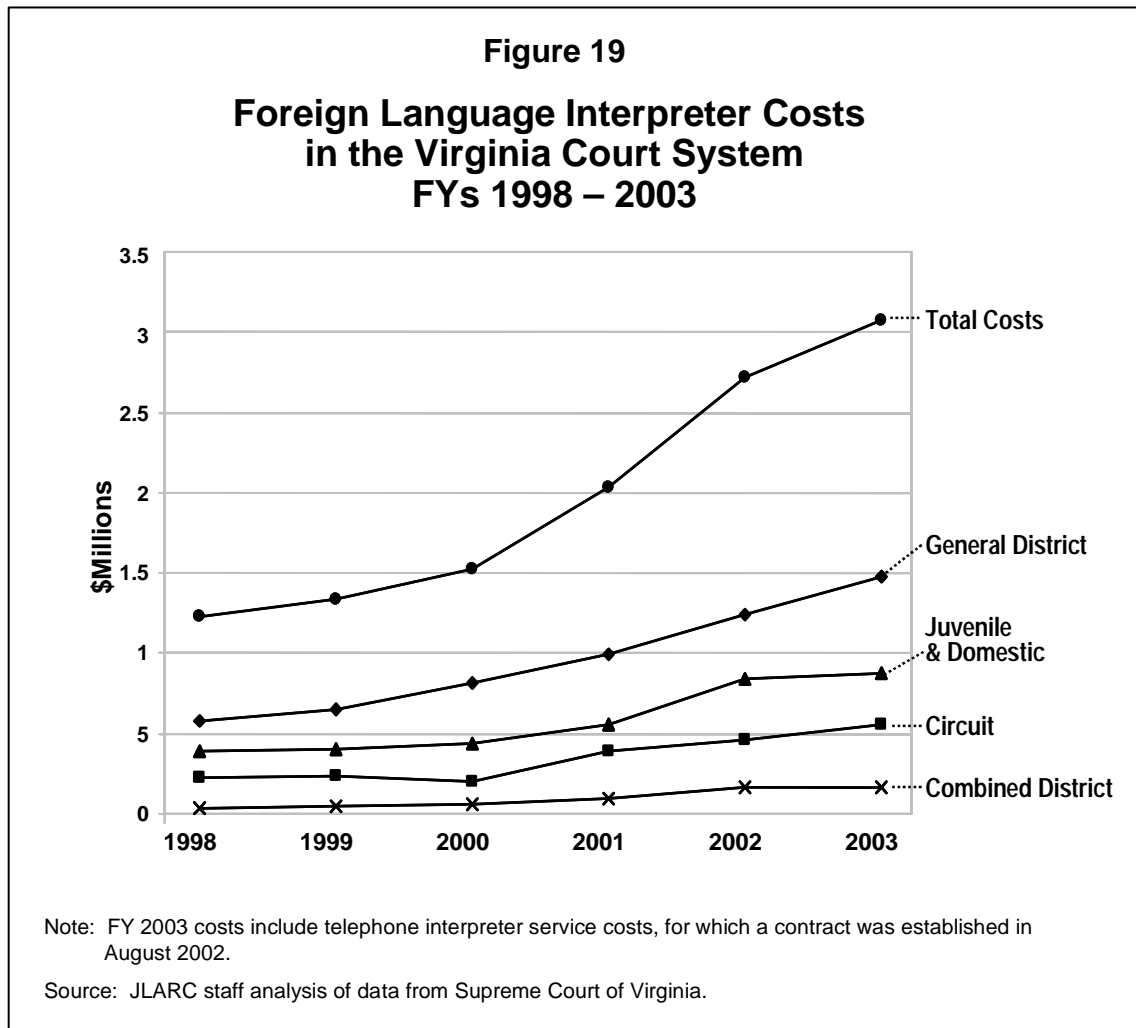
*The Chesterfield Emergency Communications Center (911 Call Center) has seen interpretation costs increase over the last three fiscal years. Interpretation costs totaled \$10,641 in FY 2001, \$20,219 in FY 2002, and \$25,415 in FY 2003. Over 90 percent of this interpretation is in Spanish.*

\* \* \*

*The Virginia Employment Commission (VEC) utilizes a telephone interpreter service to communicate with LEP customers. Bills for this service range from \$1,000 to over \$3,000 per month.*

In one area, comprehensive interpreter costs were available – the court system. The United States *Constitution* and the *Constitution of Virginia* guarantee the right to due process of law. This means, among other things, that the courts must ensure that a person understands and can participate in court proceedings. For foreign-born litigants, this often necessitates the use of an interpreter. The *Code of Virginia* also requires the appointment of an interpreter in any criminal or civil case to a non-English-speaking person who is an accused criminal, victim of crime, or witness to a crime.

Based on data provided by the Supreme Court Executive Secretary's Office, total costs associated with providing interpreters have increased substantially in recent years (Figure 19). The combined cost to provide interpreters for all Virginia courts in FY 2003 was over \$3 million. This amount includes costs from general district courts of almost \$1.5 million and juvenile and domestic courts of just under \$1 million. Additionally, circuit courts and combined district courts reported spending approximately \$500,000 and \$200,000 respectively. All of the agencies contacted during this study reported that expenditures for interpreter services were drawn



from their regular budgets. There have not been separate funding sources available to provide these services.

### **Costs Associated with Federally Funded Programs Serving State Residents Exclusively**

In addition to State and locally funded programs for the foreign-born, the federal government administers refugee programs in Virginia. While no State funds are used to administer these programs, their presence and role as unique services offered to the foreign-born in Virginia warrants mention.

The Virginia Department of Social Services (DSS) houses the Office of Newcomer Services (ONS). Responsible for coordinating the resettlement of refugees once they arrive in Virginia, the operations of ONS are entirely federally funded. No State or local money is used to fund the ONS. Rather, funding for resettlement comes from the U. S. Department of Health and Human Service's Office of Refugee Resettlement (ORR) and is used to provide refugees with cash and medical assis-

tance for up to eight months after their arrival in the United States. ORR also funds refugee social services (for example, language services or job training) and the administration of the resettlement program. In addition to refugees, other categories of immigrants are eligible for refugee resettlement services. These include asylees, Cuban and Haitian Entrants, Amerasians, and Unaccompanied Minors.

There are four main resources for the resettlement of refugees: the Matching Grant Program, the Refugee Cash Assistance Program, the Refugee Medical Assistance Program, and the Targeted Assistance Program. All of these resources are federally funded, but administered by the State's ONS. Funding totaled \$7.3 million in FFY 2002. The goal of these initiatives is to ensure that refugees quickly become self-sufficient. While the State coordinates and oversees the resettlement of these individuals, affiliates of private national voluntary agencies within the State maintain the core responsibilities of resettlement, such as the pursuit of financial assistance for refugee families or English language instruction.

In addition to the Office of Newcomer Services, the federal government funds the activities of the Refugee and Immigrant Health Program (RIHP) located in the Virginia Department of Health. The purpose of this program is to coordinate and monitor the initial health assessments that are conducted of refugees by local health departments when they are resettled in Virginia localities. At a minimum, health departments conduct assessments for tuberculosis exposure and infection. Some health districts choose to do more in-depth assessments, such as an evaluation of the need for dental care, immunizations, or mental health counseling.

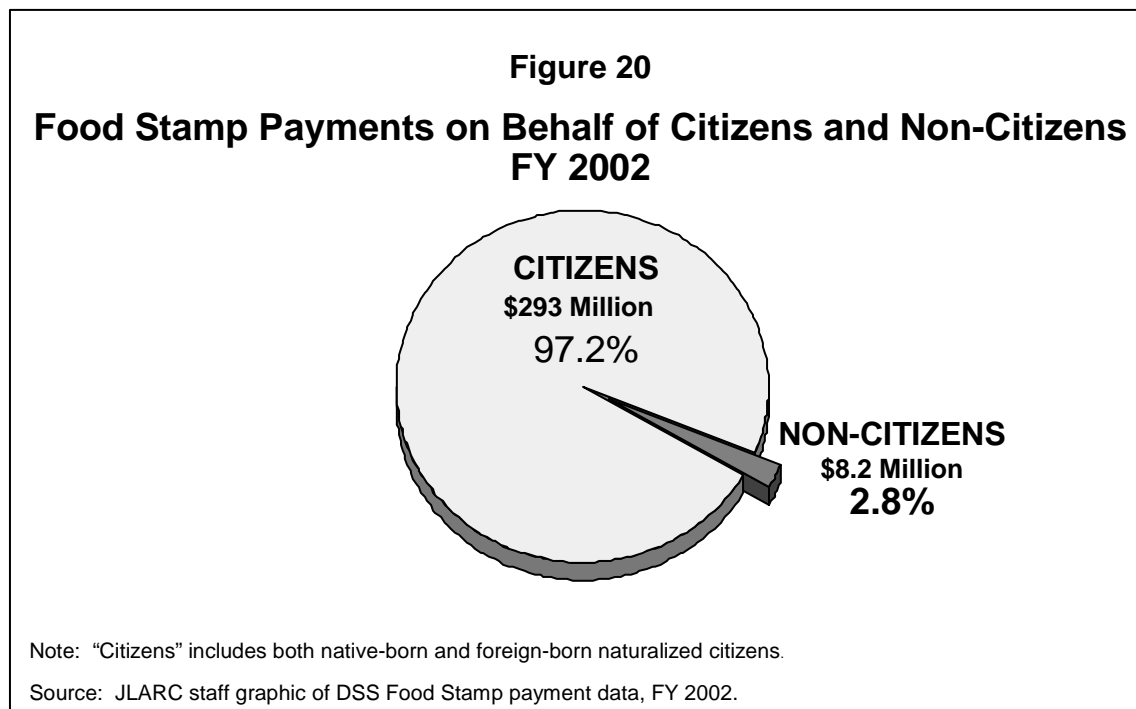
The RIHP program receives approximately \$100,000 from the federal Office of Refugee Resettlement each year, which is used primarily for administrative costs. A portion also goes to local non-profits who have been designated to assist refugees in their resettlement. Health departments are reimbursed by the Office of Newcomer Services for the cost of conducting health assessments. Since 1997, health departments have reportedly been reimbursed with federal funds for over \$1 million for the cost of these health assessments.

### **Costs Associated with Disproportionate Usage of Services by the Foreign-Born are Minimal**

Expenses for those services that may be disproportionately utilized by the foreign-born are a second category of cost examined in this study. In general, JLARC staff found that the foreign-born do not appear to utilize State services at a disproportionate rate. Usage levels, in fact, are lower than would be expected given foreign-born poverty rates and income levels. One notable exception is the use of certain public health services.

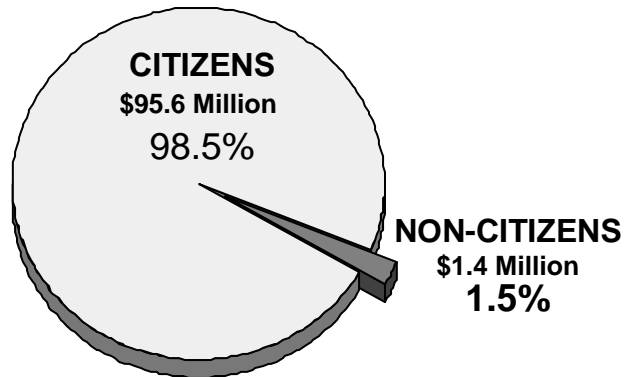
***Non-Citizen Usage of Major Social Services Benefit Programs Appears to Be Minimal.*** While historical data on non-citizen usage of main public benefits programs administered by DSS are not available, data on current cases indicate that immigrant users of social services benefits comprise a small percentage of the overall caseload.

JLARC staff obtained sample data on non-citizen utilization of TANF and Food Stamps, two of the largest social services programs in DSS. DSS staff provided data on the average monthly number of cases for Food Stamps for FY 2002. These data indicate that the average monthly percent of cases including non-citizens was 2.8 percent for FFY 2002, which is equivalent to 4,351 cases per month. Costs attributed to non-citizen users of Food Stamps for FFY 2002 were estimated at \$8.2 million, out of a total of \$301.2 million for that year, or about three percent, as shown in Figure 20. Similarly, sample TANF data for active cases as of August 1, 2003 indicate that only 1.5 percent of cases contained non-citizens. Based on this sample data, it is estimated that there were only 821 non-citizen TANF cases, out of 54,752. It is estimated that payments for these non-citizen cases were \$1.4 million out of a total of \$97 million for FY 2003, as shown in Figure 21.



It should be noted that, while DSS data indicate that the proportion of non-citizen users of federal and State-funded public benefits is not large in Virginia, some local social services agencies have experienced increases in the numbers of their foreign-born clients. Those offices located in areas with a greater number of foreign-born residents receive larger numbers of foreign-born clients than the state-wide public benefits usage numbers would suggest. While many foreign-born are not eligible for the main benefits programs administered by local DSS offices, these agencies may still be seen as a resource for other types of assistance. This may be because agencies are offering locally administered programs and eligibility for them is not determined by immigration status. For example:

**Figure 21**  
**TANF Payments on Behalf of Citizens and Non-Citizens**  
**FY 2003**



Note: "Citizens" includes both native-born and foreign-born naturalized citizens.

Source: JLARC staff graphic of DSS TANF payment data, FY 2003.

*Henrico County DSS administers the funding of the Interfaith Services of Henrico (ISH) program. ISH is a coalition of area churches that conducts fundraising to provide support to low-income residents. Henrico staff report that foreign-born county residents may utilize this resource if they are ineligible for other benefits.*

\* \* \*

*Virginia Beach DSS staff reported that workers in their Resource Development Unit see more foreign-born clients because persons ineligible for main public benefits can seek alternative assistance through this unit. Individuals are referred directly to participating churches in the community that are committed to meeting their needs. A variety of financial assistance is available for such things as food purchases, prescriptions, dental care, and rent.*

Moreover, culturally constructed beliefs or tendencies toward certain behavior may mean that foreign-born residents are in need of other types of social service intervention besides tradition benefit programs. For example:

*In Fairfax County, social services staff reported that cases in which children are left unattended are a concern with regard to the foreign-born population. Staff have said that it is more acceptable in some cultures to leave younger children without adult supervision. Also, some cultures have different conceptions of what is acceptable as far as child discipline. These cases may get reported to the county, and social services staff become involved.*



\* \* \*

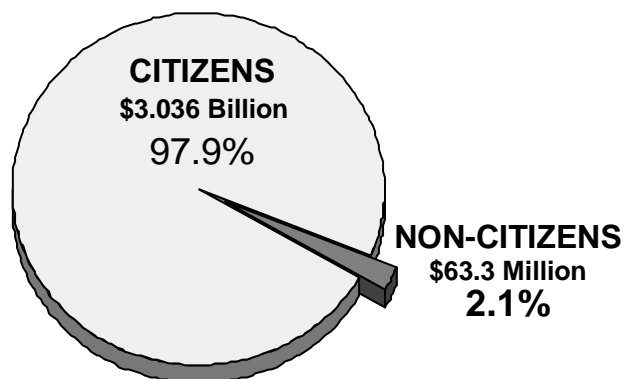
*Henrico County social services staff told JLARC staff they have recently been working on the case of a 15-year-old Ethiopian girl who arrived in the United States alone, without having gone through the proper immigration channels. She spoke no English and was placed in foster care by Henrico social services. Because of the language barrier, this was especially challenging. JLARC staff were told that, for a time, the social worker for this case devoted 100 percent of his time to it, in part because of the complicated immigration issues it raised.*

Interventions needed in these cases may require additional staff resources and time, which are not accounted for by State funding formulas.

***Non-Citizen Utilization of Medicaid and FAMIS Is Low.*** Many foreign-born individuals face unique challenges in accessing health care services due to the restrictions placed on their eligibility for Medicaid benefits and the Family Access to Medical Insurance Security (FAMIS) Program, Virginia's version of the State Child Health Insurance Program. As mentioned previously, Virginia elected to continue Medicaid eligibility for qualified immigrants arriving in the country prior to August 22, 1996. Virginia also provides State-funded Medicaid benefits to some immigrants during the five-year bar.

JLARC staff determined that non-citizens in Virginia comprise two percent of Medicaid recipients in the State. Non-citizens have a lower rate of Medicaid usage (four percent) than citizens (nine percent). Data provided by DMAS also show that Medicaid payments made to non-citizen foreign-born residents comprised only two percent of the total Medicaid payments made in 2002, which is \$63.3 million out of approximately \$3.1 billion. These data are illustrated in Figure 22.

**Figure 22**  
**Medicaid Payments on Behalf of Citizens and Non-Citizens**  
**FY 2002**



Note: "Citizens" includes both native-born and foreign-born naturalized citizens.

Source: JLARC staff graphic of DMAS Medicaid payment data, FY 2002.

Further analysis of DMAS data shows that the average cost of Medicaid expenditures for citizens is higher, at \$4,890, than the cost for non-citizens, at \$4,123. Costs attributed to services used by non-citizens are primarily for inpatient hospital services and prescription drug services. From 1996 to 2002, inpatient hospital costs were an average of approximately \$13 million a year for non-citizens and prescription drug costs were an average of \$8 million per year.

Data were also provided for persons enrolled in Virginia's FAMIS program. It should be noted that while the data available for non-citizen usage of Medicaid only included persons who had actually received Medicaid services, FAMIS data shows the number of non-citizens enrolled, which may exceed the number of non-citizens who have actually received services under the program. Data available for FY 2003 indicate that non-citizens accounted for 3.5 percent of total FAMIS enrollees at an average cost of \$1,516 per patient. The estimated total payments for citizen FAMIS enrollees are approximately \$75 million, compared to \$2.7 million for non-citizens.

***Some Localities Are Experiencing Substantial Increased Usage of Their Health Services by the Foreign-Born Population.*** Data on low Medicaid and FAMIS utilization by the foreign-born are not necessarily indicative of their degree of need for health care services. As mentioned, many categories of immigrants are not eligible for these benefits. In some cases, this may lead to an increased reliance on other health care services such as local health departments, charity care services, and free clinics.

The greater likelihood that Virginia's foreign-born residents will be without health insurance means that they are more likely to use the services provided by local health departments. JLARC staff found that, although local health departments are given the option of collecting data on the citizenship and country of birth of their patients, most do not exercise this option. When asked why, they stated that their primary objective is to protect the public health. There is some concern that asking such questions may deter some individuals in need of care from coming forward, which could threaten the health of the general public. As a result, the VDH did not have comprehensive data on the number of foreign-born patients using local health department services. Case study information obtained from some health department staff, however, indicate that the increase in the foreign-born population has had a notable impact on health departments in some localities.

One example of this impact is the usage of prenatal services by Virginia's foreign-born population. The primary source of prenatal and obstetrical care services for some of Virginia's foreign-born women is local health departments. Health department personnel interviewed by JLARC staff frequently cited these services as experiencing the largest impact from the growth in foreign-born patients. These data were provided by the health departments as a "proxy" for the increase in foreign-born patients.

*Chesterfield County health department staff provided data for March 2003, which showed that 45 percent of their maternity and 24 percent of their family planning patients for that month were*

*non-English speaking. For 2002, 25 percent of family planning patients were Hispanic, compared to 1.2 percent in 1995.*

\* \* \*

*Henrico County health department staff estimated that 59 percent of their maternity patients in 2002 at one of their two clinics were Hispanic. Hispanic patients comprised 45 percent of the caseload of both clinics combined.*

\* \* \*

*Alexandria health department staff told JLARC staff that in 2002, they served 939 maternity patients, compared to approximately 300 in the 1970s. They attributed this increase predominantly to the growth in the foreign-born population.*

\* \* \*

*Prince William health district staff reported that their caseload has grown from 350 to 750 maternity patients in two years and that 90 percent of their maternity patients are foreign-born. Because the language needs of foreign-born patients mean that their cases take longer to address, an extra nurse has been placed in every clinic.*

In addition to maternity services, there are other indicators of the increase in foreign-born patients at health departments. For example:

*Alexandria health department staff reported that their general medical clinic served 1,500 unduplicated cases in 2002 compared to 600 in the 1970s. They have seen this growth despite the fact that they have limited the scope of their services and increased restrictions on eligibility. They attribute this growth to the increase in the foreign-born as well. Staff also estimated that they receive over 60 percent of their funding from the local government and more than half of the department's expenses are for services to the foreign-born.*

While these data on the increase in foreign-born patients for maternity services as well as general medical care are only applicable to individual health departments and do not indicate a statewide trend, the data do have implications for State costs associated with serving the foreign-born in some localities. Moreover, this may soon have implications for localities in which the numbers of foreign-born are increasing.

An additional safety net used by Virginia's foreign-born is "self pay" or charity care services provided at Virginia's hospitals. State and federal funds are used to help compensate hospitals for the cost of indigent care, which are medical services provided to uninsured persons whose income is less than 200 percent of the federal poverty level. It is important to note that based on available ethnicity data, the foreign-born population appears to represent a small portion of indigent hospital

care recipients. Data for the University of Virginia and Virginia Commonwealth University hospitals show that non-black and non-white recipients of indigent care services comprised less than ten percent of the total number of indigent individuals who received care in FY 2002. These data are clearly not a perfect measure of foreign-born usage of charity care services. The data only provide statistics for two Virginia hospitals and measure the *ethnicity* of patients and not their countries of origin or citizenship status. Despite these limitations, these data illustrate the possibility that foreign-born patients are still a small proportion of indigent care users in Virginia.

The foreign-born also make use of Virginia's 49 free clinics, which are non-profit community-based organizations that provide health care at little or no charge to the under- or uninsured. Volunteer health care professionals primarily staff free clinics. The health care services offered by free clinics vary, as does eligibility for these services. Notably, however, according to the Virginia Association for Free Clinics, free clinics do not offer prenatal or obstetrical care services.

In areas without free clinics, such as the Eastern Shore, under- and uninsured persons make use of federally qualified health centers (FQHCs), which are also private non-profit organizations that provide comprehensive health care services in medically underserved areas. FQHCs serve Medicaid recipients as well as uninsured individuals who are ineligible for Medicaid. There are over 60 FQHCs in Virginia. Reportedly, the foreign-born are an increasing proportion of the patients being seen at free clinics and FQHCs. However, these clinics do not collect data on the proportion of their patients who are foreign-born, so JLARC staff were unable to quantify this increase.

One option that may better address the prenatal needs of immigrants is through coverage under the FAMIS program. In November 2002, a change was made to the federal regulations for the SCHIP program (FAMIS in Virginia). This change enables states to provide federally funded prenatal health services to women who are not eligible to receive federal public benefits, like Medicaid. This includes foreign-born women who are not eligible to receive public benefits based on their immigration status or date of entry into the United States. This coverage is accomplished by giving states the option of enrolling the fetus in the SCHIP program. Prior to this change, SCHIP eligibility began at birth. Now, eligibility extends to conception. Since the fetus is then considered to be the recipient of services, the woman's immigration status is irrelevant to the determination of eligibility, just as it would be in the case of a parent applying for benefits on behalf of a child. Covered prenatal services are limited to those that are directly related to the health of the fetus. This option would bring federal funding into Virginia to address this need and may help reduce the burden on State and locally funded health departments.

***State Correctional System Is Not Disproportionately Impacted by Foreign-Born.*** JLARC staff examined available correctional data to determine whether or not the foreign-born are a disproportionate burden on the correctional system compared to the native-born. As in other functional areas, analysis of the cost and size of the foreign-born population who are incarcerated was hampered by a lack of available data to specifically identify this population. For example, the De-

partment of Juvenile Justice does not maintain nativity or citizenship data for its incarcerated population, and therefore was unable to determine the extent to which foreign-born juveniles are in the juvenile correctional system.

Though incomplete, some data were available. The State Compensation Board maintains a database containing information on all local and regional jail inmates. The database contains fields to identify an inmate's country of birth and citizenship status. These are optional fields, and it appears from a review of the data that all jails do not routinely enter information for those fields. Therefore, JLARC staff were unable to comprehensively identify what percentage of the jail population is foreign-born. Based on the data that were entered, there were 10,312 foreign-born inmates, or three percent of the inmate population, that entered local and regional jails in FY 2003.

The Department of Corrections (DOC) was able to identify the number of foreign-born inmates in the State correctional system. Based on the DOC data provided, the foreign-born represented approximately ten percent of the inmate population in State facilities as of June 30, 2003 (Table 5). This would suggest that foreign-born inmates are represented at a higher rate than their presence in the general population (eight percent of the general population). However, the data also show that the foreign-born have substantially lower average sentences than native-born inmates. For each major type of offense, on average, foreign-born inmates have sentences at least 50 percent less than the native-born inmates.

The different average sentence lengths impact the correctional costs that are attributable to the foreign-born versus the native-born inmates. By using the average sentence for each major offense type, JLARC staff calculated the estimated total cost to incarcerate the cohort of inmates that were in State facilities as of June 30 of each of the past four years. Using the annual per-capita incarceration costs supplied by DOC, JLARC staff determined that the cost associated with the foreign-born, given their shorter average sentences, accounted for approximately six percent of total inmate costs. Therefore, while foreign-born inmates account for ten percent of the total number of inmates, they account for six percent of the costs.

In addition to State funds, the federal government created the State Criminal Alien Assistance Program (SCAAP) in 1990 to help jurisdictions fund the cost associated with incarcerating inmates who are undocumented immigrants. This program is administered by the U.S. Department of Justice, in conjunction with the Department of Homeland Security. State and local correctional facilities can receive reimbursement for inmates who entered the country illegally, are subject to deportation, or had obtained a non-immigrant visa that has since expired. In addition, the inmate must have been convicted of at least one felony or two misdemeanors for violations of state or local law and been incarcerated in a state or local correctional facility for a minimum of four consecutive days during the applicable reporting period.

In practice, inmates for whom jurisdictions seek reimbursement are divided into three categories by the Department of Justice – those eligible for reimburs-

<p style="text-align: center;"><b>Table 5</b></p> <p style="text-align: center;"><b>Foreign-born Inmates as a Proportion of Total State Inmates and Costs</b></p>				
<b>Year</b>	<b>Number of Foreign-born Inmates*</b>	<b>Percentage Foreign-born</b>	<b>Total Inmates</b>	<b>Percentage of Total Incarceration Costs Attributable to Foreign-Born Inmates</b>
<b>2000</b>	3,704	13.0%	28,840	6.6%
<b>2001</b>	3,731	12.5	29,846	6.4
<b>2002</b>	3,801	12.0	31,247	6.3
<b>2003</b>	3,428	10.0	32,958	6.0
<p>* Figures represent the number of inmates incarcerated as of June 30 of each year. Source: JLARC staff analysis of data from the Department of Corrections.</p>				

ment (confirmed as undocumented immigrants), those for whom the federal government was unable to determine legal status, and those who are ineligible for reimbursement either because they are not undocumented immigrants or do not meet the other requirements for eligibility. Jurisdictions do not receive any reimbursement for the last category of inmates. The federal government does reimburse jurisdictions for the “unknown status” inmates, but at 80 percent of the rate reimbursed for fully eligible inmates.

Based on the formula used to distribute the funds, this funding program is not intended to cover the full costs of incarcerating these inmates. For example, the formula takes into account only the costs associated with correctional officer salaries in calculating the reimbursement rate. JLARC staff attempted to identify the proportion of costs incurred by the State and localities that are reimbursed through this program. Table 6 presents the results of that analysis. JLARC staff calculated Virginia inmate costs based on the average inmate costs reported by DOC and the State Compensation Board. The low point of the range represents the costs associated with the fully eligible inmates only. The high point in the range includes costs for the inmates of unknown status.

Only nine local jails sought reimbursement in 2001 through the SCAAP program, increasing to 24 in 2003. JLARC staff found that many local jails did not previously know that they were eligible for the program. This information presents the possibility that there may be other local jurisdictions eligible for the program that are not currently participating. However, to ensure local jails get reimbursed, they need to maintain data on the foreign-born who are incarcerated. This information can then be supplied to the federal government to request reimbursement through the SCAAP program.

***Recommendation (2).*** The State Compensation Board should require that all jails routinely enter information into the data system to identify an inmate’s country of birth and citizenship status.

<b>Table 6</b> <b>Range in Costs for Incarcerating Criminal Undocumented Aliens</b> <b>and Proportion of Costs Reimbursed by SCAAP</b>			
<b>Year</b>	<b>Range in Cost for Virginia to Incarcerate Criminal Undocumented Aliens</b>	<b>SCAAP Reimbursement</b>	<b>Range Covered by Reimbursement</b>
<b>State Facilities:</b>			
<b>2001</b>	\$6,291,803 - \$11,742,607	\$2,779,949	24% - 44%
<b>2002</b>	\$5,023,968 - \$11,670,709	\$2,722,269	23% - 54%
<b>2003</b>	\$4,371,040 - \$8,086,806	\$806,184	10% - 18%
<b>Local Facilities:</b>			
<b>2001</b>	\$635,881 - \$3,359,200	\$2,548,961	76% - 401%
<b>2002</b>	\$1,322,832 - \$6,177,970	\$3,764,850	61% - 285%
<b>2003</b>	\$954,789 - \$5,263,528	\$964,117	18% - 101%
<b>All Facilities Combined:</b>			
<b>2001</b>	\$6,607,981 - \$14,505,134	\$5,328,910	37% - 81%
<b>2002</b>	\$6,346,800 - \$17,848,679	\$6,487,119	36% - 102%
<b>2003</b>	\$5,325,829 - \$13,350,334	\$1,770,301	13% - 33%
Source: JLARC staff analysis of data from Department of Corrections, State Compensation Board, and SCAAP.			





## **V. What Options Are Available for Local, Regional, and State Governments to Facilitate Acclimation of the Immigrant Populations into the Commonwealth's Economy and Social Fabric While Preserving Ethnic and Cultural Identity?**

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Throughout this study JLARC staff have identified numerous activities that individual State agencies and local governments are undertaking to help immigrants in their adjustment to their new communities. It is clear from this review that State and local government approaches to acclimating the foreign-born population range from comprehensive to informal. Some agencies and localities have established multiple avenues for reaching this population while others appear to do very little to assist foreign-born residents. These fragmented approaches have led to inefficiencies and added costs. This chapter identifies a number of possible options for more effectively and efficiently addressing the needs of Virginia's foreign-born population, as well as assisting local governments in their efforts.

### **MEETING THE NEEDS OF THE STATE'S LIMITED ENGLISH PROFICIENT POPULATION**

Under Title VI of the federal Civil Rights Act of 1964, agencies in receipt of any amount of federal funding are required to ensure that persons with a limited command of English are not denied meaningful access to benefits and services as a result of their English abilities. Complying with these federal requirements can be difficult as language and cultural differences create challenges, not only for non-English speakers, but service providers as well.

Approaches taken to accommodate the needs of this population by State and local government agencies have varied. While some State agencies have recently devoted time and effort to devising strategies for working with this population, it appears that local government agencies by necessity have taken the lead on many of these issues. Local government staff have, however, expressed a need for increased State guidance on these matters. To ensure that all consumers of State services are given meaningful access to services and benefits at both levels of government, the State should develop a comprehensive plan for the provision of culturally and linguistically appropriate services to its diverse residents. Such a plan could build on existing resources already developed by localities and provide savings by reducing some duplicative and redundant activities.

#### **There Is No Coordinated State Approach to Addressing the Needs of Virginia's Limited English Proficient (LEP) Population**

Local government service providers and State agencies have developed various approaches to meeting the needs of their LEP clients. JLARC staff have

found, however, that many local governments have necessarily assumed responsibility for providing required services for the LEP population. Local government agencies are using their own resources to translate documents, finance interpreter and translator services, recruit bilingual employees, and coordinate training. Local agencies have also independently begun to develop their own comprehensive strategies and policies for serving this population. While the continued ability to independently craft these approaches is desired by local governments, interviews conducted of local agency staff indicated that increased State assistance and recognition of the challenges experienced by local staff are needed.

***Individual Localities Have Taken the Lead in Addressing Language Barriers.*** While the range of activities to address the LEP population varies across local governments, some of the localities visited by JLARC staff, particularly those in Northern Virginia, have been addressing the needs of foreign-born residents for a number of years. Some have developed formal, written policies and procedures for working with multilingual and multicultural clients. This practice is encouraged by Department of Justice guidance on compliance with the provisions of Title VI. The primary objective of these locally developed “best practice” policies is to ensure that these clients are granted meaningful access to needed services and information.

*The City of Alexandria has developed policies and procedures for identifying language needs and ensuring that LEP persons have access to needed services. The Alexandria Department of Human Services (DHS) developed the Multicultural Services Initiative three years ago. In September 2000, the local DHS hired one person to coordinate this initiative. A cultural competency self-assessment was developed for the agency, which included a language assessment component. Staff examined the demographics of their workforce and of their clients, evaluated their translated materials, reviewed their access to interpreter services, assessed their hiring practices and recruitment strategies for multicultural staff, and examined the training provided to staff on working with multicultural clients. Staff examined the results of this assessment and developed a plan to improve their cultural competency.*

*The city manager has stated that all city departments will go through this same process. The local DHS developed a kit that has tips on how to devise and implement a plan. This guidance was presented to city department heads in September.*

\* \* \*

*Currently, all Fairfax County government agencies are developing strategic plans for addressing the language and cultural needs of their clients. The Office of the County Executive has stated that this initiative is not just about compliance with Title VI, but is part of good customer service.*

*Individual county agencies have been addressing the issue of language access, but this initiative is meant to coordinate these efforts.*

*In an effort to create economy of scale savings and efficiencies, Fairfax County has submitted an RFP to contract with one or more firms to use their interpreter and translation services. This contract would primarily be used by human services agencies such as the health department, department of family services, and the community services board. The county has also created a Language Access Coordinator position to provide support to agencies in their efforts to address language needs.*

*Fairfax County also surveyed its employees to obtain feedback on what the county leadership could do to assist agencies in dealing with language needs. Over 1,100 responses were received. Although the results of this survey have not been published, Fairfax County human services staff told JLARC staff that respondents expressed an interest in greater collaboration with State government agencies.*

These practices have been developed independently from State government, and largely without collaborating with other localities.

***Effort to Address the LEP Population's Needs Varies at the State Level.*** JLARC staff found that independently developed efforts to ensure that LEP persons are granted meaningful access to services have recently been occurring within some State agencies as well. For example:

*The Virginia Department of Health (VDH) is currently in the process of collecting copies of documents that have been translated into other languages, either by central VDH office or by local health departments. Staff plan to place these translated documents on the agency intranet to promote access by all local departments.*

\* \* \*

*The Virginia Employment Commission has developed an LEP policy for its central and local offices in response to the Title VI guidance issued by the U.S. Department of Labor. The policy identifies the roles of central and local office staff in assessing the need for interpreter services and in identifying the appropriate mix of resources for their clientele. The department has designated a "language access coordinator" to maintain an inventory of language access services available to agency personnel. Further, it has developed a web page on its agency intranet which provides information to its employees on how to access needed language services, such as a telephone interpretation service (with which it maintains a contract).*

In contrast, other agencies have taken few actions in addressing LEP customer needs. For example, with the exception of the staff in the Office of Newcomer Services (ONS), the State Department of Social Services (DSS) appears to have

given little recognition to the requirements of Title VI and the importance of ensuring language assistance.

*Management personnel in the DSS Division of Benefits Programs told JLARC staff that no formal guidance has been developed by the agency for how local offices should address language needs. When asked whether the current system of allowing local agencies to develop their own approaches without guidance from the State was effective, the staff person said that the offices with larger foreign-born caseloads “have found solutions” on their own and that, barring a large increase in the number of local offices asking for State assistance,” a policy was not needed.*

\* \* \*

*Despite requirements of the federal Older Americans Act, the Virginia Department for the Aging (VDA) has given little attention to the issue of language access. This Act mandates that “if a substantial number of the older individuals residing in any planning and service area in a state are of limited English speaking ability,” then the state is to require area agencies on aging (AAAs) to use bilingual staff in conducting outreach to this population. Also, states are to require AAAs to designate an employee to be responsible for ensuring that older LEP persons can effectively participate in programs and to provide guidance to other employees on cultural sensitivity. When asked about the policy of the Virginia agencies with regard to complying with the provisions of the Older Americans Act, a Department for Aging administrator replied that “if they have large numbers of persons with limited English proficiency, some of the AAAs address this in their local plan, but they are not required to by VDA.”*

*It does appear, based on information received from a number of AAAs, that some local agencies are devising strategies for working with this population, such as utilizing bilingual staff and sending staff to cultural sensitivity training. One AAA noted that “this is an area that we will have to tackle in due course. It is an area where VDA might be of great assistance to us and the other AAAs, particularly in identifying existing materials that might be of value to all.”*

Local governments believe that a lack of State guidance on these issues hampers their efforts to serve culturally diverse populations.

***Current Approach Is Inefficient.*** As is evident by the examples presented, the State has not taken a coordinated approach to language assistance for its LEP population. The lack of a coordinated approach has resulted in inefficiencies and excessive costs in the handling of interpretation and translation activities. The following is an example of duplication of efforts.

*VDH staff reported that several of the same documents have been translated by multiple local departments. For example, the “Patient Application and Consent for Health Care” form has been separately translated into Spanish by three different local health departments. The “Patient Eligibility Information” form has been translated into Spanish by two different local departments.*

The current statewide approach to addressing language access issues requires that each agency on its own develop policies and identify available resources. A few agencies have developed their own contracts for telephone interpretation services, but no entity has pursued multi-agency contracts to increase volume of usage, and thereby potentially secure better per-minute rates for this service. One agency staff person interviewed stated that he would like to know how other agencies deal with the language issue, but he would not know where to look for this information. He suggested that the current approach generates redundant efforts.

***State Attention to Language Assistance May Be Necessary to Comply with Civil Rights Requirements.*** It appears that the federal government is turning more attention to the ability of Virginia’s service providers to comply with the provisions of Title VI. Personnel in the U.S. Health and Human Services’ Office for Civil Rights have informed JLARC staff that OCR is currently conducting Title VI audits of three local social services offices in Virginia. These audits are the result of complaints that have been filed against these agencies alleging national origin discrimination. The results of these audits are to be released later this year. Past reviews were also conducted of two Northern Virginia health departments, based on complaints that these agencies were not compliant with Title VI provisions regarding language access. OCR reports that the cases were closed with “voluntary corrective action.” This raises the possibility that additional audits will be initiated and suggests that greater attention be given to these issues at the State agency level.

### **State Comprehensive Plan Is Needed for Addressing Language Access and Cultural Diversity Issues**

Given the duplication of effort and lack of coordination among local governments and State agencies in accommodating the State’s limited English speaking residents, an alternative approach to addressing the language barrier should be explored. In particular, the State, in cooperation with local governments, could develop a coordinated plan for dealing with language access issues. Such an approach would benefit the State’s LEP population, and in addition, would be more efficient and cost-effective for State agencies and local governments. This section identifies some of the decisions and issues that should be addressed in the State’s LEP assistance plan. In particular, the State plan should include a process for identifying agencies’ current language access capabilities and needs, determine federal resources that may be available, develop cost-effective ways of providing interpretation and translations, determine methods of ensuring the quality of interpretations and translations, and identify hiring policies that would aide in providing access to services by the State’s LEP population.

***A Secretarial-Level Committee Should Be Formed to Develop the Elements of This Comprehensive Plan.*** Given that services to the State's LEP population are provided by many State agencies, it would appear appropriate to develop a multi-agency committee. In forming this committee, the State may wish to consider as a model for its effort the approach taken by the federal government in developing guidance on Title VI compliance.

*In 2001, the Attorney General's office created an Interagency Working Group on limited English proficiency, comprised of approximately 20 federal agencies. The focus of the working group was primarily to "create technical assistance tools for recipients and beneficiaries and to ensure high quality and cost-effective language assistance" and to collaborate on ways of making "federally conducted activities meaningfully accessible to LEP individuals." One outcome of this effort was the development of a website, which provides federally funded entities with resources for addressing their LEP clientele.*

Due to the relatively higher level of interaction between human services agencies and some of the State's immigrant population, it appears that the Secretary of Health and Human Resources should be in charge of coordinating the State's policy. Members of the committee should include representatives from each of the secretaries' offices as well as representatives from selected State agencies and local governments. Given the unique role of the DSS Office of Newcomer Services in assisting immigrants, this office could be designated to provide staff support to the committee. (Two federally-funded staff positions have recently been added to this office for the purpose of monitoring immigration trends in Virginia and reviewing Title VI compliance at the State and local levels.)

***Recommendation (3).*** The Governor should develop a State comprehensive plan for addressing the language access needs of Virginia's limited English speaking residents, in accordance with Title VI of the Civil Rights Act of 1964. To develop this plan, the Governor should establish a secretarial-level committee overseen by the Secretary of Health and Human Services.

***Agencies' Need for LEP Resources and Current Resources Available Should Be Cataloged.*** As part of the comprehensive planning process, agencies should conduct assessments of their current capabilities and activities to address the LEP population and identify the current level of need for assistance based on agencies' potential LEP clientele. The secretarial committee identified above should develop guidance for agencies regarding how to conduct such an assessment to ensure that consistent types of information are collected.

In developing this guidance, the secretarial committee should carefully review the requirements of Title VI and the relevant federal guidance that has been issued. The secretarial committee should also review the steps that have already been taken within individual State agencies to address these issues and, if feasible,

make use of these initiatives to guide the development of a broader State process. For example:

*The Department of Mental Health, Mental Retardation, and Substance Abuse Services has established a central office workgroup to evaluate the agency's compliance with Title VI. The goal of this workgroup is to "create a behavioral health interpreter network in Virginia to ensure equal service access to individuals with limited English proficiency," with the objective of ensuring that "language appropriate services are available at inpatient and community-based...program sites." The agency has developed a work plan for its activities, which includes the development of written policies and procedures and working with facilities and CSBs to determine the written materials that should be translated into other languages.*

In addition to obtaining information on State assessment efforts, the committee should also solicit the input of local government agencies to make use of "best-practice" examples that have already been developed at the local level.

The committee should also seek input on the provision of culturally and linguistically appropriate services from non-profit service providers whose primary mission is to serve the foreign-born and LEP populations. The experience of some of these organizations in meeting the needs of this demographic could be a useful resource for the committee, as well as State and local governments, when developing informed strategies for addressing these issues. In addition, the committee should obtain input on these issues from members of the Asian and Latino advisory committees created by the Governor, as well as other ethnic community organizations.

***Recommendation (4). The Secretary of Health and Human Resources, in coordination with the secretarial committee, should develop guidelines for agencies to follow in assessing their current language access capabilities and levels of potential limited English proficient clientele. Agencies should carry out assessments of their language access capabilities and needs in accordance with the Secretary's guidance.***

***Secretarial Committee Should Identify Federal Resources Available to Address Language Access Issues.*** To avoid duplicating federal government efforts to address language access, federal resources available to Virginia should be cataloged as well. As part of the federal government's efforts to develop language access guidance, federal agencies developed a web site ([www.lep.gov](http://www.lep.gov)) that contains most of the relevant guidance documents. In addition, the web site identifies useful resources for meeting the needs of LEP populations. For example:

*The site offers an "I Speak" language identification card that can be downloaded and used in State and local government offices. The card, developed by the Census Bureau, is written in 38 lan-*

*guages and can be used to identify the language spoken by each customer that enters the office.*

The committee should also identify any other federal resources that could be used by Virginia's agencies.

***Recommendation (5).*** In developing the State language access plan, the secretarial committee should identify federal resources that could be used in providing appropriate language access to services in Virginia.

***Secretarial Committee Should Explore Cost-Effective Ways of Providing Interpretation and Written Translations of Government Documents.***

There are several ways of providing language access services to LEP customers, such as through telephone interpreters, face-to-face interpreters, and written documents that have been translated into languages other than English. As part of the comprehensive planning process, the committee should explore the cost-effectiveness of these various approaches and identify ways that the State could economize in the provision of these services.

*Staff at the Supreme Court of Virginia have taken steps recently to minimize the costs associated with court interpretation. In September 2002, staff instituted a contract for telephone interpretation services for all of the courts in Virginia. Telephone interpretation is effective for routine procedures in the courtroom, such as handling continuances. For example, it has eliminated the need to hire an interpreter, who is typically paid by the hour, for brief (five minute) court appearances. Staff from one court reported that implementation of this approach has reduced costs and streamlined the process of obtaining interpreters.*

Many State and local government service providers interviewed by JLARC staff reported using telephone interpreter services to communicate with non-English speaking clients. A few State agencies, such as DMAS and the Supreme Court of Virginia, reported having contracts for telephone interpreter services. The committee should examine whether the development of a statewide contract for telephone interpreter services that encompasses all State agencies may provide additional cost savings. In reviewing potential users of a statewide telephone interpreter contract, consideration would need to be given to the ability of companies to provide specialized interpreter services, such as medical interpretation, as needed.

***Recommendation (6).*** As part of its deliberations, the secretarial committee should evaluate various options for obtaining interpretations and translations and identify cost-effective methods for such activities. In particular, the possible use of a statewide contract for telephone interpretation should be explored.



***Quality of Interpreters and Translations Should Be Considered.*** Another component to the comprehensive plan should be an evaluation of the quality of interpretation that is acceptable for different governmental services and strategies for obtaining those levels of quality. For services such as medical interpreters and court interpreters, it would appear that high quality interpretation is imperative. In the case of courts, the United States Constitution and the *Constitution of Virginia* guarantee the right to due process of law. This constitutional right stands to be compromised when the quality of interpretation deteriorates and results in miscommunications in the courtroom. In the medical field, poor interpretation could form the basis of missed or inappropriate diagnoses that could result in harm to the patient.

There are programs in Virginia that address interpreter quality in the health care and legal fields.

*Since 1999, the Northern Virginia Area Health Education Center (NoVa AHEC), through its health care interpreter service, has provided 65 interpreters competent in 20 of the most commonly spoken languages in the region. These interpreters have successfully completed a 40-hour course in health care interpretation. This course is widely considered the national standard for the training of health care interpreters. Health care interpreters trained by the NoVa AHEC are used by various governmental and nongovernmental entities in Northern Virginia.*

*In addition to managing this interpreter service, the NoVa AHEC also works with health care providers to train the interpreters that work for them, such as bilingual staff, in medical interpretation. For example, the Arlington County Human Services office sends bilingual staff who are to act as medical interpreters to this NoVa AHEC training.*

\* \* \*

*In 1996, the Virginia Supreme Court Executive Secretary's Office established the Spanish Language Court Interpreter Certification Program. The program was developed in cooperation with the National Center for State Courts and several other states, and was modeled after the Federally Certified Court Interpreter program. The program provides a standard for assessing the qualifications and competency of court interpreters. The list of certified interpreters currently includes 89 interpreters. Although the program has been well received by the courts, the program was suspended two years ago due to budget constraints.*

Despite the Court Interpreter Certification Program, some problems with court interpreters were identified during this study. Immigrant representatives voiced concerns with interpreter quality in some cases. For example, one Spanish-speaking lawyer reported having to correct interpreters in several cases. (It is not

clear whether or not certified interpreters were used in these cases.) A procedural concern is that judges are not required to use the certified interpreters.

As part of the comprehensive planning process, consideration should be given to whether the court interpreter program should be reestablished and made a requirement for use. In addition, opportunities for expanding the NoVa AHEC medical interpreter training to other parts of the State should be examined.

A process for ensuring the quality of translated materials should also be developed. Costs associated with translated documents are wasted if the translation is faulty or is not written in a level consistent with the educational level of the customers that would make use of the document.

*DSS has translated its main benefits application into Spanish. Several local social services agency staff cited the poor quality of this translation. JLARC staff analysis of this document confirmed that there are numerous inaccuracies with the translation.*

To ensure quality translations, some agencies follow a detailed protocol for document translations. For example:

*Department of Motor Vehicles (DMV) uses a private company for translation services. To obtain this company, they issued a request for proposals and asked bidders to submit sample translations. DMV then sent the translations to outside experts at universities to review the quality. Based on experts' feedback they selected a company. In addition, there is an in-house review of all translations. DMV has two staff review the translation -- by one native speaker and one who is not. These bilingual employees conduct the review of translations in addition to their normal work.*

As part of the comprehensive plan, the State should consider developing an official process for ensuring the linguistic accuracy and cultural appropriateness of translated documents.

***Recommendation (7). The State language access plan should identify services for which accurate interpretation and translation is particularly critical and identify a method, or methods, for ensuring high quality interpretations and translations in those services.***

***Addressing LEP Issues Through Hiring Practices.*** Another component that should be addressed through a State comprehensive plan is employee hiring practices. Some agencies reported encountering difficulties in their efforts to hire ethnically diverse employees. Several police departments reported that they recognized the need for a more diverse police force, but had not had success in their recruitment efforts, especially among Asian communities. Strategies to improve the ability of local and State government agencies to hire qualified bilingual staff should be considered as part of the comprehensive plan. In particular, the committee should explore the use of salary differentials for staff who are bilingual and whose

language skills are used by the agency in assisting LEP customers. Recently, the use of a salary differential has become necessary in one locality.

*An Accomack County social services department staff person was routinely asked to use bilingual skills to assist clients in addition to the staff person's regular duties. After being denied a salary increase to reflect the added duties, the staff person filed a complaint with the Equal Employment Opportunity Commission. The staff person was subsequently awarded a salary differential to reflect the added bilingual skills.*

At least one agency has voluntarily decided to provide a salary differential for certain bilingual staff. DMV pays a five percent salary differential to reflect the added duties of selected bilingual staff in providing assistance with interpretation and translation work.

### **State Could Provide Additional Technical Assistance and Support for Local Adult ESL Programs**

By all accounts the most important factor in a foreign-born person's acclimation to Virginia is the acquisition of English language skills. This section addresses steps the State could take to support programs that provide ESL classes for Virginia's foreign-born adults.

***Increase Assistance to Private ESL Providers Through Virginia Commonwealth University (VCU) Adult Learning Resource Center.*** The VCU Adult Learning Resource Center was created to strengthen the local Adult Education and Literacy programs through professional development, collaboration, and sharing of resources and information. With funding from a federal grant, the Adult Learning Resource Center recently hired a resource specialist to primarily provide assistance to the public adult ESL programs.

According to the resource specialist, the Center will serve private non-profit organizations that provide ESL services if approached by the organizations, but the Center does not voluntarily offer assistance to these groups. According to the resource specialist, the non-profit ESL providers do not always receive public funding, and therefore, do not have to comply with federal reporting requirements. Consequently, the privately funded programs do not always meet the same standards as publicly funded ESL programs, and some reportedly have low retention rates.

Since acquisition of English appears to be the most important factor in the acclimation of the foreign-born, any efforts undertaken to strengthen these programs would subsequently help Virginia's immigrants. The VCU Adult Learning Resource Center could be encouraged to actively assist the private ESL providers in ensuring the use of effective curricula and best practices. Many private ESL programs are reportedly reluctant to seek out assistance from public sector agencies because they do not want to be obligated to track and report data on their students, as required by providers who receive public grants. Working in collaboration with the

VCU Adult Learning Resource Center would be a way in which these private ESL providers could benefit from information on curricula and instruction without having to comply with federal reporting requirements.

***Recommendation (8).*** The VCU Adult Learning Resource Center should offer assistance to private ESL providers in identifying effective curricula and best practices that may be useful for the private providers.

***Develop Partnerships Between the Private Sector and the Adult ESL Programs.*** Some of the adult learning centers have focused their efforts on getting more contracts with private businesses to teach ESL classes. One center reported that over 30 percent of its budget now comes from private sector contracts. Businesses in Virginia have demonstrated an interest in, and a willingness to pay for, ESL classes for their employees. Typically, the business contracts with the local adult learning center and either pays the full cost of the classes or provides a “matching grant” by paying workers their wages during the time they spend in class. ESL courses for employees often take place on-site for students’ convenience and to minimize the time a worker is off-duty. For example:

*In August 2001, the Charlottesville Adult Learning Center ran a 12-week ESL course for McDonald’s employees on-site in the basement of a local McDonald’s. McDonald’s paid all the costs.*

Some ESL providers have used creative approaches to reach those employees who still cannot take the class on-site, including the use of a van that travels around as a mobile ESL classroom. The Department of Education should encourage adult learning centers to continue exploring innovative ways in which the private sector can play a role in the provision of ESL, particularly through workplace ESL classes.

The Virginia Department of Business Assistance (DBA) has recently filled a position for a business services specialist. One of the duties of this position is to address language issues in the workplace by networking and identifying ESL providers who work with private industry. The new DBA staff should be encouraged to work closely with local adult learning centers to increase opportunities for workplace English classes. This approach could increase the number of ESL classes available while minimizing the added cost to the public sector.

In addition, partnerships could be developed at daycare centers that serve a large proportion of LEP families. As with the other businesses, the daycare centers may be able to provide classroom space in the evening, with the local adult learning center providing an ESL instructor. Parents could take an ESL class at their children’s daycare center. This type of arrangement would help accommodate working parents who need English instruction.

***Recommendation (9).*** The Department of Education should encourage local adult learning centers to develop contracts with private sector businesses for the provision of workplace ESL classes. The Department

**of Business Assistance business services specialist should help the local centers in developing opportunities for workplace ESL classes.**

***Increase Funding for Local Adult ESL Programs.*** As previously mentioned, funding for ESL classes can come from a variety of sources, including the public sector, partnerships with the private sector, and faith-based and community-based organizations. Some localities have experimented with raising the amount of fees collected for registration and tuition, and have reported positive results with both students and their budgets.

*One locality reported that student attendance and performance had increased since it started charging fees for ESL classes. Staff reported that when students have a financial stake in the class, they become more committed to learning. The fees also provide another source of revenue for the ESL provider.*

One adult learning center interviewed by JLARC staff charges students a tuition fee that equals the full cost of the class, but they also have a sliding scale for those who cannot afford the full tuition rate.

The amount of money that would be collected through tuition increases, however, is not likely to be sufficient to meet the growing demand for ESL classes. Increases in State funding would complement the funding sources coming from the private sector and increases in tuition and registration fees. Additional State funding would allow for increased opportunities for immigrants to learn English. Given the number of LEP customers at State agencies and the associated costs of providing interpreter services to those customers, it may be more cost-effective to allocate resources to ESL instruction.

### **State DOE Could Provide Additional Assistance to School Divisions with K-12 ESL Programs**

Passed by Congress in 2001, the No Child Left Behind Act (NCLB) requires school divisions to demonstrate that all students are proficient in certain core subjects within 12 years. NCLB measures achievement based on the standardized test scores of schools and school divisions, but also by the test scores of students belonging to six categories: black, white, Hispanic, disabled, limited English proficient, and economically disadvantaged. Each of these subgroups must also achieve the passing rates set for the test in order for the school to meet adequate yearly progress as defined by the federal government.

The impacts of the NCLB Act have already been experienced by schools with large numbers of LEP students, particularly with respect to the assessment of these students' performance on the State Standards of Learning (SOL) tests. While statewide LEP students met the pass rate for the math SOL, they failed to achieve the pass rate required for the reading test. It is clear that school divisions will need to focus additional attention toward improving the academic performance of their LEP students.

It appears that the State could play a greater role in assisting school divisions in this area. Specifically, the State could begin collecting information from each school division on the structure of their ESL programs and their approaches to educating LEP students. Currently, DOE does not maintain data on the structure of ESL programs across the State. These data could be used to identify “best practices” for improving the English proficiency of this student population, which may contribute to the overall ability of Virginia’s schools to meet the goals set by NCLB. Aside from the NCLB issue, these data may also be helpful in providing assistance to school divisions that are seeking guidance on the development of a more formal approach to serving their growing LEP student populations.

Additionally, these data may provide examples for how some school divisions are successfully addressing common challenges faced by educators and school administrators in working with LEP students. For example, JLARC staff were told that some ESL students arrive in middle or high school with little or no prior education in their own language. Educators report that these students present a unique challenge because it is much harder for non-English speakers to learn English if they do not have an adequate educational foundation in their native language. Some schools have developed alternative programs for these students. For example:

*Henrico County has a program at the Hermitage Technical Center that provides ESL instruction for half of the school day, while the other half is focused on acquiring certain vocational skills. In addition to an ESL teacher, there are two bilingual assistants placed at this school to provide support to LEP students. School officials reported that there were 16 students enrolled in this program during the 2002/2003 school year. This program also provides job placement assistance for its students.*

Lack of parental involvement also appears to be a common challenge faced by schools with LEP students. Some schools address the lack of parental involvement by employing bilingual parent liaisons who are responsible for providing interpreter assistance for parent/teacher conferences, answering parents’ questions about the school system, and conducting outreach in communities where parents are less involved in the schools. These parent liaisons are used as catalysts to increase parent interest and involvement and facilitate communication with school administrators and teachers. Several school divisions visited by JLARC staff employ parent liaisons. For example:

*Fairfax County has an extensive parent liaison program, which has been a resource for the schools for approximately ten years. Fairfax school officials told JLARC staff that principals of the schools are encouraged to hire English-speaking parents of LEP students for this parent liaison role. They report that approximately one hundred schools in the division utilize one or more of the 120 parent liaisons the school division employs.*

The collection of specific information on the structure and operation of each school division’s approach to meeting the needs of LEP students would improve DOE’s abil-

ity to provide technical support to school divisions in structuring their ESL programs and provide schools with “best practice” examples for how to address common challenges.

***Recommendation (10).*** The Department of Education should begin to collect information on the structure and operation of each school division’s approach to meeting the needs of limited English proficient students. This information should be used to identify particularly successful approaches to improving the academic performance of these students, and should be shared among school divisions.

### **ADDITIONAL ACTIVITIES THAT COULD ASSIST WITH ACCLIMATING VIRGINIA’S FOREIGN-BORN POPULATION**

In addition to activities that address the language abilities of Virginia’s foreign-born population, there are additional actions the State could take to help this population acclimate to Virginia. An overriding concern among ethnic groups interviewed by JLARC staff was the lack of information available about governmental and other resources that would help them better understand the American “system” and how to work within that framework. Immigrant groups consistently voiced the need for face-to-face outreach efforts by State and local governments in order to bridge that information gap. In particular, continued outreach efforts are needed by the police, as many immigrants have a fear of police, and therefore, do not seek them out when they are victimized.

The State could also help its non-citizen residents better understand and navigate the federal naturalization process, enabling more residents to become fully participating citizens of the Commonwealth. Better coordination of local services to immigrants could be accomplished, in part, through State-sponsored regional forums in which local governments and other service providers could discuss their respective methods of assisting the foreign-born. The State could also help by seeking out additional federal funding that could be used to assist Virginia’s foreign-born residents. Finally, a review of how Virginia’s new “legal presence” law is being implemented may be warranted.

### **State and Local Governments Need to Undertake Additional Outreach Activities**

Given that different countries have different institutional structures, many immigrants come to Virginia without an understanding of the American systems of education, banking, criminal justice, as well as basic governmental systems. JLARC staff found that immigrants need additional information on how to operate within the “American system.” Further, more effective means of disseminating this information to the foreign-born are needed than what is traditionally employed with the native-born population. In particular, additional outreach by the public safety sector to immigrant communities is needed to help reduce victimization within these communities.

***Provision of Basic Information on American Institutions and Resources Available in Virginia Is Needed.*** JLARC staff found that one notable challenge experienced by Virginia's foreign-born residents is the lack of readily accessible information on basic rights, responsibilities, and norms for functioning within the "American system." JLARC staff were told that this information is generally obtained through word-of-mouth within various communities. Local governments, private service providers, and local representatives of immigrant communities all expressed the need for more information on the basic rights and responsibilities of Virginia's residents and information on how to access services and resources provided by the State.

One issue raised during JLARC interviews with immigrant groups and local government staff was immigrants' use of "advisors" to assist them in filling out paperwork and otherwise navigating various institutions, such as health care. Concerns were repeatedly raised that some advisors charge excessive fees for services that are available free of charge through the local government or area non-profit service providers. Community members and local staff reported that this practice results from lack of information about available services, and results in immigrants paying for services for which they should not have to pay. Better dissemination of information to various immigrant communities may help reduce this type of victimization.

Virginia has developed a central source of information for certain services through the Statewide Human Services Information and Referral System. However, it appears that this resource is not widely known among immigrant communities. According to staff of the Information and Referral System, the regional information providers generally have the capability to provide multi-lingual assistance if a limited English-speaking person calls for assistance. However, they have not conducted any marketing or outreach to inform various ethnic communities about this information source. System staff reported that the Commonwealth's foreign-born population does not frequently use this resource. Better marketing of this resource to Virginia's ethnic communities may be one way to address information needs within those communities. However, the Information and Referral System primarily deals with social services needs. It does not address the broader need for information about American customs and immigrant rights and responsibilities.

Initiatives have been undertaken both inside and outside of Virginia to provide basic institutional information to immigrants. For example:

*A poultry plant in the Shenandoah Valley developed an orientation for new employees who are also new to the United States. The orientation booklet provides a wide range of information about living in the United States and the Shenandoah Valley specifically. Practical information is included about Virginia weather, housing leases, telephones, mail, banking, shopping for groceries, schools, and cultural issues such as making eye contact, among other topics. This booklet is currently being updated by the local chamber of commerce and reportedly will be available to all new residents in that area. The booklet is available in both English and Spanish.*



\* \* \*

*In 2000, Missouri began a project called the "Missouri Multicultural Network," which is intended to provide an information source for immigrants as well as service providers working with the immigrant population. The project, overseen by Missouri Southern State University, established a web site that provides information on American banking, employment, health care, housing, and a range of other services. Partner agencies assist with providing information on the web site. Portions of the web site are written in both English and Spanish.*

\* \* \*

*Through a collaboration of ethnic and community-based organizations, Santa Clara County, California developed a user-friendly, 160-page guidebook for immigrants titled "Immigrant Rights, Responsibilities, and Resources in Santa Clara County." This guidebook is issued in 11 different languages and covers a wide range of topics. Topics include: "How Does Local Government Work?," Housing and Tenant Rights, Transportation, Child Abuse and Discipline in the United States, "What Happens When You Are Arrested?," Finding a Lawyer, Child and Youth Care, and Starting a Small Business. It also provides hotline numbers for urgent situations. This document is available through the Internet, but is also widely distributed through community groups and service providers.*

Immigrant groups and service providers have suggested that Virginia develop a similar resource tailored to Virginia laws and resources. In doing so, the State could build on the efforts undertaken by other organizations both within and outside of Virginia. To advance widespread understanding of the information, the State should work with local ethnic community leaders to ensure the information is linguistically and culturally appropriate to the target audiences.

Further, additional outreach to community leaders and organizations within Virginia's immigrant communities appears needed. Many of the ethnic and non-profit organizations interviewed by JLARC staff reported that foreign-born residents often obtain information through leaders of their communities who have become more acclimated to Virginia's social, political, and economic structures. However, many of the community leaders interviewed by JLARC staff voiced the need for accurate information on available resources so that they can share this information with their community members. State and local government agencies should develop strategies to make better use of ethnic community organizations as a mechanism for informing immigrant communities about their rights and responsibilities, and available resources.

***Recommendation (11). State and local government agencies should work together to develop strategies for better informing Virginia's immigrant communities of the resources available to Virginia residents, as well***

**as their basic rights and responsibilities. Agencies should include ethnic community leaders in ongoing efforts to provide information to Virginia's immigrant communities.**

***Reducing Victimization Through Outreach Efforts.*** The lack of information about and trust in certain American institutions, such as the criminal justice and banking institutions, appears to have led to victimization of immigrants in some cases. National literature about immigrant issues indicates that unreported crime is a problem in immigrant communities. By the very nature of unreported crime, there is no way to know the extent of the problem. However, local police and ethnic community members interviewed by JLARC staff reported that it is a significant problem in Virginia's immigrant communities.

Many immigrants come to the United States to flee problems in their native countries but bring customs and perceptions that can generate a host of new problems for them in the United States. According to local police and ethnic leaders, many foreign-born mistrust law enforcement officers because of experiences they had with corrupt and repressive police forces in their native countries. Those experiences make them reluctant to seek help from the police when they are victims of crime and, consequently, they become attractive targets for criminals. In addition, some foreign-born residents are reluctant to seek assistance from the police when they are victimized because they are not legally present in the United States and fear they will be deported if the police are contacted.

At the same time, some foreign-born in Virginia do not make use of U.S. banks, providing further opportunities for victimization. Immigrants coming to Virginia who were subsistence farmers or peasants may have had no exposure to banks, either because they did not have enough wealth or because there simply was not a bank in the vicinity. Banking scandals in their native countries have also left many immigrants suspicious of financial institutions. In some cultures government-controlled banks dominate the banking sector, and there is not a strong focus on customer service. As a result, the inconvenience of using banking services fosters a cash-based culture. The combination of a cash-based culture and a fear of police make some immigrants a particular target for crime.

There appear to be two primary ways to address this issue. One is through improved access to banking by Virginia's immigrants. A recent ruling by the federal Treasury Department gives banks substantial control over the type of documentation required of non-citizen customers to open an account. Some banks in Virginia are now allowing the use of alternative identification cards, such as a Matricula Consular (Mexican identification card) in order to open a bank account, and are actively marketing banking services to immigrant communities. This option should serve to increase access to banks, particularly by undocumented immigrants, which may help to reduce crime victimization.

The other method of addressing crime victimization is through education and additional outreach to the affected communities. Ethnic community members, local police, and national research literature all reported the need for additional out-

reach from the police to educate the local communities about the role of the police in assisting the community. JLARC staff identified several ongoing outreach efforts by police and others in the criminal justice system. For example:

*The Virginia Beach Police Department has staff who routinely attend ethnic community organization meetings to discuss police and crime-related issues in those communities. They reported that they have developed trust within the ethnic community through years of ongoing interaction. In particular, in the 1990s the department worked closely with Filipino community leaders to eliminate a growing problem with gangs in that community. Officers assigned to deal with the issue conducted education seminars for parents of gang members. Both the police and Filipino community leaders deemed that effort a success.*

\* \* \*

*The Alexandria Commonwealth's Attorney obtained a federal grant to open a "storefront" Commonwealth's Attorney office in the summer of 2001, which is staffed with one full-time prosecutor position and an outreach specialist. The storefront addresses crime through street-level cooperation and teamwork between police, prosecutors, and increasingly the Hispanic community in which it is located. The staff at the storefront speak Spanish and the office maintains convenient hours for people with long workdays. The idea of the storefront is to stop nuisance crimes before they become serious crimes, and to educate immigrants about and build their trust in the criminal justice system.*

*Before the initiative started, the target neighborhood had problems with public consumption of alcohol and intoxication, gambling, fights, and a growing gang problem. After two years in operation, the storefront has seen a decline in gang activity, calls for police service have dropped significantly, especially for aggravated assault, and illegal gambling operations have been shut down, according to the local prosecutor. The prosecutor who staffs the office reported that it has saved the city a substantial amount of money by cutting red tape, freeing up officers to patrol their beat, and resolving many problems that would otherwise have to go through the courts.*

Local law enforcement departments currently receive a grant – the Local Law Enforcement Block Grant – that could be used to fund additional outreach activities with regard to the immigrant communities. According to the U.S. DOJ, one of the purposes of the Local Law Enforcement Block Grant is to “establish crime prevention programs involving cooperation between community residents and law enforcement personnel to control, detect, or investigate crime or the prosecution of criminals.” Localities with growing or substantial immigrant populations should consider using this grant to fund additional outreach efforts toward their immigrant communities.

However, to the extent that immigrants continue to be afraid to report crime directly to the police, consideration should be given to marketing the Crime Stoppers organization to immigrant communities. Currently, this organization does not appear to have been marketed specifically to the immigrant community. Crime Stoppers may provide an avenue for reporting a crime anonymously for those immigrants too fearful to submit a report to the police.

***Recommendation (12).*** Local law enforcement departments in localities with a growing immigrant population should consider using their allocation of the Local Law Enforcement Block Grant for outreach efforts aimed at immigrant communities. In addition, outreach initiatives could encourage the use by immigrants of crime-fighting services such as the Crime Stoppers hotline.

***The State Should Encourage Increased Use of AmeriCorps Volunteers to Assist Immigrants.*** One avenue that could be used to improve Virginia's outreach and service delivery to immigrants is through the use of AmeriCorps volunteers. AmeriCorps is a national community service initiative created by the federal government in 1993. AmeriCorps volunteers assist governmental and non-profit service organizations in developing programs that address the varied needs of local communities. For example, AmeriCorps volunteers assist non-profit organizations with operating after-school programs, helping communities recover from disasters, and providing care for seniors.

There are two primary avenues through which an organization in Virginia may obtain the services of AmeriCorps volunteers. First, a governmental or non-profit organization may submit a request to the Virginia office of the Corporation for National and Community Service (the federal organization that oversees the program). Second, a request may be submitted to the Governor's Commission on National and Community Service, which is staffed by the Virginia Department of Social Services. Each of these avenues has somewhat different requirements regarding the volunteers. However, generally speaking, AmeriCorps volunteers commit to assist an organization for a certain period of time or number of volunteer hours. They typically provide assistance with capacity building – that is, with helping an organization or community to develop the infrastructure necessary to address a local need. In some cases, they also provide direct services. In exchange for their services, volunteers receive a living stipend as well as an education award of \$4,725 to pay for college, graduate school, or student loans. Funding to cover these expenses is provided by the national corporation.

Some organizations within and outside of Virginia make use of AmeriCorps volunteers to meet the needs of their communities' immigrants. For example:

*The Family Learning Program operated by the Literacy Council of Northern Virginia uses an AmeriCorps volunteer to coordinate the program, including recruiting and training volunteers. Participating families have access to resources to develop English language skills and computer skills, among other things.*

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*An organization called Serving America's Farmworkers Everywhere (SAFE) operating in Virginia receives AmeriCorps volunteers to provide farmworkers with education on the risks of pesticides, link farmworker families with community services, and provide ESL instruction and interpretation assistance.*

\* \* \*

*A county in Minnesota reported being able to expand its services to immigrants through the use of AmeriCorps volunteers. The county's Office of Multicultural Services first began using AmeriCorps volunteers in 2000. According to staff of the office, the volunteers' role was to help build service capacity in the county through helping with writing grant proposals, designing training curricula, and other activities. They also spent a small part of their time (approximately 20 percent) providing direct services. The county now works with ten AmeriCorps volunteers.*

It appears that additional organizations in Virginia would benefit from use of AmeriCorps volunteers to provide assistance to the foreign-born population. These volunteers could be used, for example, to establish organized outreach efforts, additional adult ESL programs, and after-school tutoring programs for LEP students. Use of these volunteers could be particularly helpful to communities that are very recently facing a substantial increase in their foreign-born population and that may not have a well-developed non-profit network to address the unique needs of this population.

Further, efforts could be made to recruit AmeriCorps volunteers from among the foreign-born population in Virginia. It appears that members of various immigrant communities may have unique knowledge and/or skills that would be helpful in working with immigrant populations, such as the ability to speak multiple languages. In addition, since AmeriCorps volunteers receive financial assistance toward higher education costs, such an approach would provide an avenue for immigrant volunteers to further their educational goals.

### **The State Could Provide Assistance with Naturalization Process**

Fully acclimating to the United States includes completion of the naturalization process, thus becoming a United States citizen. United States citizenship allows for the fullest participation of foreign-born residents in the benefits of governmental and economic structures. To become a naturalized citizen, a foreign-born person, in part, must learn English and basic information about United States history and government. To the extent that Virginia provides adult ESL classes, it already assists its foreign-born residents with part of the naturalization process. However, the State could take additional steps to encourage its foreign-born residents to seek citizenship and to further help them with the naturalization process.

It appears that many foreign-born Virginia residents would benefit from such assistance. Generally, a foreign-born person must be in the United States as a legally present immigrant for at least five years before being able to seek citizenship. Based on data from the 2000 Census, approximately 50 percent of Virginia's non-citizen residents have lived in the United States for at least five years. While this figure may include some foreign-born residents who would be ineligible for citizenship, such as those here on non-immigrant visas and undocumented immigrants, a substantial portion is likely eligible for citizenship.

Interviews with immigrant community leaders reflect that many of Virginia's foreign-born residents would like to become United States citizens. However, in meetings with JLARC staff community leaders expressed concerns with the lack of information about the steps needed to become a citizen and resources for acquiring the knowledge necessary to become a United States citizen. It appears that Virginia could help its non-citizen residents with both these concerns.

Clearly, Virginia cannot change the naturalization process since it is a federal responsibility. However, Virginia could disseminate information to its residents to help them better understand the process. The federal government has made an effort to provide information about the naturalization process to potential citizens. For example:

*The Bureau of Citizenship and Immigration Services (BCIS) has developed a "Guide to Naturalization," which explains the process, provides answers to commonly asked questions, and provides examples of the type of information needed to successfully pass the English and United States civics tests. This guide is available on the BCIS website in the following languages: English, Spanish, Chinese, Tagalog, and Vietnamese.*

However, it would be very difficult for someone without English skills to be able to navigate through the BCIS website to locate the document in his or her native language, given that the website is presented in English only. Virginia could assist in disseminating the federal information by providing the information and other available resources directly to ethnic communities and faith-based groups.

JLARC staff identified two states – California and Massachusetts – that have established formalized naturalization programs to reach out to immigrants and foster their full participation in American society. For example:

*California established a naturalization program in 1995, which provides funding to private non-profit organizations and local governments that assist non-citizen clients with the naturalization process. Providers can use state funds for outreach, skill assessment, English language instruction, civics instruction, coordination with other agencies, and follow-up with the BCIS. Non-profit organizations are funded on a per-client basis, and funding is tied to the clients' progress in the naturalization process.*

*According to staff of the California program, the program has helped people who may otherwise be intimidated by the naturalization process and unsure about how to accomplish the process. Staff reported that it has also helped reduce complaints about “unscrupulous attorneys” taking advantage of immigrants’ lack of knowledge about the process, and as such, has reduced the victimization of immigrants seeking to become citizens.*

As mentioned earlier in the report, Virginia currently has a federally funded office focused on refugee and asylee issues – the DSS Office of Newcomer Services. It appears that this office could appropriately serve as an “information clearinghouse” for information about the naturalization process. Staff from this office could collect from federal, local, and non-profit sources, information that has already been developed about how to navigate the naturalization process, including information on *pro bono* legal resources that may be available. They could then widely disseminate this information to ethnic community groups and faith-based groups.

In addition to being a conduit for information about the naturalization process, the State could also identify resources that could be used by immigrants to help them acquire the knowledge necessary to become United States citizens. The federal government provides one such resource. Specifically:

*The BCIS offers free civics textbooks for people seeking to become naturalized citizens. The textbooks cover basic information on United States history, government and citizenship responsibility, and are offered at various reading levels. The textbooks are for use in public school classes, such as adult ESL classes taught through the local adult learning centers.*

According to BCIS staff, the textbooks are due to be updated; however, they were unsure when the new versions will be available. The State DOE could track the status of the updated textbooks, and once available, notify local adult education programs of their availability and encourage their use.

In addition, the State could explore the feasibility of offering an on-line citizenship preparation course. A Missouri university provides a model for such a course.

*Missouri Southern State University offers a free, online citizenship-preparation course that prepares non-U.S. citizens for the actual naturalization process. The course, which may be taken at any time and at any pace, offers lessons in American history and government and provides a sample test using questions found on the actual citizenship exam. Information is also available on the eligibility requirements for United States citizenship.*

The DSS Office of Newcomer Services could explore the possibility of developing a similar web-based course, or alternatively, making use of the Missouri site.

***Recommendation (13).*** The General Assembly may wish to designate a State government entity, such as the DSS Office of Newcomer Services, to serve as a clearinghouse for information about the naturalization process, and to work with non-profit organizations and immigrant groups to disseminate this information to Virginia's non-citizens. The office should also examine the feasibility of maintaining a web-based citizenship preparation course.

***Recommendation (14).*** The Virginia Department of Education should ensure that Virginia's local adult learning centers obtain copies of the free civics education textbooks developed by the BCIS once they become available. The department should also examine other avenues for disseminating information about the naturalization process through the public adult learning centers.

### **Local Agencies Expressed a Need for State-Sponsored Regional Forums**

Several local service providers expressed their awareness of the duplication of effort and lack of coordination that exists across local government agencies with respect to addressing the needs of immigrants. They also expressed the desire to share resources and learn more about the activities of other local agencies. To facilitate this, local agencies have suggested that the State sponsor regional forums on this issue, to be attended by local governments and other relevant service providers. These regional meetings could also be used as a mechanism for obtaining input into the development of the statewide plan for addressing the language access needs of the LEP population.

A possible funding source for these meetings has already been identified. The DSS Division of Community Programs has indicated that it has unexpended funds from a federal Department of Labor (DOL) grant that has been used to hold regional meetings focused on workforce training issues. Division staff have submitted a request to DOL to allow them to use part of these excess funds for holding regional meetings focused on better coordinating services for the foreign-born. A decision on the use of these funds has not yet been received.

***Recommendation (15).*** If approved by the federal government, the Department of Social Services should use federal grant funds to sponsor regional forums for local governments and other immigrant service providers to discuss ways of addressing the needs of Virginia's immigrants and to identify "best practices" among localities in addressing these needs. Information from these meetings should also be used, as appropriate, by the secretarial committee in developing a State plan for addressing language access issues.



## The State Could Seek Out Additional Sources of Federal Funding

Another option available to the State is to seek out additional federal funds that could be used in acclimating the foreign-born population. Several opportunities for increasing federal assistance have been identified by JLARC staff.

***Identification of New Sources of Federal Assistance.*** JLARC staff conducted an initial review of possible sources of additional federal funding available to assist immigrants. Three possible funding programs were identified that entities within Virginia have not obtained but for which they would appear to be eligible. All three related to providing assistance to migrants in Virginia – the “Migrant Education - High School Equivalency Program”, the “Migrant Education – College Assistance Migrant Program”, and the “Migrant Education – Even Start Program.”

*The College Assistance Migrant Program (CAMP) assists students who are migrants, or whose parents are migrants, and who are enrolled or admitted for enrollment in their first year at a higher education institution. The CAMP program was established to provide tuition assistance and other support services to eligible students. According to the program manager at the U.S. Department of Education, the program awarded, on average, almost \$6,000 per eligible student in FY 2001. Funding is available to higher education institutions and non-profit organizations affiliated with institutions.*

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*According to the Catalog of Federal Domestic Assistance, the Migrant Education – High School Equivalency Program is aimed at assisting “students who are engaged, or whose parents are engaged, in migrant and other seasonal farm work to obtain the equivalent of a secondary school diploma and subsequently to gain employment or be placed in an institution of higher education or other postsecondary education or training.” Project funds can be used to recruit and provide a variety of academic and support services to migrant students. Institutions of higher education and non-profit organizations in cooperation with higher education institutions are eligible to apply.*

\* \* \*

*The purpose of the Even Start – Migrant Education program is to “improve the educational opportunities of migrant families through family literacy programs that integrate early childhood education, adult literacy or adult basic education, and parenting education.” The program is targeted at migrant farm workers with children under the age of seven. Local and state education agencies, as well as non-profit and faith-based organizations are eligible to apply for this grant. According to the program manager, Virginia has not been a direct grantee or partner since the program was established.*

As previously discussed, education plays a key role in helping to acclimate the foreign-born to the United States. It appears that these funding programs could assist Virginia entities in their efforts to improve the educational opportunities of this segment of Virginia's foreign-born population. Further examination of federal funding streams may yield additional funding opportunities that could be pursued.

***Recommendation (16).*** The Department of Planning and Budget, in cooperation with the Department of Education and institutions of higher education in Virginia, should examine the feasibility of submitting grant applications for the Even Start – Migrant Education Program, Migrant Education – High School Equivalency Program, and College Assistance Migrant Program.

***The State Could Request Medicaid Reimbursement for Interpreter Services.*** In 2000, the Centers for Medicare and Medicaid Services (CMS), a part of the federal Department of Health and Human Services, reminded states that they could obtain federal “matching” funds for language services provided to recipients of Medicaid and SCHIP services. The notice stated that:

Federal matching funds are available for states' expenditures related to the provision of oral interpretation and written translation administrative activities and services provided for SCHIP and Medicaid recipients. Federal financial participation is available for state expenditures for such activities or services whether provided by staff interpreters, contract interpreters, or through a telephone service.

Only nine states have taken advantage of this opportunity to date. Virginia does not currently get reimbursed for costs associated with medical interpreters.

According to VDH staff, VDH and DMAS staff have worked cooperatively to draft a methodology proposal for obtaining reimbursement for these expenses. The opportunity for health care providers to receive Medicaid reimbursement for interpreter services, as stated in an early draft of the proposal, “will allow providers who otherwise might not be able to provide interpreter services, the opportunity to do so.” This proposal is currently under review by DMAS management. It appears that this approach would be a cost-effective way to obtain adequate interpreter services for Virginia's LEP population that is enrolled in Medicaid.

***Recommendation (17).*** The Department of Medical Assistance Services should finalize a plan for obtaining Medicaid reimbursement for interpretation and translation services and submit such application in a timely manner to the federal government.

### **Implementation of New “Legal Presence” Law for Obtaining a Driver’s License May Warrant Review**

The legislative resolution requesting this study directed JLARC staff to “recommend changes in the Commonwealth’s laws and regulations, as appropriate, to ensure equal opportunity for all ethnic groups.” JLARC staff did not identify any State laws that specifically limit equal opportunity for all ethnic groups. However, one recently revised law has raised substantial concern among immigrants in Virginia. Based on legislation passed during the 2003 General Assembly Session, effective January 1, 2004, Virginia residents will be required to submit documentation proving that they are legally allowed to reside in the United States in order to obtain certain documents from the Department of Motor Vehicles (DMV).

As stated in section 46.2-328.1 of the *Code of Virginia*:

The Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

The law allows for issuance of a temporary driver’s license or identification card for residents who present evidence of:

(i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refuge status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status.

A resident will not have to provide documentation of legal presence when applying for a renewal, duplicate, or reissuance of a driver’s license, provided the license has not expired, or been suspended or revoked. However, if the license is not currently valid (for example, due to the license being expired or suspended), the resident will be required to show proof of legal presence. According to DMV staff, Virginia is one of 30 states with a “legal presence” requirement.

DMV staff have undertaken several steps in planning for the law’s implementation. For example, DMV established an advisory panel to assist the department in policy decisions affecting implementation of the new law. In addition, DMV staff held a series of public meetings across the State to get input on ways to implement the legal presence law in an equitable manner. Staff also held meetings with State agency representatives to discuss the impact of the new law on the agencies and their customers. Finally, the DMV Commissioner reported that several staff-related actions are being taken, including: training frontline staff in identifying

documents acceptable for proof of legal presence, designating five “legal presence specialist” positions who will review an applicant’s documentation when questions arise, and adding 26 new positions to assist with the increased workload expected from the law’s implementation.

A key step in implementing the new law is the identification of documents that will be accepted by the agency as proof of legal presence. DMV is currently developing the official list of acceptable documents. Staff reported that the list will include documents such as a U.S. birth certificate, Certificate of Citizenship, and resident alien card. The department is seeking input from immigration lawyers, the Bureau of Citizenship and Immigration Services, and others regarding which documents should be included on the official list. The wide range and number of documents reportedly issued by the federal government authorizing a person to be in the United States have complicated development of this list.

Since this new law has not yet been implemented, it is too early to determine its impact on Virginia’s foreign-born population. However, concerns were raised that this law may result in discrimination against Virginia’s foreign-born residents, depending on how the law is implemented. Further, ethnic community leaders and immigration lawyers cited examples of immigrants who they believe have been unfairly denied a driver’s license – *before* the legal presence law’s implementation – and expressed apprehension that cases in which a license is reportedly unfairly denied will increase after the new law goes into effect. In addition, since DMV has not yet finalized the list of documents that will be accepted as proof of legal presence, it is questionable whether its frontline staff can be adequately trained regarding acceptable documents before the law’s implementation on January 1, 2004.

Given the far-reaching impact that this process could have on Virginia’s foreign-born residents, the General Assembly may wish to require that DMV evaluate its implementation of the law after a six-month period. As part of this review, DMV should conduct an in-depth review of a sample of cases in which applicants were denied a driver’s license or identification card to identify the reasons for and appropriateness of the denials. It should also survey its customers as part of this review to solicit suggestions for improving the process. This review should also identify any elements of the legal presence law that may need to be modified to ensure fairness to all of Virginia’s legally present residents. The results of this review should be submitted to the 2005 General Assembly.

***Recommendation (18).*** The General Assembly may wish to require that the Department of Motor Vehicles review its process for determining the legal presence of applicants for drivers’ licenses and identification cards after six months. The review should include an in-depth review of applications for drivers’ licenses and identification cards that were denied and a survey of customers to solicit input on process problems and possible improvements.

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## Appendixes

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The body of this report makes reference to several appendixes as sources of additional detailed information regarding Virginia's foreign-born population. They include the following:

	<u>Page</u>
<b>Appendix A: House Joint Resolution No. 604</b>	<b>A-1</b>
<b>Appendix B: Glossary of Immigration-Related Terms</b>	<b>B-1</b>
<b>Appendix C: Rankings by State/Area Based on Number of Foreign-Born in 2000</b>	<b>C-1</b>
<b>Appendix D: Virginia's Foreign-Born Population by Locality for 1990 and 2000</b>	<b>D-1</b>
<b>Appendix E: Limited English Proficient (LEP) Student Enrollment: K-12, By School Division, FY 2003</b>	<b>E-1</b>
<b>Appendix F: Foreign Workers Visas Commonly Utilized in Virginia</b>	<b>F-1</b>



## **Appendix A Study Mandate**

### **HOUSE JOINT RESOLUTION NO. 604**

*Directing the Joint Legislative Audit and Review Commission to study the acclimation of the Commonwealth's ethnically diverse population. Report.*

Agreed to by the House of Delegates, January 30, 2003

Agreed to by the Senate, February 13, 2003

WHEREAS, the 2000 United States Census recorded 570,279 foreign-born residents in the Commonwealth, representing 8.1 percent of the state's overall population and an increase of 82.9 percent above the 1990 foreign-born population of 311,809 residents; and

WHEREAS, the 2000 Census found that 47.2 percent of Virginia's foreign-born population had arrived in the Commonwealth since 1990; and  
WHEREAS, between 1990 and 2000 the share of non-English speakers at home in the Commonwealth increased by nearly half, from 7.3 percent to 10.8 percent; and

WHEREAS, empirical evidence indicates that language barriers, economic and health care disparity, and higher criminal victimization present serious challenges to foreign-born residents and their integration into the Commonwealth's economic and social structure; and

WHEREAS, the economic impact of immigration on the Commonwealth has not been fully analyzed and further examination is needed to determine the contribution of the foreign-born residents to state and local revenue and expenditures; and

WHEREAS, a study of the laws, regulations, policies, and strategies is needed to determine how to facilitate acclimation and address the problems and challenges resulting from an expanding immigrant population in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study the acclimation of the Commonwealth's ethnically diverse population. In conducting its study, the Commission shall (i) identify the potential need for State, regional, and local government services to the immigrant populations in the Commonwealth that are unique or typically exceed those of the general population; (ii) examine the benefits and the costs of the major immigrant populations to the Commonwealth and the Commonwealth's economy; (iii) review federal government policies and programs that affect the immigrant populations in the Commonwealth and that could have an impact on State or local initiatives; (iv) examine options for local, regional, and State governments to facilitate acclimation of the immigrant populations into the Commonwealth's economy and social fabric while preserving ethnic and cultural identity (including a review of initiatives other states have taken in assisting new,

ethnically diverse populations); and (v) recommend changes in the Commonwealth's laws and regulations, as appropriate, to ensure equal opportunity for all ethnic groups. In conducting its review, the staff of the Commission shall utilize surveys, focus groups, or other appropriate methodologies to solicit from leaders of various immigrant populations their input on problems and challenges they believe their community members face that can be addressed by State or local government actions.

Technical assistance shall be provided by the Department of Education, the State Council of Higher Education for Virginia, the Department of Social Services, and the Department of Taxation, upon request. All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2003, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2004 Regular Session of the General Assembly. The executive summary shall state whether the Commission intends to submit to the Governor and the General Assembly a report of its findings and recommendations for publication as a document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.



## Appendix B

### Glossary

**Alien** – any person who is not a citizen or national of the United States.

**Asylee** – an alien in the United States or port-of-entry who is found to be unable or unwilling to return to his or her country of nationality, or to seek the protection of that country because of persecution or a well-founded fear of persecution. Persecution or the fear thereof must be based on the alien's race, religion, nationality, membership in a particular social group, or political opinion. For persons with no nationality, the country of nationality is considered to be the country in which the alien last habitually resided. Asylees are eligible to adjust to legal permanent resident status after one year of continuous presence in the United States. Only 10,000 asylees are eligible to adjustment to LPR status per fiscal year.

**Certificate of Naturalization** – a certificate given at the oath ceremony that serves as proof of citizenship.

**Citizen** – an individual who is either native-born or foreign-born, who owes allegiance to the United States and is entitled to its protection. The United States recognizes as citizens those persons born in the United States, persons born outside of the United States to United States citizens, and individuals who have successfully completed the naturalization process.

**Community-Based Organization** – organizations that assist immigrants who are new to the United States or who are in the process becoming naturalized citizens.

**Conditional Resident Alien**- Any alien granted permanent resident status on a conditional basis (e.g., a spouse of a U.S. citizen; an immigrant investor), who is required to petition for the removal of the set conditions before the second anniversary of the approval of his or her conditional status.

#### **Country of -**

*Birth:* The country in which a person is born.

*Chargeability:* The independent country to which an immigrant entering under the preference system is accredited for purposes of numerical limitations.

*Citizenship:* The country in which a person is born (and has not renounced or lost citizenship) or naturalized and to which that person owes allegiance and by which he or she is entitled to be protected.

*Former Allegiance:* The previous country of citizenship of a naturalized U.S. citizen or of a person who derived U.S. citizenship.

*(Last) Residence:* The country in which an alien habitually resided prior to entering the United States.

*Nationality:* The country of a person's citizenship or country in which the person is deemed a national.

**Deportable Alien** - An alien in and admitted to the United States subject to any grounds of removal specified in the Immigration and Nationality Act. This includes any alien illegally in the United States, regardless of whether the alien entered the country by fraud or misrepresentation or entered legally but subsequently violated the terms of his or her nonimmigrant classification or status.

**Deportation** - The formal removal of an alien from the United States when the alien has been found removable for violating the immigration laws.

**Derivative Citizenship** - Citizenship conveyed to children through the naturalization of parents or, under certain circumstances, to foreign-born children adopted by U.S. citizen parents, provided certain conditions are met.

**Employer Sanctions** - The employer sanctions provision of the Immigration Reform and Control Act of 1986 prohibits employers from hiring, recruiting, or referring for a fee aliens known to be unauthorized to work in the United States. Violators of the law are subject to a series of civil fines for violations or criminal penalties when there is a pattern or practice of violations.

**Exchange Visitor** - An alien coming temporarily to the United States as a participant in a program approved by the Secretary of State for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training.

**Green Card**- a document that indicates an alien has permission to reside permanently in the United States, that is, legal permanent resident status.

**Labor Certification** - Requirement for U.S. employers seeking to employ certain persons whose immigration to the United States is based on job skills or nonimmigrant temporary workers coming to perform services for which qualified authorized workers are unavailable in the United States.

**Legal Permanent Resident (LPR)** - Any person not a citizen of the United States who is residing in the U.S. under legally recognized and lawfully recorded permanent residence as an immigrant. Also known as "Permanent Resident Alien," "Resident Alien Permit Holder," and "Green Card Holder." LPRs are able to travel abroad without needing to obtain a visa to return to the United States and to file a petition on behalf of a relative seeking LPR status. LPRs also are afforded greater protection from deportation than non-immigrants.

**Migrant farmworkers:** United States residents who travel from their permanent residence to their place of work and are unable to return home the same day. Commonly, migrant farmworkers are residents of Florida or Texas who travel to Virginia for summer farmwork. National origin and primary language of the farmworkers do not classify them as migrants.

**National (but not a citizen)**– a person who owes permanent allegiance to the United States, and who may naturalize based on living in an outlying possession of the United States.

**Naturalization** – the process by which U.S. citizenship is conferred upon a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA).

**Non-immigrant** - An alien who seeks temporary entry to the United States for a specific purpose. The alien must have a permanent residence abroad (for most classes of admission) and qualify for the non-immigrant classification sought. Non-immigrant classifications include: foreign government officials, visitors for business and for pleasure, aliens in transit through the United States, treaty traders and investors, students, international representatives, temporary workers and trainees, representatives of foreign information media, exchange visitors, fiance(e)s of U.S. citizens, intracompany transferees, NATO officials, religious workers, and some others. Most non-immigrants can be accompanied or joined by spouses and unmarried minor (or dependent) children.

**Permanent Resident Alien** - an alien admitted to the United States as a legal permanent resident. Permanent residents are also commonly referred to as immigrants; however, the Immigration and Nationality Act (INA) broadly defines an immigrant as any alien in the United States, except one legally admitted under specific non-immigrant categories (INA section 101(a)(15)). An illegal alien who entered the United States without inspection, for example, would be strictly defined as an immigrant under the INA but is not a permanent resident alien. Legal permanent residents are legally accorded the privilege of residing permanently in the United States. They may be issued immigrant visas by the Department of State overseas or adjusted to permanent resident status by the Immigration and Naturalization Service in the United States.

**Principal Alien** - The alien who applies for immigrant status and from whom another alien may derive lawful status under immigration law or regulations (usually spouses and minor unmarried children).

**Refugee** - Any person who is outside his or her country of nationality who is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution. Persecution or the fear thereof must be based on the alien's race, religion, nationality, membership in a particular social group, or political opinion. People with no nationality must generally be outside their country of last habitual residence to qualify as a refugee.

**Removal** - The expulsion of an alien from the United States. This expulsion may be based on grounds of inadmissibility or deportability.

**Resettlement** - Permanent relocation of refugees in a place outside their country of origin to allow them to establish residence and become productive members of society there. Refugee resettlement is accomplished with the direct assistance of

private voluntary agencies working with the Department of Health and Human Services Office of Refugee Resettlement.

**Resident Alien** - Applies to non-U.S. citizens currently residing in the United States. The term is applied to Permanent Residents, Conditional Residents, and Returning Residents.

**Returning Resident** - Any Legal Permanent Resident who has been outside the United States and is returning to the U.S. Also defined as a "special immigrant." If outside of the U.S. for more than 180 days, must apply for readmission to the U.S. If outside of the U.S. for more than one year and is returning to his or her permanent residence in the United States, usually must have a re-entry documentation from INS or an immigrant visa from the Department of State.

**Safe Haven** - Temporary refuge given to migrants who have fled their countries of origin to seek protection or relief from persecution or other hardships, until they can return to their countries safely or, if necessary until they can obtain permanent relief from the conditions they fled.

**Seasonal Farmworkers:** Non-migrant workers who return to their permanent place of residence the same day. They earn the majority of their annual income from farmwork, and work at least 25 days per year, but not year-round, for the same employer. Many seasonal workers are former migrant workers who have settled in the community and continue to perform farmwork.

**Student** - As a non-immigrant class of admission, an alien coming temporarily to the United States to pursue a full course of study in an approved program in either an academic (college, university, seminary, conservatory, academic high school, elementary school, other institution, or language training program) or a vocational or other recognized non-academic institution.

**Temporary Protected Status (TPS)** - Establishes a legislative basis for allowing a group of persons temporary refuge in the United States. Under a provision of the Immigration Act of 1990, the Attorney General may designate nationals of a foreign state to be eligible for TPS with a finding that conditions in that country pose a danger to personal safety due to ongoing armed conflict or an environmental disaster. Grants of TPS are initially made for periods of six to 18 months and may be extended depending on the situation. Removal proceedings are suspended against aliens while they are in Temporary Protected Status.

**Temporary Worker** - An alien coming to the United States to work for a temporary period of time. The Immigration Reform and Control Act of 1986 and the Immigration Act of 1990, as well as other legislation, revised existing classes and created new classes of nonimmigrant admission. Non-immigrant temporary worker classes of admission are as follows:

1. E-1, E-2- foreign individuals seeking to establish or manage a business involving substantial trade and international commerce, between the United States and the foreign individual's home country.

2. H-1B - workers with "specialty occupations" admitted on the basis of professional education, skills, and/or equivalent experience;
3. H-1C - registered nurses to work in areas with a shortage of health professionals under the Nursing Relief for Disadvantaged Areas Act of 1999;
4. H-2A - temporary agricultural workers coming to the United States to perform agricultural services or labor of a temporary or seasonal nature when authorized workers are unavailable in the United States;
5. H-2B - temporary non-agricultural workers coming to the United States to perform temporary services or labor if unemployed persons capable of performing the service or labor cannot be found in the United States;
6. H-3 - aliens coming temporarily to the United States as trainees, other than to receive graduate medical education or training;
7. O-1, O-2, O-3 - temporary workers with extraordinary ability or achievement in the sciences, arts, education, business, or athletics; those entering solely for the purpose of accompanying and assisting such workers; and their spouses and children;
8. P-1, P-2, P-3, P-4 - athletes and entertainers at an internationally recognized level of performance; artists and entertainers under a reciprocal exchange program; artists and entertainers under a program that is "culturally unique"; and their spouses and children;
9. Q-1, Q-2, Q-3 - participants in international cultural exchange programs; participants in the Irish Peace Process Cultural and Training Program; and spouses and children of Irish Peace Process participants;
10. R-1, R-2 - temporary workers to perform work in religious occupations and their spouses and children.

**Trafficking Victims**- aliens who are induced by force, fraud, or coercion into engaging in commercial sex acts or subject to involuntary servitude, peonage, debt bondage, or slavery. If the victim is under 18 years of age, evidence of force, fraud, and coercion is not required for the victim to be granted a visa under special legal provisions for trafficking victims.

**Transit Alien** - An alien in immediate and continuous transit through the United States, with or without a visa, including, 1) aliens who qualify as persons entitled to pass in transit to and from the United Nations Headquarters District and foreign countries and 2) foreign government officials and their spouses and unmarried minor (or dependent) children in transit.

**Transit Without Visa (TWOV)** - A transit alien traveling without a non-immigrant visa under section 233 of the INA. An alien admitted under agreements with a transportation line, which guarantees his immediate and continuous passage to a foreign destination. (See Transit Alien.)

**Undocumented Immigrant**- persons who are not U.S. citizens that are unlawfully present in the United States. Undocumented immigrants include those persons who enter the United States without inspection and those in violation of temporary admission. Undocumented immigrants are also sometimes referred to as illegal aliens.

**Visa** - A U.S. visa is a document that allows the bearer to apply for entry to the United States. Various types of visas are issued according to the reason for travel. For example, there are different visa classifications for a student, temporary worker, and tourist. A visa does not automatically grant the bearer the right to enter the United States. Immigration inspectors at a port of entry make the final decision regarding admission.

### **Sources**

*A Guide to Naturalization*, U.S. Department of Justice, Immigration and Naturalization Services, Form M-476,  
<http://uscis.gov/graphics/services/natz/English.pdf>

*Glossary of Terms*, U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, <http://uscis.gov/graphics/glossary.htm>

*Trafficking and Victims Protection Act of 2000*. Public Law 106-386.

U.S. Department of Labor, 20 CFR 651.10 and 20 CFR 655.100

## Appendix C

### Rankings by State/Area Based on the Number of Foreign-Born in 2000

Rank	State/Area	Number of Foreign-Born	
		2000	1990
1	California	8,864,255	6,458,825
2	New York	3,868,133	2,851,861
3	Texas	2,899,642	1,524,436
4	Florida	2,670,828	1,662,601
5	Illinois	1,529,058	952,272
6	New Jersey	1,476,327	966,610
7	Massachusetts	772,983	573,733
8	Arizona	656,183	278,205
9	Washington	614,457	322,144
10	Georgia	577,273	173,126
11	Virginia	570,279	311,809
12	Michigan	523,589	355,393
13	Maryland	518,315	313,494
14	Pennsylvania	508,291	369,316
15	North Carolina	430,000	115,077
16	Connecticut	369,967	279,383
17	Colorado	369,903	142,434
18	Ohio	339,279	259,673
19	Nevada	316,593	104,828
20	Oregon	289,702	139,307
21	Minnesota	260,463	113,039
22	Hawaii	212,229	162,704
23	Wisconsin	193,751	121,547
24	Indiana	186,534	94,263
25	Tennessee	159,004	59,114
26	Utah	158,664	58,600
27	Missouri	151,196	83,633
28	New Mexico	149,606	80,514
29	Kansas	134,735	62,840
30	Oklahoma	131,747	65,489
31	Rhode Island	119,277	95,088
32	South Carolina	115,978	49,964
33	Louisiana	115,885	87,407
34	Iowa	91,085	43,316
35	Alabama	87,772	43,533
36	Kentucky	80,271	34,119
37	Nebraska	74,638	28,198

Rank	State/Area	Number of Foreign-Born	
		2000	1990
38	Arkansas	73,690	24,867
39	District of Columbia	73,561	58,887
40	Idaho	64,080	28,905
41	New Hampshire	54,154	41,193
42	Delaware	44,898	22,275
43	Mississippi	39,908	20,383
44	Alaska	37,170	24,814
45	Maine	36,691	36,296
46	Vermont	23,245	17,544
47	West Virginia	19,390	15,712
48	Montana	16,396	13,779
49	South Dakota	13,495	7,731
50	North Dakota	12,114	9,388
51	Wyoming	11,205	7,647
1	West	11,942,989	7,822,706
2	South	8,608,441	4,582,293
3	Northeast	7,229,068	5,231,024
4	Midwest	3,327,391	2,131,293
NA	United States	31,107,889	19,767,316
Source: U.S. Census 1990 (Summary File 3, Table P042) and U.S. Census 2000 (Summary File 3, Table P21).			



## Appendix D

### Virginia's Foreign-Born Population by Locality for 1990 and 2000

<b>Locality</b>	<b>Number of Foreign-Born 1990</b>	<b>Number of Foreign-Born 2000</b>	<b>Percent Change in Foreign-Born (1990-2000)</b>	<b>Percent Foreign-Born 2000</b>
All Localities (Virginia)	311,809	570,279	82.9%	8.1%
Accomack County	405	1,625	301.2	4.2
Albemarle County	2,883	5,753	99.5	7.3
Alleghany County	122	112	-8.2	0.9
Amelia County	43	80	86.0	0.7
Amherst County	237	388	63.7	1.2
Appomattox County	42	188	347.6	1.4
Arlington County	36,516	52,693	44.3	27.8
Augusta County	316	925	192.7	1.4
Bath County	55	216	292.7	4.3
Bedford County	477	1,098	130.2	1.8
Bland County	32	56	75.0	0.8
Botetourt County	195	289	48.2	0.9
Brunswick County	101	130	28.7	0.7
Buchanan County	156	77	-50.6	0.3
Buckingham County	72	118	63.9	0.8
Campbell County	354	587	65.8	1.1
Caroline County	162	382	135.8	1.7
Carroll County	151	255	68.9	0.9
Charles City County	26	87	234.6	1.3
Charlotte County	40	100	150.0	0.8
Chesterfield County	6,244	13,523	116.6	5.2
Clarke County	188	312	66.0	2.5
Craig County	18	16	-11.1	0.3
Culpeper County	501	1,193	138.1	3.5
Cumberland County	54	118	118.5	1.3
Dickenson County	45	31	-31.1	0.2
Dinwiddie County	152	339	123.0	1.4
Essex County	87	140	60.9	1.4
Fairfax County	127,506	237,677	86.4	24.5
Fauquier County	1,119	1,982	77.1	3.6
Floyd County	45	211	368.9	1.5
Fluvanna County	208	469	125.5	2.3
Franklin County	239	639	167.4	1.4
Frederick County	610	1,406	130.5	2.4
Giles County	51	125	145.1	0.8

<b>Locality</b>	<b>Number of Foreign-Born 1990</b>	<b>Number of Foreign-Born 2000</b>	<b>Percent Change in Foreign-Born (1990-2000)</b>	<b>Percent Foreign-Born 2000</b>
Gloucester County	464	653	40.7%	1.9%
Goochland County	211	331	56.9	2.0
Grayson County	73	212	190.4	1.2
Greene County	81	250	208.6	1.6
Greensville County	53	31	-41.5	0.3
Halifax County	121	388	220.7	1.0
Hanover County	839	1,527	82.0	1.8
Henrico County	7,923	17,465	120.4	6.7
Henry County	319	1,588	397.8	2.7
Highland County	4	9	125.0	0.4
Isle of Wight County	213	335	57.3	1.1
James City County	1,211	1,993	64.6	4.1
King and Queen County	16	58	262.5	0.9
King George County	293	225	-23.2	1.3
King William County	83	162	95.2	1.2
Lancaster County	162	201	24.1	1.7
Lee County	41	108	163.4	0.5
Loudoun County	4,880	19,116	291.7	11.3
Louisa County	160	330	106.3	1.3
Lunenburg County	68	163	139.7	1.2
Madison County	137	279	103.6	2.2
Mathews County	68	198	191.2	2.2
Mecklenburg County	180	524	191.1	1.6
Middlesex County	83	208	150.6	2.1
Montgomery County	4,062	4,813	18.5	5.8
Nelson County	124	271	118.5	1.9
New Kent County	109	115	5.5	0.9
Northampton County	234	447	91.0	3.4
Northumberland County	72	194	169.4	1.6
Nottoway County	96	226	135.4	1.4
Orange County	327	480	46.8	1.9
Page County	224	352	57.1	1.5
Patrick County	73	282	286.3	1.5
Pittsylvania County	139	635	356.8	1.0
Powhatan County	175	326	86.3	1.5
Prince Edward County	231	271	17.3	1.4
Prince George County	1,144	1,503	31.4	4.5
Prince William County	13,447	32,186	139.4	11.5
Pulaski County	152	216	42.1	0.6

<b>Locality</b>	<b>Number of Foreign-Born 1990</b>	<b>Number of Foreign-Born 2000</b>	<b>Percent Change in Foreign-Born (1990-2000)</b>	<b>Percent Foreign-Born 2000</b>
Rappahannock County	118	223	89.0%	3.2%
Richmond County	50	165	230.0	1.9
Roanoke County	1,470	2,631	79.0	3.1
Rockbridge County	193	416	115.5	2.0
Rockingham County	676	2,223	228.8	3.3
Russell County	45	112	148.9	0.4
Scott County	41	71	73.2	0.3
Shenandoah County	354	1,080	205.1	3.1
Smyth County	65	159	144.6	0.5
Southampton County	78	51	-34.6	0.3
Spotsylvania County	1,026	2,917	184.3	3.2
Stafford County	1,833	3,713	102.6	4.0
Surry County	20	33	65.0	0.5
Sussex County	30	119	296.7	1.0
Tazewell County	211	431	104.3	1.0
Warren County	354	677	91.2	2.1
Washington County	262	470	79.4	0.9
Westmoreland County	213	512	140.4	3.1
Wise County	201	183	-9.0	0.5
Wythe County	206	140	-32.0	0.5
York County	1,392	2,931	110.6	5.2
Alexandria City	17,998	32,600	81.1	25.4
Bedford City	105	98	-6.7	1.6
Bristol City	152	251	65.1	1.4
Buena Vista City	54	33	-38.9	0.5
Charlottesville City	1,452	3,107	114.0	6.9
Chesapeake City	2,652	5,971	125.2	3.0
Clifton Forge City	7	11	57.1	0.3
Colonial Heights City	670	836	24.8	4.9
Covington City	47	148	214.9	2.3
Danville City	359	700	95.0	1.4
Emporia City	62	183	195.2	3.2
Fairfax City	2,900	5,451	88.0	25.4
Falls Church City	1,008	1,667	65.4	16.1
Franklin City	39	62	59.0	0.7
Fredericksburg City	550	997	81.3	5.2
Galax City	46	588	1178.3	8.6
Hampton City	3,858	5,778	49.8	3.9
Harrisonburg City	740	3,733	404.5	9.2
Hopewell City	598	435	-27.3	1.9
Lexington City	149	274	83.9	4.0
Lynchburg City	1,108	2,073	87.1	3.2

<b>Locality</b>	<b>Number of Foreign-Born 1990</b>	<b>Number of Foreign-Born 2000</b>	<b>Percent Change in Foreign-Born (1990-2000)</b>	<b>Percent Foreign-Born 2000</b>
Manassas City	2,129	4,973	133.6%	14.2%
Manassas Park City	368	1,543	319.3	15.0
Martinsville City	142	412	190.1	2.7
Newport News City	6,932	8,610	24.2	4.8
Norfolk City	9,766	11,634	19.1	5.0
Norton City	48	43	-10.4	1.1
Petersburg City	707	769	8.8	2.3
Poquoson City	231	340	47.2	2.9
Portsmouth City	1,388	1,595	14.9	1.6
Radford City	438	399	-8.9	2.5
Richmond City	3,720	7,643	105.5	3.9
Roanoke City	1,515	2,904	91.7	3.1
Salem City	401	523	30.4	2.1
South Boston City	57	N/A	N/A	N/A
Staunton City	367	474	29.2	2.0
Suffolk City	433	1,180	172.5	1.9
Virginia Beach City	20,517	28,276	37.8	6.6
Waynesboro City	400	471	17.8	2.4
Williamsburg City	558	622	11.5	5.2
Winchester City	556	1,604	188.5	6.8
Source: JLARC staff analysis of data from the United States Census 1990 (Summary File 3, Table P042) and United States Census (Summary File 3, Table P21).				

## Appendix E

### Limited English Proficient (LEP) Student Enrollment K-12, By School Division, FY 2003

School Division	LEP Enrollment	Percent of Total Enrollment
Accomack County	373	6.85%
Albemarle County	618	5.04
Alexandria City	2,412	21.99
Alleghany County	6	0.20
Amelia County	1	0.06
Amherst County	11	0.24
Appomattox County	4	0.17
Arlington County	4,988	26.07
Augusta County	91	0.85
Bath County	0	0.00
Bedford County	24	0.22
Bland County	0	0.00
Botetourt County	11	0.23
Bristol City	16	0.69
Brunswick County	3	0.12
Buchanan County	0	0.00
Buckingham County	8	0.36
Buena Vista City	0	0.00
Campbell County	28	0.32
Caroline County	16	0.42
Carroll County	40	0.98
Charles City County	0	0.00
Charlotte County	4	0.17
Charlottesville City	151	3.42
Chesapeake City	220	0.56
Chesterfield County	1,222	2.28
Clarke County	16	0.78
Colonial Heights City	48	1.73
Covington City	0	0.00
Craig County	0	0.00
Culpeper County	72	1.19
Cumberland County	22	1.60
Danville City	179	2.36
Dickenson County	0	0.00
Dinwiddie County	35	0.79
Essex County	0	0.00
Fairfax County	20,974	12.90
Falls Church City	120	6.55
Fauquier County	139	1.38

<b>School Division</b>	<b>LEP Enrollment</b>	<b>Percent of Total Enrollment</b>
Floyd County	35	1.72 %
Fluvanna County	10	0.30
Franklin City	4	0.28
Franklin County	48	0.66
Frederick County	233	2.12
Fredericksburg City	92	3.81
Galax City	132	10.02
Giles County	4	0.16
Gloucester County	0	0.00
Goochland County	0	0.00
Grayson County	6	0.26
Greene County	20	0.74
Greensville County	12	0.43
Halifax County	15	0.25
Hampton City	272	1.18
Hanover County	99	0.56
Harrisonburg City	1,195	29.88
Henrico County	1,363	3.12
Henry County	278	3.26
Highland County	0	0.00
Hopewell City	30	0.77
Isle of Wight County	10	0.20
King and Queen County	0	0.00
King George County	1	0.00
King William County	2	0.10
Lancaster County	0	0.00
Lee County	5	0.13
Lexington City	4	0.85
Loudoun County	1,778	4.74
Louisa County	10	0.23
Lunenburg County	5	0.28
Lynchburg City	64	0.71
Madison County	4	0.22
Manassas City	1,184	17.74
Manassas Park City	494	21.23
Martinsville City	73	2.71
Mathews County	0	0.00
Mecklenburg County	28	0.57
Middlesex County	0	0.00
Montgomery County	144	1.55
Nelson County	39	1.92
New Kent County	7	0.29
Newport News City	223	0.68
Norfolk City	82	0.22
Northampton County	114	5.48
Northumberland County	0	0.00

<b>School Division</b>	<b>LEP Enrollment</b>	<b>Percent of Total Enrollment</b>
Nottoway County	25	1.00%
Orange County	20	0.50
Page County	19	0.52
Patrick County	79	2.99
Petersburg City	36	0.64
Pittsylvania County	107	1.18
Poquoson City	3	0.12
Portsmouth City	16	0.10
Powhatan County	3	0.08
Prince Edward County	3	0.11
Prince George County	23	0.38
Prince William County	5,523	9.12
Pulaski County	37	0.74
Radford City	17	1.09
Rappahannock County	6	0.57
Richmond City	409	1.56
Richmond County	36	2.94
Roanoke City	414	3.02
Roanoke County	156	1.10
Rockbridge County	9	0.30
Rockingham County	621	5.58
Russell County	0	0.00
Salem City	21	0.53
Scott County	4	0.11
Shenandoah County	115	2.02
Smyth County	27	0.53
Southampton County	2	0.07
Spotsylvania County	274	1.28
Stafford County	270	1.12
Staunton City	11	0.41
Suffolk City	15	0.12
Surry County	0	0.00
Sussex County	4	0.29
Tazewell County	2	0.03
Virginia Beach City	849	1.12
Warren County	36	0.71
Washington County	4	0.06
Waynesboro City	64	2.15
Westmoreland County	55	2.74
Williamsburg City	53	0.62
Winchester City	361	10.20
Wise County	18	0.26
Wythe County	1	0.02
York County	121	1.02
Source: Virginia Department of Education.		





## **Appendix F**

### **Foreign Worker Visas Commonly Utilized in Virginia**

A large number of individuals enter Virginia each year on foreign worker visas. These individuals play a substantial role in Virginia's economy. They enter as both skilled and unskilled workers. Some come here on temporary visas, shorter than twelve months in length. Others enter for much longer periods of time to work in the hospitality, medical, and high technology sectors. A few individuals are admitted for the specific purpose of establishing or investing in a new business.

Among others, there are six types of foreign-worker visas through which individuals commonly enter Virginia's work force. These include H-1B, H-2A, and H-2B visas, permanent work visas, J-visas, and E-1 visas. Each type of visa adds workers to different segments of Virginia's economy.

#### **H-1B Visa For Specialty (Professional) Workers**

The H-1B program allows an employer to temporarily employ a foreign worker in the United States on a nonimmigrant basis in a specialty occupation or as a fashion model of distinguished merit and ability. Individuals entering Virginia through H-1B visas generally enter the skilled labor force, as the H-1B visa requires that an individual possess a bachelor's degree or higher. Large numbers and varieties of Virginia industries sponsor H-1B workers. These industries include biotechnology, computer sciences, engineering, mathematics, health care and medicine, business specialties, and education. In FY 2002, applications were submitted to the U.S. Department of Labor for approximately 24,734 H-1B workers in Virginia. Individuals entering the workforce through this visa type include computer systems analysts, researchers, accountants, teachers, professors, sales managers, engineers, consultants, health professionals, programmers, law clerks, and laboratory technicians.

#### **H-2A Certification for Temporary or Seasonal Agricultural Work**

The H-2A visa establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant workers to the United States. Employers interested in sponsoring H-2A individuals must provide the Virginia Employment Commission (VEC) with sufficient evidence that domestic workers are not available to fill the positions. In addition, H-2A sponsors must pay to transport the workers to and from their native countries as well as provide them with housing and transportation once they arrive in Virginia. The VEC reported that there are over 3,200 individuals working in the Virginia agricultural economy through H-2A visas. Tobacco firms employ over 2,000 of these individuals. Fruit and vegetable farmers employ others.

## **H-2B Certification for Temporary Nonagricultural Work**

Similar to the H-2A visas, H-2Bs are temporary work visas, typically less than 12 months in length. This visa permits employers to hire foreign workers to come to the United States and perform temporary nonagricultural work, which may be one-time, peak load, or intermittent. These jobs may be skilled or unskilled, but do not necessarily require a bachelor's degree or higher. In FY 2002, Virginia employers submitted to the VEC 6,128 applications for H-2B visas. The VEC approved 4,868 and 711 are still pending. Individuals in Virginia through H-2B visas work for employers including landscape artists, hotels, restaurants, universities, and amusement parks.

## **Permanent Labor Certification**

Unlike the other H-visas, the permanent labor certifications do not require that an individual continue to work for the same employer during his or her entire tenure. It is, however, one avenue through which an employer can hire a foreign worker to work permanently in the United States. Permanent labor visas are certified by the U.S. Department of Labor and require, among other things, that the wages offered be the prevailing wage for the occupation in the area of intended employment. In FY 2001, Virginia companies submitted approximately 4,157 applications for permanent work visas. Individuals entering Virginia's economy with permanent labor certification work for health service providers, technology companies, universities, construction companies, restaurants, and hotels.

## **J-Visas Provide Another Source for Worker Entry**

In addition to the H-visas, workers enter various parts of the Virginia economy through J-visas. J-visas allow individuals to enter the United States temporarily if participating in a government approved exchange program. Unlike the H-visas, the J-visas include the stipulation that an individual leave the country on expiration of the visa for at least two years prior to re-entry. Individuals utilizing these types of visas to work in Virginia include professors, teachers, and research scholars; foreign physicians pursuing graduate medical training; university students coming to the United States to fill summer work positions; individuals entering the United States to work as summer camp counselors; and au pairs. Over the past two years, for example, Virginia Beach has hired 15 teachers from the Philippines through J-visas, to teach primarily math in the school district. Similarly, Virginia hotels and theme parks reported hiring summer help from foreign countries through J-visas.

## **E-1 Visa For Treaty Traders**

The E-1 Visa is for foreign individuals seeking to carry on substantial trade, involving international commerce, between the United States and the foreign individual's home country. The visa is generally granted for an initial two-year period and may be extended for an indefinite number of subsequent two-year

periods. In order to qualify for an E-1 visa, a potential treaty trader must meet the following requirements:

- Treaty trader's country of origin has a treaty agreement with the U.S.
- Trade is substantial, constituting a continuous flow, rather than a single transaction.
- Trade is principally with the United States. (over 51 percent of trade).
- Capital is committed and currently possessed by the treaty trader.
- Capital of \$1 million is required, or at least \$500,000, if the investment will be made in a targeted employment area.
- The business will benefit the U.S. economy and create full-time employment for not fewer than ten persons that are authorized to work in the United States (other than the immigrant, and immigrant's spouse, sons, or daughters).
- Treaty trader will depart upon termination of E-1 status, unless another immigrant status is acquired.

<b>Foreign-Worker Visas</b>			
<b>Visa Type</b>	<b>Time-Frame</b>	<b>Qualifying Criteria</b>	<b>Employer Responsibilities</b>
<b>H-1B</b> Specialty (Professional) Workers	Up to three years with an option to extend for three additional years.	<ul style="list-style-type: none"> <li>• Professional Position requiring, at a minimum, a bachelor's degree in the field of specialization</li> </ul>	<ul style="list-style-type: none"> <li>• H-1B dependent employers must attest to obligations to recruit U.S. workers, to offer positions to U.S. workers who are equally qualified, and to avoid displacement of U.S. workers.</li> <li>• Employers must pay a wage rate that is paid to other individuals with similar experience and qualifications for that type of work</li> </ul>
<b>H-1C</b> Nurses in Disadvantaged Areas	Three years	<ul style="list-style-type: none"> <li>• The hospital must be designated as disadvantaged by the U.S. Department of Labor.</li> <li>• There are currently no hospitals in Virginia that qualify for H-1C nurses.</li> </ul>	

<b>Visa Type</b>	<b>Time-Frame</b>	<b>Qualifying Criteria</b>	<b>Employer Responsibilities</b>
<b>H-2A</b> Certification for Temporary or Seasonal Agricultural Work	Less than one year	<ul style="list-style-type: none"> <li>• Must be an employer who anticipates a shortage of U.S. workers needed to perform agricultural labor or services of a temporary or seasonal nature.</li> <li>• Associations may file master applications on behalf of their membership and authorized agents may file on behalf of employers.</li> <li>• There must be no qualified and willing U.S. workers available for the job</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate that there are not sufficient domestic workers who are able, willing, qualified, and available through extensive recruitment practices</li> <li>• Must show that the employment of H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.</li> <li>• Various requirements including providing transportation, meals, and housing for any hired H-2A workers.</li> </ul>
<b>H-2B</b> Certification for Temporary Nonagricultural Work	Less than one year	<ul style="list-style-type: none"> <li>• The job and employer's needs must be one time, seasonal, peak load or intermittent.</li> <li>• There must be no qualified and willing U.S. workers available for the job</li> </ul>	
Permanent Labor Certification	Permanent	<ul style="list-style-type: none"> <li>• Employee must be full-time</li> <li>• Must be a bona fide job opening</li> <li>• Job requirements must adhere to what is customarily required for the occupation in the U.S. and may not be tailored to the worker's qualification.</li> </ul>	<ul style="list-style-type: none"> <li>• Employer must pay at least the prevailing wage for the occupation in the area of intended employment.</li> </ul>

<b>Visa Type</b>	<b>Time-Frame</b>	<b>Qualifying Criteria</b>	<b>Employer Responsibilities</b>
D-1 Crewmembers Certification	Temporary	<ul style="list-style-type: none"> <li>• Use of alien crewmembers to perform longshore work is the prevailing practice for the activity at the port in question.</li> <li>• No strike or lockout is taking place.</li> <li>• Notice has been given to the workers or their representatives.</li> </ul>	
E-1 Visa for Treaty Traders	Two-years with an option to extend.	<ul style="list-style-type: none"> <li>• Treaty-trader's country of origin has a treaty agreement with the U.S</li> <li>• Trade is substantial, constituting a continuous flow, and is principally with the U.S. (over 51 percent)</li> <li>• Capital of at least \$500,000 is committed and currently possessed by the treaty trader.</li> <li>• The business will benefit the U.S. economy.</li> </ul>	
E-2 Visa for Treaty Investors	Two-years with an option to extend	<ul style="list-style-type: none"> <li>• Have special qualifications essential to the operations of an E-1 treaty trader.</li> </ul>	
Source: U.S. Department of Labor, Virginia Employment Commission, Title 8 of the Code of Federal Regulations, Section 214.2 (e) and Section 1153.			



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