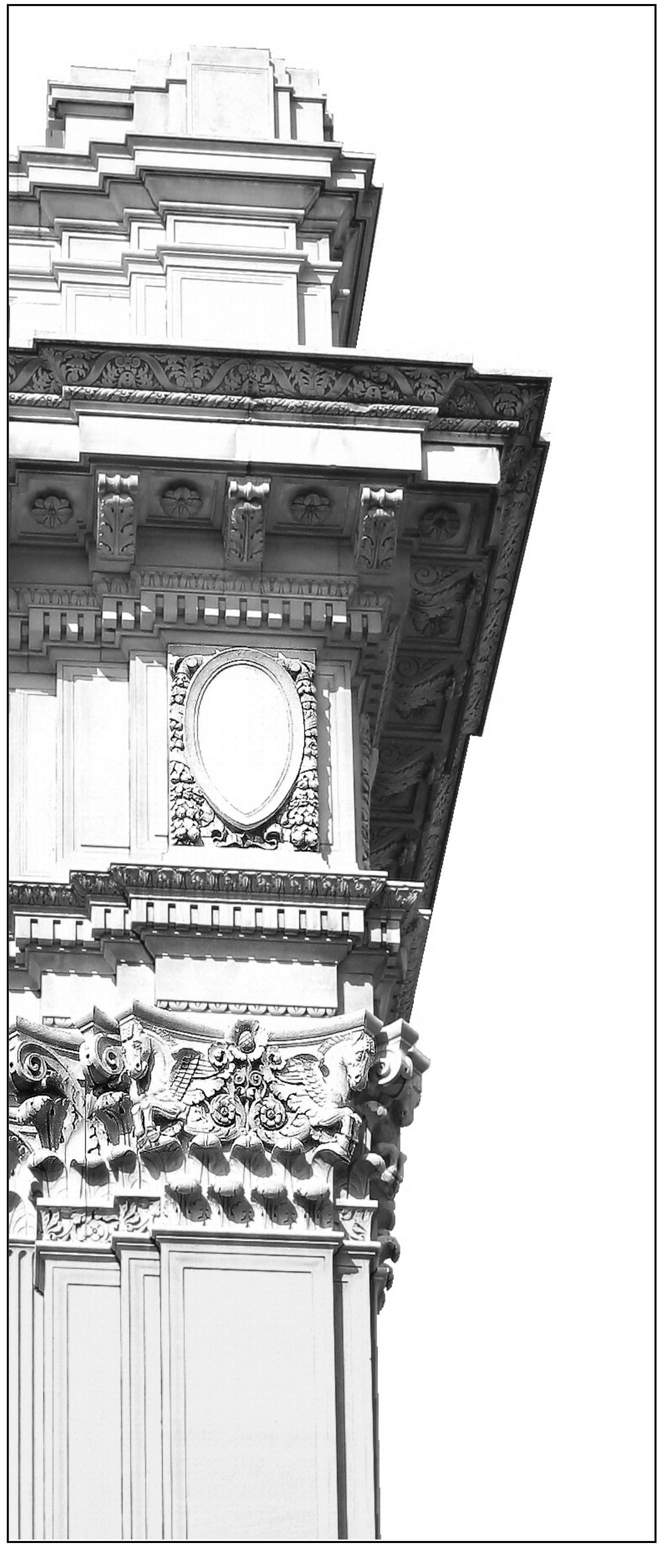
2005 Report to the General Assembly

The Joint Legislative Audit and Review Commission



The Commission's Role and Resources

Summaries and Impacts of Recent Studies

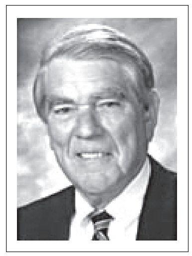
Cover:
A cornice from the oldest section of the General Assembly Building,
where members of the General Assembly have offices.
This part of the building was constructed circa 1913 and
exemplifies the *Beaux Arts* style, an eclectic neo-classical form
that was flourishing in Europe at that time.

September 12, 2005

To the Honorable Members of the Virginia General Assembly

The State Capitol, Richmond, Virginia

My Dear Colleagues:



As Chairman of the Joint Legislative Audit and Review Commission, I am pleased to transmit to you JLARC's *2005 Report to the General Assembly*. The statutes which empower the Commission also require this biennial report, as a means of keeping the full Assembly informed of the Commission's work. Herein you will find an explanation of our oversight role, summaries of some of our recent reports, and follow-up information on study impacts.

In presiding over a recent Commission meeting, I reflected with some incredulity on the fact that I was also present at our very first meeting, more than 30 years ago. As a founding member in 1973, along with my fellow commissioner Vincent Callahan, I have watched JLARC and its staff evolve into "a national leader in performance auditing," as *Governing* magazine recently described us. I take pride in having played a part in our distinguished history, and it is an honor to serve now as Chairman.

Those privileged to serve on the Commission over the years have shared a common goal that is also a lofty one. Our purpose is to ensure that Virginia's government serves the interests of its citizens. We want the programs and services that Virginians support with their tax dollars to be as effective and efficient as they can be. We share a belief that this goal can be accomplished by holding government accountable to the highest possible standards. When the Commission gathers to study and debate an issue, we do so not as politicians, but as statesmen.

As you may know, the Government Performance Project, a nonpartisan group dedicated to public policy research, recently released a report giving Virginia the highest grades nationally on state management. Virginia's executive branch received much praise and publicity for this honor, and rightfully so. You may not be aware, however, that on the legislative side JLARC was prominently mentioned in the study as a contributing factor to the Commonwealth's top ranking. The "remarkably high quality" of our audit studies was cited in one of several acknowledgments of the Commission.

Another nonpartisan group has also recognized the Commission – not once but twice – since our last biennial report. NCSL's Legislative Program Evaluation Section (which includes most of JLARC's peer organizations across the country) selected JLARC for a *2004 Impact Award* for our study of information technology in State government. And our study of Emergency Medical Services won a *2005 Impact Award*. These honors and many others are displayed in the JLARC office lobby on the 11th floor of the General Assembly Building.

In this document, you can browse among these and other recent achievements. After all, the support of the entire General Assembly has been – and will continue to be – critical to our success. You are invited to claim your rightful share in our accomplishments.

Respectfully yours,

Lacey E. Putney

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Members of the Joint Legislative Audit and Review Commission

Chair
Delegate Lacey E. Putney

Vice-Chair
Senator Thomas K. Norment, Jr.

Delegate Vincent F. Callahan, Jr.
Senator John H. Chichester
Senator Charles J. Colgan
Delegate M. Kirkland Cox
Delegate H. Morgan Griffith
Delegate Frank D. Hargrove, Sr.
Delegate Johnny S. Joannou
Delegate Dwight C. Jones
Delegate Harry J. Parrish
Senator Walter A. Stosch
Delegate Leo C. Wardrup, Jr.
Senator Martin E. Williams

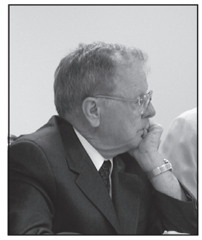
Mr. Walter J. Kucharski
Auditor of Public Accounts

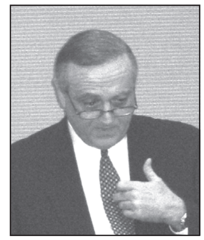
Director
Philip A. Leone

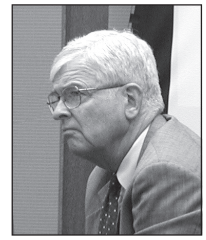
Delegate Putney and Delegate Callahan are the longest-serving members of the Commission, having been appointed to JLARC in 1973.


Delegate Putney


Senator Norment


Senator Colgan


Delegate Joannou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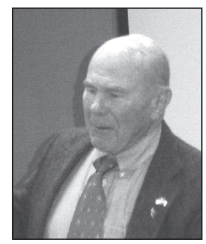
Delegate Wardrup


Senator Williams

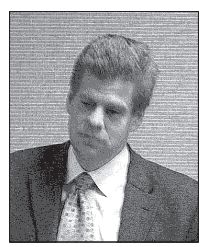

Delegate Parrish


Delegate Hargrove


Delegate Jones


Delegate Griffith


Delegate Callahan


Delegate Cox


Senator Stosch


Mr. Leone


Mr. Kurcharski

Section 1

JLARC's Organization, Role, and Resources

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

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

The Commission has a full-time staff. A staff Director is appointed by the Commission and confirmed by the General Assembly.

The Statutory Mandate

Authority. The duties of the Commission and the nature of its studies are specified in Sections 30-56 through 30-63 of the *Code of Virginia*. Report findings and recommendations are to be submitted to the agencies concerned, the Governor, and the General Assembly. These reports are to address:

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

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

The Legislative Program Review and Evaluation Act. In 1978, JLARC embarked on a unique approach to oversight under the auspices of the Legislative Program Review and Evaluation Act. Codified in Sections 30-64 through 30-72 of the *Code of Virginia*, the Act provides for periodic review and evaluation of selected topics from among all seven program functions of State government: (1) Individual and Family Services, (2) Education, (3) Transportation, (4) Resource and Economic Development, (5) Administration of Justice, (6) Enterprises, and (7) General Government. While the principal function of the Evaluation Act is the scheduling of functional area reviews, it also encourages (1) coordination with the standing committees, (2) agency self-studies, and (3) committee hearings on JLARC reports. The Act does not require or restrict standing committee activities in any way.

Financial Audit Reports. Under authority of Section 30-60 of the *Code of Virginia*, the Commission also serves as the point of legislative focus for financial audit reports. The specialized accounting and audit resources of the Office of the Auditor of Public Accounts are available to the Commission. The ability of the Legislature to assess agency performance is enhanced by this combination of program and fiscal reviews.

Oversight of Internal Service Funds. Section 2.2-803 of the *Code of Virginia* gives JLARC authority to establish new internal service funds and to discontinue those no longer needed. JLARC can also authorize the transfer of excessive retained earnings from internal service funds to the State general fund. To carry out these responsibilities the Commission reviews, on a continuing basis, internal service funds for graphics, automated systems, telecommunications, laboratory services, central warehouse, computer services, real property, capital outlay, fleet management, building maintenance services, and State and federal surplus property. See page 49 for a fuller discussion of this function.

Virginia Retirement System Oversight. The 1994 General Assembly approved the Virginia Retirement System Oversight Act (Section 30-78 through 30-84 of the *Code of Virginia*), which directs JLARC to oversee and evaluate the VRS on a continuing basis. This responsibility of the Commission and its staff is described in detail on page 47 of this document.

Fiscal Impact Analysis. The 1999 Appropriation Act provided additional funds to expand the technical support staff of JLARC "to assist with legislative fiscal impact analysis" and "to conduct oversight of the expenditure forecasting process." A new staff unit dedicated to these activities became fully operational prior to the 2000 legislative Session. A fuller description of these functions is provided on page 50.

A TV camera records the meeting as the recently appointed Board Chairman of the VRS is questioned by members of the Commission. Commission meetings frequently draw press and television news coverage, as well as the interested public.

The Audit and Review Process

Kinds of Studies. To carry out its oversight responsibilities, JLARC issues several types of legislative reports. Performance reports evaluate the accomplishment of legislative intent and assess whether program expenditures are consistent with appropriations. Operational reports assess agency success in making efficient and effective use of space, personnel, or equipment. The Commission also evaluates the adequacy and appropriateness of funding for specific programs. Further, staff may be asked to review the appropriateness of specific State policies and to provide alternative policy options. Finally, special reports are made on State operations and functions at the direction of the Commission or at the request of the General Assembly. Frequently these studies require elaborate statistical applications to assess program and policy effectiveness.

To date, JLARC has issued about 320 reports. In addition, numerous letter reports and briefings have been prepared on specific topics of interest to the Commission.

Dissemination of study findings to the public has been greatly enhanced in recent years through development of a JLARC internet site. Full-length viewable/downloadable versions of recent reports and a complete annotated bibliography of all reports are available on the internet at http://jlarc.state.va.us (see page 53 for more details about the JLARC web site).

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

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

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

JLARC Staff Resources

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

The varied education, training, and professional experience of JLARC's research staff are important to the Commission. Since 1973, the composition of the staff has continued to evolve. Today, while the largest single group still comes into JLARC with backgrounds in public administration or policy analysis and a strong base of quantitative skills, many other academic disciplines are also represented. These fields include economics, education, English, planning, law, political science, psychology, and urban systems. Most members of the JLARC staff have graduate degrees.

Only one JLARC staff position – that of the Director – is filled through legislative appointment. All other positions – from new

The JLARC staff methodologist responds to a question from a member of a Pakistani group. JLARC offices have become a frequent stop on the itineraries of delegations from Eastern European and Middle Eastern countries seeking to understand democratic institutions.

entry-level recruits to senior management positions – are filled through a merit-based competitive selection process.

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

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

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

After gaining valuable legislative, research, and policy experience working on JLARC studies, staff frequently move up to positions of greater authority and responsibility. In fact, over the years the JLARC staff offices have proven a fertile training ground for future State government officials. For example, alumni of the JLARC staff have gone on to serve as staff directors of other legislative commissions, House and Senate Appropriations Committee analysts, governors' cabinet secretaries, State university vice presidents, and State agency heads.

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

Objectives of Legislative Oversight

Program and Agency Savings. Program cost savings are frequently the product of legislative oversight studies, and are usually the most visible of all possible outcomes. Just as important are the opportunities for savings which may result from the implementation of recommended efficiencies or adoption of program alternatives. In some instances, changes may result in more spending to achieve greater effectiveness. See pages 6-7 for examples of JLARC's savings to the Commonwealth.

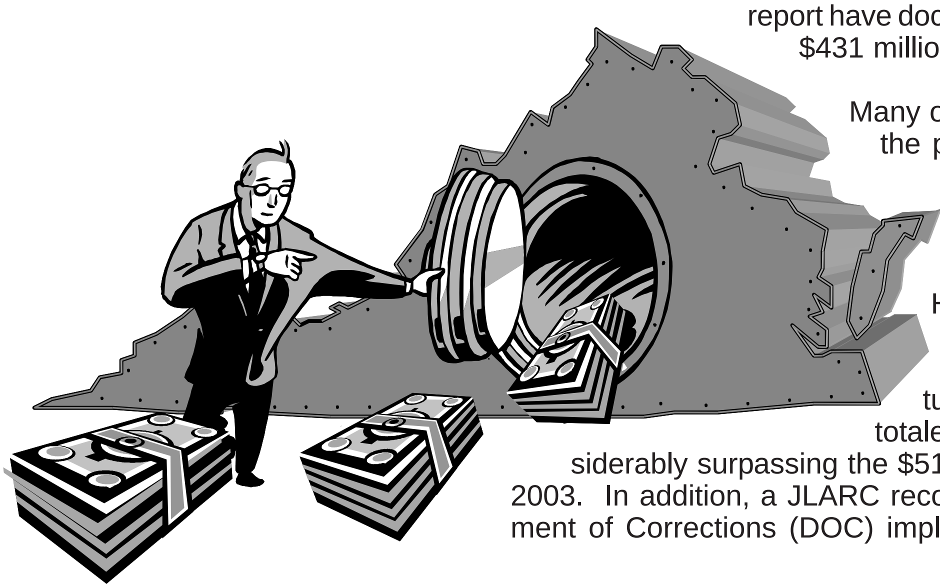
Improved Efficiency and Effectiveness: JLARC is required by statute to make recommendations on ways State agencies may achieve greater efficiency and effectiveness in their operations. Achieving efficiency means finding ways to accomplish the same tasks at reduced cost; achieving effectiveness means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

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

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

Savings to the Commonwealth Attributable to JLARC Studies

Through continuing follow-up, Commission staff track actual savings attributable to the implementation of study recommendations. Most of these savings are reported to JLARC by the agencies that have been subject to reviews. Savings may be new revenues or cost avoidances. Some savings are calculated from reductions to agency appropriations that are attributable to study recommendations. Previous editions of this biennial report have documented savings of more than $431 million since JLARC's first study.



Many of the studies completed since the previous (2003) *Report to the General Assembly* have focused on policy- and information-related areas, where savings have been minimal. However, follow-up of JLARC's 2002 special report on tax compliance revealed that actual savings related to that study totaled more than $93 million, considerably surpassing the $51 million that was estimated in 2003. In addition, a JLARC recommendation that the Department of Corrections (DOC) implement a 340B drug discount program (see page 34) for its HIV patients has achieved an estimated $500,000 in cost avoidances over its first two years, according to DOC. Adding these additional savings -- about $42 million -- to the calculation **brings the cumulative savings attributable to JLARC studies to $473 million.**

It should be noted, however, that even the $473 million documented is a decidedly conservative figure. In most cases, this figure includes only those savings that are achieved through one biennial budget of the Commonwealth. In reality, many of these adjustments continue to accrue savings indefinitely.

For example, **the JLARC recommendation which has accrued the most savings overall is the Set-Off Debt Collection Act,** which was implemented by the General Assembly in 1981. This program reduces State tax refunds to individuals by any amounts that the taxpayer owes the Commonwealth for other documented reasons, usually involving monies due to a State agency. For each of the past five years, more than 200,000 debt payments have been collected, totaling over $20 million per year. **Collections since 1981 total more than $300 million**. However, less than $16 million of these savings are included in the $473 million figure.

In addition, JLARC studies sometimes lead to savings for entities outside State government. For example, the Department of Charitable Gaming's response to a recent study (see page 10) included improvements to the criminal investigation function. These improvements have contributed to more than $300,000 in restitution to charities that were the victims of theft.

It should also be noted that not all Commission studies result in savings. Other objectives of legislative oversight (such as enhancing program effectiveness and ensuring compliance with legislative intent) sometimes require that additional resources be allocated to State agencies and programs. Further, JLARC itself requires budgetary support by the General Assembly to pay for staff salaries and benefits, occasional consultant fees, statewide travel expenses that can sometimes be significant for a far-ranging project, and other expenditures necessary to study mandates. However, when compared to the savings discussed above, **JLARC's expenditures (averaging less than $1.5 million per year) have returned about ten dollars for every dollar expended**.

Section

2 Summaries and Follow-Up of Recent JLARC Studies

PROGRAMS IN THE DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Senate Joint Resolution 441 from the 2001 General Assembly Session directed JLARC to conduct an evaluation of the development, management, utilization, and funding for the health and mental health services provided through the Department of Medical Assistance Services (DMAS). This mandate led to a study which covered several key program areas, with emphasis on the mental retardation waiver program, non-emergency transportation services, and the child health insurance program. (Another area of inquiry, pharmacy services and State spending on pharmaceuticals and medical supplies, was further reviewed in a separate study, described on page 32).

Mental Retardation Waiver Program. In regard to the mental retardation waiver program, JLARC staff noted several long-standing unresolved problems related to management of available slots and poor communication with other State participants in the program. In addition, substantially more waiver slots appeared to be necessary. To address both concerns, the study recommended that DMAS provide periodic status reports with specific data to the House and Senate money committees.

The General Assembly responded by committing additional waiver slots to the program.

These reports are apparently providing useful information to the Legislature. The General Assembly has responded by committing additional waiver slots to the program, 175 for FY 2004 and 860 for FY 2005, increasing the total number to 5,711. DMAS reports that all waiver slots have been filled, but there are 1,100 individuals on an urgent waiting list and 1,500 on a non-urgent waiting list, indicating a need for more waiver slots. DMAS also reports that the process of managing the waiver slots and waiting lists, which has been properly returned to the responsibility of the Community Service Boards, appears to be working. Any complaints and problems still occurring are being resolved through cooperative efforts by DMAS, the Department of Mental Health, Mental Retardation, and Substance Abuse Services, and the Community Service Boards.

Non-Emergency Transportation. DMAS reports that the non-emergency transportation program has improved, in part through DMAS terminating its contract with an unresponsive transportation broker. A settlement agreement with the old broker is providing repayment to transportation providers that had gone unpaid under the old contract. Moreover, DMAS reports that a new contractor has been providing “safe, reliable, and on-time” transportation services since late 2002. Although some types of complaints remain a concern, a recent survey of users showed that 93 percent of respondents were satisfied all or most of the time. DMAS also reports that under the new broker, the incidence of fraud and abuse for transportation services by providers (a concern in the JLARC study) has been virtually eliminated. However, new contracts for brokerage services have recently been issued, and DMAS will need to continue to monitor the contractors to ensure that service complaints decline.

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

Five study recommendations were directed at improving the program. DMAS has reported significant progress in addressing each recommendation:

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

The Medicaid State Plan has been amended to adopt a single eligibility level of 133 percent of the federal poverty level.

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

DMAS implemented these and other operational and policy changes to the child health insurance program as a result of the JLARC study and in response to legislation passed by the General Assembly. The changes have resulted in a significant increase in enrollment since implementation of these changes began in September 2002. DMAS reports that by May 1, 2005, more than 117,000 children had been added to the program. Total enrollment in the various DMAS-managed FAMIS and Medicaid health insurance programs is currently more than 400,000 children, according to DMAS figures.

CHARITABLE GAMING COMMISSION

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

Despite these successes, JLARC staff found that the overall structure and staffing of the Gaming Commission were insufficient to ensure uniform compliance with Virginia's charitable gaming statutes. Improvements were also needed in the areas of training and fiscal oversight.

In response to one of several policy options presented in the report, the 2003 General Assembly enacted SB 1278 (patroned by JLARC member Senator Charles Colgan) to change the governance structure of the Gaming Commission. The bill created the Charitable Gaming Board (the Board) as a policy board, created the Department of Charitable Gaming (the Department) headed by a director appointed by the Governor, and abolished the Charitable Gaming Commission.

The JLARC staff report raised concerns regarding the possible criminal histories of individuals and organizations involved in gaming. The department has addressed these concerns by instituting criminal history checks for all chief executive officers and financial officers of gaming organizations. Further, organizations must now provide assurances that all other members involved in the management and operation of charitable gaming meet background requirements.

Another concern was the lack of systematic record-keeping. The former Commission had no formal written policies and procedures regarding any of its administrative, licensing, audit or inspection functions. The department has recently completed a comprehensive Standard Operating Procedures Manual, which has been provided to all staff. This manual includes substantive policies and procedures for all daily operations, including the licensing process. Moreover, a comprehensive new database called FELICA (financial, enforcement, licensing, inspection, complaints, and audit) allows agency staff to track all relevant information, beginning with the initial application made by an organization to participate in gaming. The department has also initiated an appropriate records management policy that coordinates with both the Library of Virginia and the Virginia Public Records Act.

"The JLARC study has led to sweeping changes in the Commonwealth's approach to the regulation of charitable gaming.... [The study] provided us with a clear road map to improve the effectiveness and efficiency of our efforts."

--- comments by the Director of the new Department of Charitable Gaming.

As recommended, the department has simplified its renewal process, by distinguishing between new and renewal applications and eliminating requirements for redundant information. Further initiatives to stagger license expiration dates have greatly increased efficiency and reduced processing times by spreading the renewal process more evenly throughout the year.

The JLARC report called for significantly greater emphasis on providing training to charitable organizations. The department reports that training has been established as a core function, under the auspices of a new full-time position. Training, whether remedial or for new applicants, is provided throughout the State at locations convenient to the charitable organizations. The department reports that in calendar year 2004, a total of 67 training events were held, attended by over 800 volunteers from a variety of organizations.

Study concerns about inadequate auditing and criminal investigation functions also appear to have been addressed. The department established a new Audit and Enforcement Division and administrator. Auditors' work profiles have been changed to establish an expectation that each auditor will complete at least 40 audits per year, more than triple previous expectations. Similarly, greater emphasis on enforcement is resulting in significantly more cases closed with convictions. Enforcement efforts in 2003 and 2004 have also resulted in more than $300,000 in restitution to the charities that were victims of theft. The 2005 General Assembly approved additional departmental FTE positions recommended by the Governor, which will further enhance the auditing and enforcement functions.

The conclusion to the department's recent status-of-action report notes: "JLARC provided a comprehensive plan for the reorganization and improvement of the regulation of charitable gaming in the Commonwealth. The Administration and the General Assembly collaboratively and immediately responded to the JLARC recommendations. The JLARC review has provided invaluable guidance to the Administration in the implementation of these recommendations."

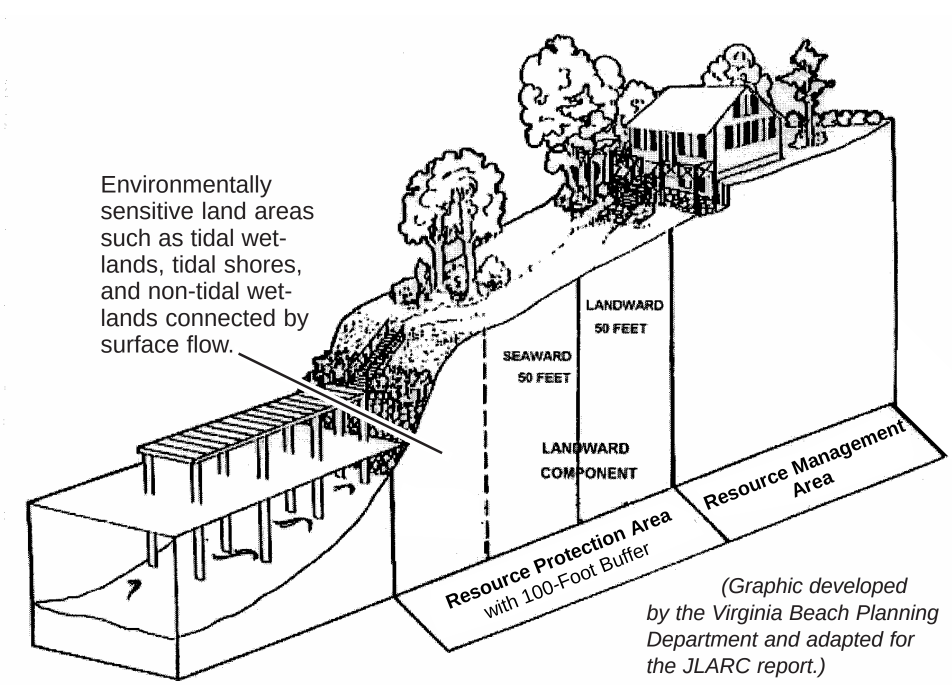
CHESAPEAKE BAY PRESERVATION ACT

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

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

Localities contacted during the JLARC study indicated that the Chesapeake Bay Local Assistance Department (CBLAD) provides appropriate and timely technical assistance. However, it appeared that inadequate financial resources were hindering CBLAD's ability to provide greater assistance, to perform certain internal functions, and to ensure local program compliance. In addition, it did not appear that the Chesapeake Bay Local Assistance Board had prioritized the evaluation and enforcement of local program implementation, as required by the *Code of Virginia*.

The Commission directed staff to consider the future status of CBLAD. In response, the study presented four structural options concerning potential ways to organize the department's functions. These



(Graphic developed by the Virginia Beach Planning Department and adapted for the JLARC report.)

options ranged from maintaining the status quo to consolidating the agency into the Department of Conservation and Recreation (DCR). The final budget document adopted by the 2004 General Assembly included an amendment to merge the functions and budget resources of the Chesapeake Bay Local Assistance Department into DCR. The amendment further specified that the agencies, consolidated as DCR, would continue to use budget resources and staff to provide assistance to localities pursuant to the Chesapeake Bay Preservation Act, and that the Chesapeake Bay Local Assistance Board would be continued as a collegial body, with all of its authorities and responsibilities. Effective July 1, 2004, the Chesapeake Bay Local Assistance Department became the Division of Chesapeake Bay Local Assistance within DCR.

"The merger has progressed very well. We have identified several areas where programs can be streamlined and enhanced by having CBLAD and the Bay Act Program integrated into DCR under the auspices of a new division."
---from DCR's recent response to a JLARC status-of-action request.

Although it is too early to assess the full effects of the merger, the Director of DCR recently reported to JLARC staff that the restructuring has progressed very well. Some early initiatives and results include:

- DCR is exploring whether the Bay Act agricultural requirements might be merged with other DCR conservation efforts to achieve a more effective overall agricultural conservation program, and is also exploring funding options to provide support for these program functions.
- Enforcement activities evidently have not suffered during the transition. In fact, the Board directed the Department to initiate legal actions against four localities during the past year, and all of the localities chose to comply with Board directives rather than go to court.
- The merger has facilitated incorporating Bay Act approaches into the development of the State's tributary strategies.
- The DCR Director expects improved efficiency and effectiveness as the new combined agency works to implement a new DCR stormwater program.

Many challenges lie ahead, however. Local compliance evaluations are finding mixed success among the localities, with only Portsmouth currently in full compliance with regulations. Numerous localities, for example, have not been implementing their requirements for septic system pump-out, follow-up inspections, and water quality impact assessments.

Virginia has little choice about making efforts to clean up the Bay, as the Environmental Protection Agency is threatening unspecified actions that could ultimately cost more than preventive action. A primary concern is securing funding for Bay cleanup. Commission member Delegate Vincent Callahan is leading a legislative panel to explore the issue of finding a sufficient and dedicated source of funding.

TRANSPORTATION STUDIES

Over the years, JLARC has completed more than 30 studies addressing transportation topics, many of them focusing on critical issues facing the Virginia Department of Transportation (VDOT). Recent studies identified shortcomings in VDOT's processes for estimating construction costs, managing highway maintenance, and keeping projects on schedule. Although initially defensive and critical of these Commission studies, the department later confirmed the existence of many of the problems identified.

Construction Cost Estimates

In a 2001 report, *Review of Construction Costs and Time Schedules for Virginia Highway Projects*, JLARC found that the costs of some large construction projects, especially the Springfield Interchange Improvement Project and Route 288 west of Richmond, had been routinely and substantially underestimated. JLARC staff calculated total cost underestimates for the 2001 Plan at well over $3 billion.

Subsequent assessments by VDOT of costs confirmed the study findings. VDOT staff analysis presented in January 2002 confirmed that total contractor payments, on average, exceeded original contract amounts for construction projects by more than 25 percent. As a result of this analysis, VDOT presented a revised Six-Year Plan in May 2002 with substantially fewer projects.

A recent status-of-action response from the department indicates that VDOT has taken appropriate actions on several fronts. In response to study concerns about costly project design errors made during the preliminary engineering process, the department has implemented new plan development procedures for construction projects. Based on the achievement of a sequence of milestone events, this new approach also includes a quality assurance program and establishes a committee to investigate the causes of plan errors and omissions.

A new cost estimating system has succeeded in narrowing the margin of error.

A new software-based cost estimating system has also been implemented for predicting project costs, beginning in the scoping phase. This uniform statewide costing system was used to generate cost data for the 2003 update of the Six-Year Plan. Institutionalization of the system is being closely monitored by two full-time employees in the Scheduling and Contract Division. According to the VDOT Commissioner, this approach has succeeded in narrowing the margin of error of cost estimates from 187 percent to 30 percent.

In response to the need – both internally and externally – for better project scheduling information, VDOT has developed a project management web site it calls "Dashboard." The department describes Dashboard as a user-friendly system that contains up-to-date information on all active construction projects, as well as projects scheduled to be advertised for competitive bids. The web site allows the public to see what VDOT managers see.

These management tools, which have been commended by the Commonwealth Transportation Board, appear to be positive responses to some of the more serious problems identified in the JLARC study. Early indicators suggest the new approaches are accomplishing the goals of keeping Virginia's transportation program on time and on budget. The Commissioner of VDOT reports that data for the July 2004 to March 2005 period show the department completing 74 percent of its construction contracts on time, and 81 percent within budget. That compares to 27 percent and 72 percent, respectively, for the previous fiscal year.

Highway Maintenance Program

A 2001 JLARC study examined the adequacy and management of VDOT's highway maintenance program. A central finding was that available funding was far short of that necessary for pavement and bridge maintenance needs. Although this remains an issue, some progress has been made through the resolution of an issue preventing VDOT from carrying forward unexpended funds, and approval of increased maintenance funding by the Commonwealth Transportation Board.

Another study concern was poor equipment utilization. The department responded by initiating a new process – through better internal communications – to achieve more efficient disposition of equipment, which has also resulted in moderate savings.

The study recommended significant revisions to VDOT's best practices manual for maintenance activities. In 2004, the department completed a revised best practices manual, and subsequently updated the document twice.

The department appears close to implementing strategic performance targets for roads and bridges, which will be included in its asset management system. Implementation of these targets will allow the department to capture accurate costs and productivity levels.

The department initiated needs-based budgeting in 2003 to assist in prioritizing allocations for maintaining pavements and certain non-pavement assets. Additionally, the department intends to collect automated data for all interstate pavements beginning in 2005, and all primary pavements in 2006. Use of automated pavement data will provide a more consistent rating of pavement conditions, which should improve allocation decisions.

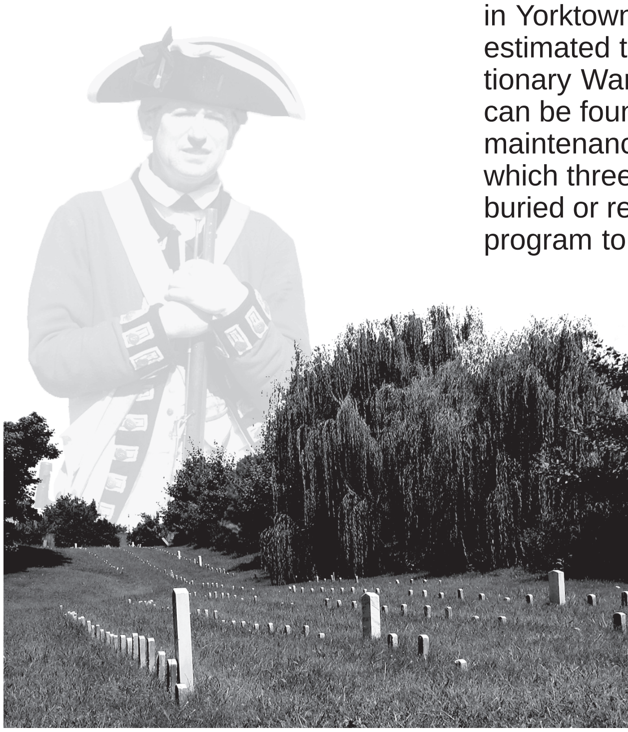
Ongoing Issues in Transportation Funding

Another 2001 JLARC study examined highway construction and transit funding. The study provided options for revising the current allocation system to make it more efficient and equitable. The General Assembly has shown a continuing interest in this and other transportation issues identified by JLARC staff. In 2002, staff began providing technical assistance to a joint subcommittee studying recent JLARC study recommendations. Currently, JLARC is providing technical assistance to Special Committees formed in the House and Senate to examine transportation issues, including funding.

REVOLUTIONARY WAR VETERAN GRAVESITE PROGRAM

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

JLARC staff compiled the most comprehensive list to date of Revolutionary War veterans with reported burial sites in Virginia. Over 100 sources were used in the preparation of this list. A total of nearly 1,500 veterans reportedly buried or recognized at cemeteries (not including the Colonial National Historical Park in Yorktown) were identified. Based on its study, JLARC staff estimated that there are about 560 identified sites with Revolutionary War veteran burials, and about 705 grave markers that can be found today and are potentially eligible for inclusion in a maintenance program. At least 66 cemeteries were identified in which three or more Revolutionary War veterans are reportedly buried or recognized. Options were identified in the report for a program to help restore and preserve these burial sites.



In response to the Commission report, the 2002 General Assembly adopted House Bill 919, providing for the establishment of a program to assist in maintaining Revolutionary War veteran gravesites. Accordingly, Chapter 256 of the Acts of Assembly added a section (10.1-2211.1) to the *Code of Virginia* to provide the statutory basis for the program. The first dollars were appropriated to the program for the 2005-2006 fiscal year. Funding of $2,845 was provided in each year to assist with some ordinary maintenance work at the gravesites. In addition, the statute for the program provides that associations may apply for grants to perform extraordinary maintenance, renovation, repair, or reconstruction of Revolutionary War veteran gravesites. Grants are to be made from any appropriation that might be made available by the General Assembly for such a purpose.

The complete data sets from the study are available and fully searchable as separate files on JLARC's web site. The wide interest in historical and genealogical research has made this report one of the most popular "hits" – nationally and even internationally — on the JLARC web site. JLARC staff have been commended by, and asked to give presentations before, local historical societies. From time to time, JLARC staff continue to receive calls from members of the public wishing to provide information about gravesites or inquiring about the State's gravesite program, which is administered under the auspices of the Department of Historic Resources. The database begun by JLARC should continue to be useful to historical researchers in the future.

UPDATE ON STUDIES OF ASSISTED LIVING FACILITIES

Since 1979, JLARC has conducted three reviews of assisted living facilities (previously called "adult care residences" and "homes for adults"), most recently in 1997. The Virginia Department of Social Services is responsible through its licensure and inspection functions for protecting the health, welfare and well-being of residents, and administers the auxiliary grant program which helps pay for the care received by the residents. Although some facilities were found to be model service providers, problems persisted with State inspection and quality of services in some other facilities.

There has been substantial growth in both the number of these facilities and the number of people living in them. In 1979, there were 8,800 persons residing in 314 homes for adults. By the time of the 1997 JLARC study, the number of homes had increased to 612, with 27,537 residents. Today, there are 640 licensed facilities housing more than 34,000 residents. In 1979, the maximum State auxiliary grant assistance per resident was $336 per month; in 2004 it was $894 per month, with an annual appropriation of $20 million.

All three Commission reports recommended stronger State oversight and improved services, especially for residents with mental disabilities. A number of steps have been taken over the years, such as legislation establishing different levels of care within the facilities, increased auxiliary grant payments, and better relationships with community services boards.

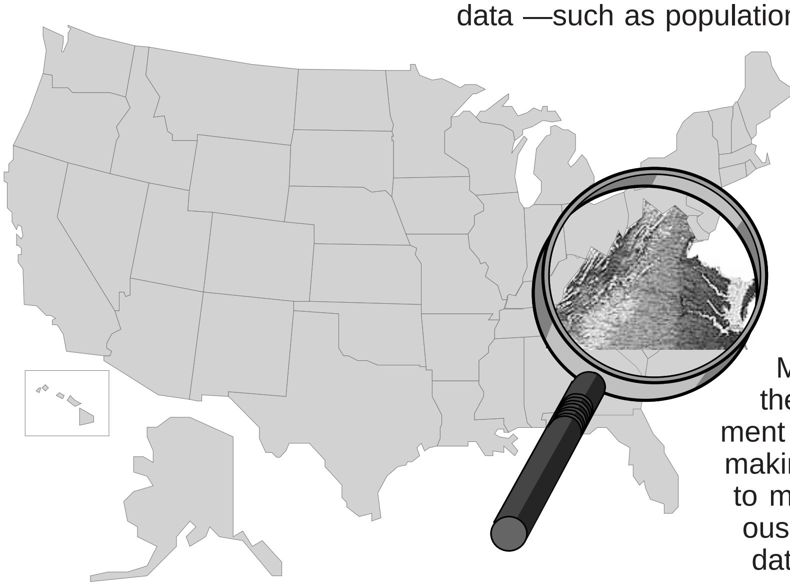
The 2005 General Assembly responded to renewed concerns about the quality of care and services in assisted living facilities with major legislation. For example, under House Bill 2512 (Hamilton), new requirements will increase the accountability of facility staff by requiring that facility administrators be licensed by the Department of Health Professions, and further require that medication aides be registered with the Board of Nursing. Enforcement is strengthened by increasing the maximum monetary penalty per inspection from $500 to $10,000, by allowing a summary suspension of a facility's license to protect public health or safety, and by adding 11 additional enforcement positions in the Department of Social Services. The monthly auxiliary grant payment was also increased to $944 per month.

Staff in the Governor's office reported that they consulted the JLARC studies as part of their review of the 2005 legislation, and that the study findings were a factor in gubernatorial approval of the bills. The outcome is one of many incidences of an older JLARC study being "pulled off the shelf" five or even ten years after completion and impacting a program or proposed legislation.

The approved bills, which went into effect July 1, should help to increase the safety and well-being of residents of assisted living facilities. Both the Governor's office and members of the General Assembly have predicted that further improvements will be undertaken in the future.

INTERSTATE BENCHMARKING

In the spring of 2004, at the direction of the Commission, staff compiled and published statistics on how Virginia compares to other states on a variety of measures. While some demographic data —such as population and per-capita incomes — were included, the principal comparators were financial in nature: state and local revenues, state and local taxes, and other measures. The Commission also directed that, where possible, rankings be adjusted to reflect the impact of State expenditures on the Revenue Stabilization Fund and on car tax relief.



Members of the Commission report that they have found the benchmarking document useful for informational and decision-making purposes. JLARC staff continue to monitor interstate indicators from various sources, in order to provide future updates to the benchmarking publication.

STUDIES OF K-12 EDUCATION ISSUES

The General Assembly's interest in elementary and secondary education in Virginia is reflected in the many education-related studies required of JLARC over the last five years. Specific topics have included funding for elementary and secondary schools, best practices for support services, and factors associated with school performance, among others. The education community and the public have likewise demonstrated their interest, as evidenced by visits to the JLARC web site. Of all Commission reports available online, the study of school performance factors was the most frequently downloaded last year (approximately 1,000 times). For downloadable versions of all recent education studies, the reader is invited to browse among more than 30 education-related studies listed on the Commission's web site (http://jlarc.state.va.us/ pubs_sub3.htm). The short summaries which follow provide updates on recent and active studies.

Best Practices for the Support Services of School Divisions

This 2002 study examined the best administrative, fiscal, and service practices in the Commonwealth's public school divisions. The review focused on best practices for the various non-instructional services delivered by the school divisions. Best practices were defined broadly and inclusively by JLARC staff as work methods, resource allocations, processes, and initiatives to improve a school division's efficiency and effectiveness. The study found that while school divisions generally appeared to provide non-instructional support services in a cost-conscious manner and to make use of some best practice ideas, there was room for improvement through greater dissemination and use of best practices. The final report contains 21 recommendations for potential cost savings or opportunities for quality of service improvements, and includes an inventory of numerous best practice ideas submitted by Virginia school divisions.

Since the time of the review, there has been some additional activity in issue areas addressed by the JLARC report. For example, one recommendation from this 2003 study called for the Department of Education (DOE) to involve the divisions in the development of its new system for tracking students. DOE reports it accomplished this goal through an advisory committee of school division representatives with expertise in information systems, as well as through various focus groups, presentations, work sessions, and web-based feedback. DOE's recent update states that its Educational Information Management System was piloted in the spring of 2004 in 16 volunteer school divisions, and core features were subsequently implemented statewide thereafter. This new longitudinal student information system applies a unique identifier to each student, allowing school divisions to monitor students through their school careers, including changes in their enrollment status.

In addition, through a program initiated by the Governor, several school division efficiency reviews have been conducted. The reviews have focused on the types of non-instructional support services that were the subject of the JLARC report, and have focused on several of the issue areas that were identified in the JLARC report (for example, the sharing of administrative services, Medicaid billing, energy management, custodial staffing, and improvements in bus transportation and maintenance planning).

Initially, staff of the Department of Planning and Budget conducted the reviews as a pilot program. More recently, reviews have been completed by private sector consultants selected by a competitive process. The reviews are intended to help individual school systems realize some greater efficiencies, while also identifying good practices that can be shared with other school divisions.

To date, eight school divisions have been reviewed. Potential net savings were identified in seven of the eight reviews, and totaled about $9.3 million. The potential savings attributed to the efficiency ideas, as estimated by the consultants, have typically constituted about one percent of total operating costs in the divisions that have been reviewed.

Review of Factors and Practices Associated with School Performance

Senate Joint Resolution 349 (2003) directed JLARC to collect data and information regarding best practices at high-performing schools and divisions in the Commonwealth. The review was directed based on concerns that while most schools are meeting academic achievement goals, there remains a significant achievement gap between the best- and poorest-performing schools, and the recognition that some schools and divisions facing significant challenges have been able to overcome them. In addition to examining best practices, the study resolution requested that JLARC staff examine specific demographic and other factors that may influence academic success.

The results of the quantitative analysis revealed strong statewide trends regarding factors associated with Standards of Learning (SOL) test scores. The level of student poverty, the proportion of black students, and the educational attainment of adults in the community are all strong predictors of school performance as measured by SOL test scores. The relationship between these three factors and SOL test scores can be partially explained by certain student, family, school, division, and local fiscal characteristics, as well as by teacher qualifications and experience.

Factors Linked to Poverty, Race, and Adult Educational Attainment Affecting SOL Test Performance

Children in Schools with **High Levels of Poverty and Black Students,** and in Communities with **Low Adult Educational Attainment**	Children in Schools with **Low Levels of Poverty and Black Students,** and in Communities with **High Adult Educational Attainment**

Student & Family Characteristics

Effects Described by Principals Interviewed

• Little Parental Support	• Strong Parental Support
• Low Student Motivation	• High Student Motivation
• Little Exposure to Learning Outside of School	• High Exposure to Learning Outside of School
• High Transiency	• Low Transiency
• High Crime and Violence in Community	• Little Crime and Violence in Community
• More Female-Headed Households	• Fewer Female-Headed Households

Coinciding Factors Identified Through Quantitative Analysis

Teacher Qualifications

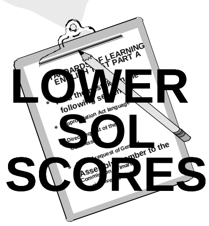
• More Provisionally Licensed Teachers	• Fewer Provisionally Licensed Teachers
• Fewer Classes Taught by Highly Qualified Teachers	• More Classes Taught by Highly Qualified Teachers
• More Inexperienced Teachers	• Fewer Inexperienced Teachers
• Fewer Teachers with Advanced Degrees	• More Teachers with Advanced Degrees

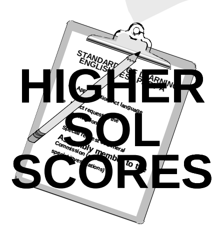
School and Division Characteristics

• Higher Incidence of Fights	• Lower Incidence of Fights
• Lower Attendance Rate	• Higher Attendance Rate
• Lower Teacher Salaries	• Higher Teacher Salaries
• Lower Instructional Expenditures per Pupil	• Higher Instructional Expenditures per Pupil

Fiscal Conditions

• Lower AGI per Capita	• Higher AGI per Capita
• Lower Revenue Capacity per Capita	• Higher Revenue Capacity per Capita





Graphic from the JLARC report.

Despite the strong trends identified, individual schools can and do exceed predicted results. Schools exceeding predicted results reported using practices which appear to allow them to overcome challenges and achieve higher than expected levels of success. In addition, the analysis revealed that some school divisions with challenges have exceeded predicted results by having strong and stable leadership, addressing ineffective teaching, and providing extensive professional development for teachers and principals.

The study also found that over the last several years SOL test scores and pass rates have increased substantially, and that principals interviewed and teachers surveyed generally believe that the SOLs have been helpful in improving the performance of their schools and students. However, the Commonwealth and its public schools still face a number of challenges for the future that are described in the report.

This study has received attention in-State and nationally. The report was briefed at a 2004 meeting of the Virginia Board of Education's Committee on the Lowest Performing School Systems. It was also briefed to the National Association of State Boards of Education (NASBE), and was cited prominently in the final report of the NASBE study group examining State strategies to close educational gaps. The study was also featured in an article in the professional journal for education, *Phi Delta Kappan*, and the Education Commission of the States provided a link to the report on its web site.

State Funding Formula for Education Technology

As required by the study mandate, this review provided options for the General Assembly's consideration, if it desired to fund certain technology costs as part of a funding formula. The only recommendations in the report related to a number of improvements to data collection that would be necessary, specifically regarding school technology expenditures, should the General Assembly adopt a funding formula for non-personnel education technology costs.

Subsequent to the review, the Board of Education and the General Assembly chose to include certain technology cost elements as part of the State's Standards of Quality (SOQ). Specifically, the SOQ now recognizes a certain level of staffing for technology instruction and support purposes. The option of funding such costs had been identified as part of the staff report. With regard to the report recommendations, DOE indicates that it has made various improvements to the Annual School Report to increase the quality and level of detail of data on technology costs, and is prepared to modify the ASR further to meet the specific requirements of any technology funding formula.

Review of Elementary and Secondary School Funding

The focus of this review, prepared prior to the 2002 Session, was on State SOQ funding and local school division expenditures beyond the SOQ. The magnitude of locality expenditures beyond the SOQ is a function both of how SOQ costs are determined, and locality decisions about what additional resources should and can be purchased with local funds. JLARC staff examined issues regarding the way in which SOQ costs are estimated and funded, and the ways in which local governments choose to spend more than is required pursuant to the SOQ. The report also provided option tiers to help structure the way in which the State might enhance its funding of education.

Several funding issues identified in the report have been addressed by the General Assembly.

Several issues identified in the report, such as elementary resource teachers and codified requirements for a secondary teacher planning period, have subsequently been addressed in the SOQ, due to actions by the Board of Education and the General Assembly. In addition, mistakenly dropped administrative staffing costs have been restored to the cost calculations, and the practice of deducting locally generated revenues in determining the State's share of costs has been ended. An area, however, in which State SOQ funding is still low relative to the costs typically incurred by school divisions (prevailing costs) is personnel compensation.

JLARC staff recently responded to a request from the Virginia Municipal League (VML) to provide detailed information derived from recent Commission briefings on the status of SOQ funding. VML dedicated much of its May magazine issue to disseminating this information.

Several recommendations in the report pertained to the administration of funding and were directed to the Department of Education. Progress on these items has been somewhat mixed. For example, one recommendation from this study was for DOE to improve the reliability of special education child count data, which is used in the SOQ funding model. In a recent status-of-action response, DOE states that it has developed an online special education data application for use by school divisions in submitting this data to the department. According to DOE, this application includes built-in data validations that allow school divisions to identify and correct data errors such as those related to disability and placement category. Subsequently, DOE can resolve conflicting data, duplicate records, and other elements that could impact SOQ funding.

However, in some other areas, DOE's 2005 status-of-action response shows a lack of progress since the time it previously filed such a response in 2003. The JLARC report recommended an examination of the expenditures made by local governments that are funded from parts of the locality budget other than education, yet have the same purpose as expenditures commonly reported on DOE's annual school report. DOE reported in 2003 that it had worked with the Auditor of Public Accounts during the prior two years to develop a reconciliation process between amounts reported spent for education by local governments compared to amounts reported by school divisions to DOE. The department's 2005 response does not indicate any further progress since that time. The 2005 response simply indicates that data from the reconciliation process "may be useful," but states that "further analysis" is still needed in order to verify that expenses from local government reports to the APA are appropriate for inclusion in the ASR.

In addition, DOE's 2003 status-of-action response stated the agency was currently studying the issue of discrepancies between special education staffing positions as calculated by the SOQ model and actual school division practices (and said the findings would be included in the Board of Education's 2003 annual report on the condition and needs of public schools). However, the agency's 2005 status-of-action report states that "neither DOE nor the Board of Education has reviewed any discrepancies that appear to exist between actual staffing of special education instructional positions in school divisions and the special education instructional positions calculated by the SOQ funding model."

ACCLIMATION OF VIRGINIA'S FOREIGN-BORN POPULATION

In response to House Joint Resolution 604 of the 2003 General Assembly, JLARC staff conducted a study that examined the acclimation of Virginia'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. The 2000 Census found over 570,000 foreign-born residents in Virginia, representing eight percent of the population. While two-thirds of Virginia's foreign-born population resides in Northern Virginia, a growing number of foreign-born people have been settling in other portions of the State in recent years.

JLARC staff identified a variety of activities that individual State agencies and local governments have undertaken to help immigrants adjust to their new communities. However, the review found that, overall, the approaches taken have been fragmented, leading to inefficiencies and added costs. In response, the 2004 General Assembly passed House Joint Resolution 71 (Cox), which begins to address this problem. The legislation directed the Secretary of Health and Human Services to conduct planning activities that address federal requirements for appropriately serving individuals with limited English proficiency (LEP).

A recent report from the Secretary of Health and Human Services to the General Assembly in response to HJR 71 provides an update on actions taken relevant to the study findings. The Secretary convened a work group with representatives from agencies within the Secretariat. A major goal of this group was increasing the awareness of the requirements to provide meaningful access to information and services for LEP individuals. Agency-specific plans are being developed, beginning with the designation of an entity within each agency responsible for overseeing implementation. All agencies within the Secretariat have been directed to prioritize the documents identified as vital to their functions. These critical documents are to be translated first into Spanish, and later into other intensively used languages, in compliance with federal guidance. In addition, the Department of Health and Human Services' regional office has offered to provide training for state and local staff regarding LEP requirements and compliance.

"Clearly a formal and organized approach is needed to ensure that all agencies are doing everything that is needed to provide meaningful access."
---*from Secretary of Health and Human Services' report.*

The Secretary's report makes several recommendations that parallel those of the JLARC study. The Virginia Information Technology Agency (VITA) is asked to educate State agencies on the current contract for telephone interpreter services and how to make use of this service, and further to pursue expanding the existing contract to include translation services.

The report also recommends that the Department of General Services (DGS) should explore the possibility of initiating a statewide contract for translation services. A statewide contract would save the duplicate effort of each individual agency procuring translation services. The contract would provide a list of translation services throughout the State. These competitively procured services would leverage the buying power of the State and hopefully provide a reasonable price for all State agencies.

The Secretary's report confirmed the JLARC staff conclusion, saying, "clearly a formal and organized approach is needed to ensure that all agencies are doing everything that is needed to provide meaningful access." To that end, the Secretary is continuing the work of the HJR 71 work group to assist and guide agencies in the development, implementation and monitoring of plans to meet the needs of individuals with limited English proficiency.

The JLARC study also found that the State and local governments were not taking full advantage of federal funding available to cover costs associated with incarcerating undocumented aliens. Based on a review of current participation by Virginia's jails, it appeared that nonparticipating localities might be able to obtain from $250,000 up to $500,000 in additional federal funding (assuming the 2003 federal funding level) through their participation in this funding program. House Bills 234 and 235 (Cox) provided a framework for collecting the data necessary to obtain these funds and for ensuring that local governments are aware of this funding opportunity.

EMERGENCY MEDICAL SERVICES IN VIRGINIA

In 2004, JLARC conducted a review of emergency medical services (EMS), focusing on the availability and funding of services statewide, as well as recruitment and retention of EMS providers. The study found that 60 percent of the 815 licensed EMS agencies were volunteer, and that there were 33,000 certified EMS providers statewide. The report noted that all Virginians have access to some level of EMS, and that compared to other states Virginia has a relatively high number of EMS agencies and providers.

The report recommended legislation:

- requiring that, in instances where a local EMS provider ceased operation, local governments should ensure the continuous provision of EMS;
- establishing a uniform definition of “response time,” and making public all relevant performance data for EMS agencies;
- expanding paramedic training opportunities;
- authorizing intermediate sanctions for enforcement of EMS regulations; and
- requiring the Board of Health to review and publish the comprehensive EMS plan.

The 2005 General Assembly accomplished these objectives by enacting several bills. HB 2521 (O’Bannon) provided that localities should take steps to ensure the maintenance of services. HB 2238 (O’Bannon) provided for a uniform response time definition and required that the data be made available to the public upon request. It also authorized civil penalties for noncompliance with State EMS regulations. HB 2253 (Bell) provided for additional paramedic training, and required the Board of Health to regularly review and publish the statewide EMS plan.

A related earlier JLARC study, focusing on air MEDEVAC services, recommended construction of Virginia Commonwealth University’s hospital-based helicopter pad (shown at right). This frequently used emergency facility has been in successful operation for four years.

USE AND FINANCING OF TRAUMA CENTERS IN VIRGINIA

One in every 350 Virginians is affected by trauma each year, most of whom will be treated in a trauma center. When injuries are serious, the specialized equipment and prompt access to physicians available in trauma centers can make a significant difference in the patient's health outcome, as trauma centers have been shown to reduce preventable deaths by more than 20 percent as compared to other hospital care.

Trauma centers and the system within which they operate are able to reduce deaths and disability because they are designed to respond to and treat injuries in a prompt and coordinated manner. By improving mortality and morbidity, trauma centers not only improve patient outcomes, but also reduce the negative economic consequences of injury. Moreover, trauma centers play an integral role in reducing the incidence of preventable injuries by conducting community outreach and education campaigns. Finally, trauma centers are a critical element of the State's ability to respond to and treat the victims of mass casualty events.

Despite the value they provide to the community, trauma centers face a variety of challenges that have led to a loss of trauma center designation or downgrades in coverage across the nation as well as in Virginia, and are deterring additional hospitals from seeking trauma center designation.

In Virginia, 13 hospitals currently provide the higher level of care necessary to be designated trauma centers. Despite the value they provide to the community, trauma centers face a variety of challenges that have led to a loss of trauma center designation or downgrades in coverage across the nation as well as in Virginia, and are deterring additional hospitals from seeking trauma center designation.

As a result of concerns that access to trauma centers in Virginia might be compromised, JLARC was directed to complete a study of steps that could be taken to maintain appropriate trauma services in the Commonwealth. The study found that hospitals designated as trauma centers and the physicians who staff them are incurring substantial financial losses as a result of treating trauma patients. These losses appear to be driven primarily by uncompensated care, low reimbursement rates from public insurers, and readiness costs. To alleviate the burden of these losses and mitigate the possibility that trauma programs in certain regions of the State might be discontinued, the report offered an array of financial support options and funding mechanisms.

Several of these options were considered by the 2005 General Assembly through legislation and budget amendments. The adoption of HB 2664 (McDonnell) imposed an additional $40 fee on the reinstatement of suspended or revoked driver's licenses and registrations. These fees, estimated to generate $4.3 million annually, will be deposited into a Trauma Center Fund and used to defray the cost of caring for victims of automobile accidents attributable to alcohol or drug use. Budget amendments seeking to improve Medicaid reimbursement rates to trauma centers and trauma physicians were introduced but were not adopted.

NUTRIENT MANAGEMENT PLANNING IN VIRGINIA

Plants and crops need an adequate amount of nutrients to ensure healthy growth. However, an overabundance of nutrients can negatively affect aquatic habitats. Nutrient management plans (NMPs) are site-specific documents that serve as planning tools for the efficient use of plant nutrients, such as nitrogen and phosphorus. These nutrients must be managed in order to meet plant needs while also minimizing the impact of these nutrients on water quality.

House Joint Resolution 72 of the 2004 General Assembly called for JLARC to study the effectiveness of Virginia's nutrient management plans. The mandate directed JLARC staff to evaluate several areas, such as the current level of participation, compliance, and enforcement of the NMP program, the adequacy of the record-keeping requirements for animal waste transfers, and the use and implementation of NMPs by State agencies.

Nutrient management plans had been developed for only about eight percent of all cropland and pastureland in the Commonwealth.

JLARC staff's examination of nutrient management plans found them to be generally well written. The study found, however, that NMPs had been developed for only about eight percent of all cropland and pastureland in the Commonwealth. The study also pointed out opportunities to increase the use of nutrient management planning on State-owned or leased land and in urban settings.

Several issues related to implementation and enforcement of NMPs required under State law were identified in this report. For example, 60 percent of the *farmers* required to implement their NMPs indicated on a JLARC staff survey that they always implemented the plan. However, only between eight and 14 percent of the State-certified nutrient management *planners* surveyed suggested likewise. Additionally, the State's existing approach to inspecting permitted agricultural operations and enforcing the conditions in the permits appeared weak. Moreover, instances of serious and repeated violations of plan conditions were found in which the Department of Environmental Quality (DEQ) took no enforcement action. DEQ was also not adequately tracking the transfer of poultry waste as required by State law.

The 2005 General Assembly passed two pieces of legislation based on recommendations from the study. First, HB 1790 (Cox) requires the development and implementation of nutrient management plans by State agencies that apply nutrients to State-owned or leased lands. Agencies are required to submit these plans to the Department of Conservation and Recreation (DCR) for approval at least once every three years. State agencies affected by this requirement must submit plans by July 1, 2006. DCR is responsible for providing help to agencies requesting assistance, and is authorized to charge a fee to cover the cost of services.

Additionally, amendments were made to Virginia's Poultry Waste Management Act requirements regarding the use of phospho-

Nutrient management plans are essential for managing the significant quantities of wastes produced by confined animal operations such as this Virginia hog facility.

rus-based nutrient management planning on State-permitted poultry operations. HB 1971 (Cox) ensures that if DCR implements a phosphorus index, State-permitted poultry operations with field soils that are assessed as "low risk" for phosphorus loss will be allowed to apply poultry litter at a nitrogen-based rate similar to all other producers.

Previously, confined poultry feeding operations in Virginia that had to obtain an operating permit from the Commonwealth were required to apply nutrients to their farm fields based at rates designed to supply crop nitrogen needs. When animal manures are applied at nitrogen-based rates, a buildup of phosphorus can occur because of the imbalance between the nitrogen and phosphorus content of the material. Most animal manures contain nearly as much phosphorus as nitrogen, but plants take up and use about 2.5 to 4.5 times as much nitrogen as phosphorus. As a result of this imbalance and the potential for excess soil phosphorus to negatively affect water quality, both the federal and State governments implemented legislative and regulatory restrictions on the amount of phosphorus that can be applied to a farm field. Typically, such phosphorus-based applications are more restrictive than nitrogen-based applications regarding the amount of manure that can be applied.

As part of an update to DCR's nutrient management training and certification regulations, the department has proposed adopting a phosphorus index (P Index) designed to measure the potential for phosphorus loss on a field. While fields that are classified as having a high risk for phosphorus loss will be restricted to phosphorus-based rates, those fields that are calculated as having low loss potential will be permitted to apply at nitrogen-based rates. As passed, HB 1971 requires that phosphorus application rates for poultry operations conform to the regulatory criteria adopted by the department, which will include a determination of potential phosphorus loss and the use of a P Index.

INFORMATION TECHNOLOGY SYSTEMS DEVELOPMENT

In 2002, JLARC staff completed a review of information technology (IT) systems development in Virginia at the request of the Commission. The study found the development of these systems had been relatively decentralized, with the majority of planning and design occurring at the agency level. This study further found that many of IT projects had failed in recent years, wasting more than $100 million.

The report identified the need for stronger central direction and oversight of systems development. Of the 18 recommendations included in the report, 13 were fully implemented and the remaining five were substantially implemented. Several of these recommendations formed the basis for HB1926 (Nixon) and SB1247 (Stosch) enacted during the 2003 General Assembly. Of the 12 recommendations requiring amendments to the *Code of Virginia*, 10 were fully implemented, and two were substantially implemented though this legislation. This legislation significantly reformed the governance structure and process for IT systems development and management in the Commonwealth.

Study recommendations formed the basis of legislation which significantly reformed the governance and structure of information technology development and management in the Commonwealth.

Two of the key recommendations implemented through the legislation, which will better ensure that funds appropriated by the legislature for IT are invested effectively, include the creation of an information technology investment board and a separate and independent chief information officer (CIO).

- The IT investment board will serve to improve central approval and oversight of major IT projects, provide a structure for prioritizing projects for investment, and provide greater accountability for IT systems development.

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

Other key JLARC recommendations that were implemented pursuant to this legislation include the establishment of a more formalized process for the approval and oversight of major IT projects, the establishment of a project management division along with project management specialist positions, and the establishment of a new process for funding major IT projects.

- The new project approval process will help to ensure that only appropriate projects are pursued and that all projects have adequate structures in place to minimize the risk of project failure.

- The establishment of a project management division will serve to provide increased support to agencies in the development of major IT projects through project management specialists who can assist agencies in project development, a more formalized program to train project managers, and the development of a project management methodology.

- Funding of major IT projects will be improved through the establishment of additional financing options, such as debt financing to help pay for high cost projects and a more structured process for considering State IT investment priorities as a whole.

To date, the State has won several national awards recognizing the impact that these reforms have had on Virginia's IT program. These include awards and recognition from the National Association of State Chief Information Officers, as well as the journals *Government Technology* and *Computerworld*. The JLARC staff report received a "Legislative Impact Award" from the National Council of State Legislatures.

In 2004, members of the Commission expressed a strong continuing interest in the Commonwealth's IT systems development and management processes and directed staff to continue monitoring VITA implementation. JLARC staff have continued to monitor this centralized systems development approach and are providing periodic updates to the Commission through 2005.

STUDY OF VIRGINIA BOARDS, COMMISSIONS, & COUNCILS (JLARC STAFF SUPPORT)

House Joint Resolution 159 of the 2002 Session established a Joint Subcommittee to study the operations, practices, duties, and funding of the Commonwealth's boards, commissions, councils and other governmental entities in the legislative and executive branches. JLARC provided staff support to this ambitious initiative, which ultimately resulted in the abolition of 58 commissions, boards, councils, committees, and other statutorily created governmental entities. In addition, based on recommendations of the Joint Subcommittee, the General Assembly eliminated 11 programs, 14 special funds, and 22 mandatory reports. The Joint Subcommittee members also sponsored HJR 6, which mandated a review of the role of electronic records and the Virginia Public Records Act.

PROCUREMENT OF MEDICAL SUPPLIES AND PHARMACEUTICALS

As a follow-up to the annual *State Spending* report, the Commission directed staff to undertake a review focused specifically on the methods and procedures used by State agencies to procure pharmaceuticals and medical supplies. The Commonwealth pays a broad range of prices for the prescription drugs that it purchases. For example, the review found that prices paid by seven agencies for Flovent® (used to treat respiratory problems) ranged from $33.26 to $67.11. Prices for drugs procured using the federal Public Health Service 340B drug-pricing program were the lowest, although not all entities are eligible to participate in this program. Of particular concern were Medicaid fee-for-service pharmacy costs, which rose 61 percent between FY 1998 and FY 2002.

In order to curtail rising prescription drug costs, the report presented several options for savings at the Department of Medical Assistance Services (DMAS). These included the implementation of a Preferred Drug List, changing the discount on the average wholesale price paid to pharmacies, redefining the usual and customary charge to reflect the lowest price paid by any payer, and decreasing the pharmacy dispensing fee. The study noted that expanding participation in the federal Public Health Service 340B drug-pricing program could generate substantial savings, not only at DMAS but at the Departments of Corrections, Juvenile Justice, and Mental Health, Mental Retardation and Substance Abuse Services. Further, in order to address double digit annual increases in pharmaceutical costs for the Commonwealth's self-insured health plans, a tiered co-payment structure could be implemented.

This special study, conducted by the JLARC Fiscal Analysis Section and submitted prior to the 2003 Session, produced substantial budgetary savings at a time when the General Assembly was wrestling with difficult funding issues. A number of report recommendations were addressed in the 2003 Appropriations Act, including:

- The implementation of a Preferred Drug List program at DMAS;
- The reduction in the retail pharmacy dispensing fee paid by DMAS from $4.25 to $3.75, with savings of approximately $2 million in general funds.
- The expansion of nonprofit hospital participation in the 340B drug discount program.
- Reduction of the Department of Corrections' budget, based on savings that could be achieved through the agency's participation in the 340B drug discount program.

- The replacement of the single-tiered prescription drug plan for State employee health care with a three-tiered prescription drug co-payment structure ($15, $20, and $35 for prescriptions, depending on the drug).

Preferred Drug List Program Successful. In January 2003, DMAS began implementing a Virginia-specific Preferred Drug List (PDL). This program provides a selection of therapeutically effective products, at reasonable cost, for which the Medicaid program will allow payment without restriction. Use of higher-cost drugs for which an effective lower-cost drug (such as a generic equivalent) is available is thereby discouraged. In a recent update, the Department described the program as “very successful.” There has been a very high compliance rate (92 per cent) in terms of preferred drugs being prescribed for Medicaid clients, and no recipient has been denied access to needed drugs.

The program generated savings of approximately $9 million in general funds in FY 2004, and based on preliminary estimates the program met or exceeded the projected savings of approximately $18 million from the general fund for FY 2005. However, due to the implementation of Medicare Part D, the potential savings associated with the implementation of the PDL program are likely to decline for FY 2006. This is largely due to the fact that the cost savings generated by the PDL are a function of rebates offered by drug companies, which are tied to purchasing volume. As a result of the new Medicare Part D program, approximately 50 percent of the fee-for-service participants will no longer participate in the PDL.

Changes Made to Pharmacy Reimbursement Methodologies. While the potential savings associated with the PDL program may decline going forward, DMAS has also implemented another cost saving plan within its pharmacy program. Prior to December 1, 2004, DMAS reimbursed pharmacies based on the lowest of the following pricing methodologies: Federal Upper Limit (FUL), Virginia Maximum Allowable Cost (VMAC), Average Wholesale Price (AWP) minus 10.25 percent, or pharmacy’s usual and customary charges. The purpose of using the lowest of multiple methodologies was to ensure that DMAS functioned as a prudent purchaser. Often, however, DMAS reimbursed pharmacies at much higher rates due to limitations with the VMAC program. Item 326 WW (1) of the 2004-2006 Appropriation Act required DMAS to revise the Maximum Allowable Cost (MAC) program. The revised MAC price for any given generic drug will be no less than 110 percent of the lowest-published wholesale acquisition cost (WAC) for products widely available in Virginia.

Although the JLARC report did not specifically recommend revising the VMAC program, the study recommended that DMAS conduct an analysis to determine whether to incorporate or replace the AWP reimbursement rate with the use of the WAC plus a percentage. The revised MAC program, which relies on the use of WAC, as recommended, is expected to generate substantial savings for DMAS. DMAS has been collecting data on the revised MAC program and will report to the General Assembly on the savings achieved by January 1, 2006.

As a result of legislation passed by the 2005 General Assembly, the retail pharmacy dispensing fee paid by DMAS was changed to $3.75 for brand-name drugs and was increased to $4.00 for generic drugs. As a result of this legislative change, DMAS expects overall costs associated with the dispensing fee will likely increase.

340B Drug Program Getting Results. In the spring of 2003, DMAS also began to educate 340B-eligible hospitals regarding the 340B drug discount program, which has been extended to all nonprofit hospitals. Currently, six hospitals are participating. Given the timing of participation of the private hospitals in the 340B program, DMAS has not done any official estimation of savings associated with 340B to Medicaid, but some savings are being realized.

"This program has allowed the DOC to provide our HIV population access to medications at a very favorable cost and continue to provide the community standard of care."

---from a recent Department of Corrections status-of-action response

As recommended, the Department of Corrections (DOC) began utilizing the 340B drug discount program in late 2003, initially for about 200 of its HIV patients. This was achieved through a collaborative program established between DOC and the Virginia Commonwealth University Health System. A recent status-of action report from DOC notes that charges for HIV medications have been averaging approximately 20 percent less than previous primary provider charges, resulting in an estimated cost avoidance of $250,000 per year. However, the increased costs associated with infectious disease clinic charges, lab charges, new antiretrovirals, and new treatment regimens may preclude actual reduction in overall HIV medication costs.

Employee Prescription Program Generating Savings. Regarding the three-tiered prescription drug program for State employees, a recent status-of-action response from the Department of Human Resource Management (DHRM) confirms savings from the recommended change. DHRM calculated savings on total drug costs of about ten percent, from $105 million in 2003 to $94.5 million in 2004. The average cost per prescription decreased 12 percent (from $57.20 to $51.04), while the number of prescriptions per member was unchanged at 10.11 (after increasing steadily for the last five years). There was also an eight percent increase in generic utilization. The decreases in overall drug cost and average cost per prescription are direct results of cost-shifting, with employees paying a larger share of drug cost due to the three-tiered co-payment structure. The increase in generics is a hoped-for result, and indicates a shift in purchasing behavior.

MANAGEMENT OF STATE-OWNED PASSENGER VEHICLES

House Joint Resolution 518 of the 2003 Session of the General Assembly directed JLARC to study the management of the Commonwealth's centralized vehicle fleet and the use of State-owned passenger vehicles. The resolution specifically directed JLARC to focus its review on vehicle use, personal mileage reimbursement, and the adequacy of the fleet composition and its management. The resolution also directed JLARC to examine alternatives to current fleet operations, including the outsourcing of vehicle maintenance, leasing fleet vehicles instead of purchasing them, and using public transportation vouchers as an alternative to fleet vehicle use or personal mileage reimbursement.

The study found that, in general, the numbers, types, and quality of fleet vehicles appeared adequate to address the missions of the agencies using them. The study also found that policies to limit the inappropriate use of State-owned vehicles appeared appropriate. However, the Office of Fleet Management Services (OFMS) could improve its oversight of personal mileage reimbursements, employee commuting, vehicle utilization criteria, and agency vehicle purchase requests. In addition, the Department of General Services (DGS) could better ensure that the State is purchasing the most economical vehicles by selecting those vehicles with the lowest lifecycle costs.

The key finding of this review was that the State should implement a vehicle maintenance control center for all fleet and agency-owned vehicles. A maintenance control center would monitor vehicle maintenance histories and negotiate maintenance and repair prices with a network of private vendors throughout the State. Additionally, a 24-hour call center would be available to vehicle operators for roadside assistance, as well as provide expert advice on the need for proposed repairs. The rationale for a maintenance control center was that savings could be achieved through negotiated, cheaper repair and maintenance rates and through having a better maintained vehicle fleet.

New Maintenance Contract Privatizes Maintenance, Anticipates Savings. In accord with JLARC's recommendations, OFMS has entered into a contract with a private vendor for vehicle maintenance management services. The contract entails a call center staffed by certified mechanics (located on site at the OFMS facility), a fleet maintenance manager, and fleet management software. This contract will address the State's need for accurate vehicle maintenance data, as well as improved pricing controls on maintenance work done at private maintenance shops. The new fleet management system became operational September 1, 2005.

DGS will pay the vendor, (TECOM, Inc.) approximately $1 million over a two-year period, at which point the State may renew the contract for additional years. TECOM has developed service-level agreements for all maintenance shops that wish to perform maintenance and repair work on fleet vehicles, including the OFMS and VDOT maintenance shops. These service-level agreements will help ensure that work will be done in a timely manner and according to specified price schedules. In addition, the billing information will be delivered to OFMS nightly, as opposed to the quarterly maintenance billing reports OFMS previously received from VDOT.

Service-level agreements will help ensure that work will be done in a timely manner and according to specified price schedules.

The fleet management software is owned by DGS and may be retained even if the State decides not to renew the contract with the vendor. This software, FASTER, will replace VDOT's equipment management system as the primary data repository for all fleet vehicle information. In addition to storing the data, the FASTER system has analytical capabilities to determine the useful life of vehicles and appropriate rental rates to recover costs.

The fleet management contract will cover the centralized fleet, which contains approximately 3,900 vehicles. However, there are approximately 4,500 additional passenger-type vehicles owned by State agencies and institutions that are not in the centralized fleet. OFMS has begun discussions with other agencies, such as State Police, to incorporate their vehicles under the existing maintenance management contract. Nearly all maintenance of these vehicles is currently outsourced to private maintenance shops, so incorporating them into the maintenance control center should produce additional savings.

WORKFORCE TRAINING IN VIRGINIA

Each year, Virginia invests over $250 million to build and support a quality workforce, an essential component of sustained economic development. In 2000, JLARC directed its staff to review the efficiency and effectiveness of the Commonwealth's workforce training efforts. In addition, the 2002-2004 Appropriation Act directed JLARC to review the administration of the federal Workforce Investment Act (WIA) by the Virginia Employment Commission (VEC).

The WIA provides Virginia over $40 million a year for employment and training services and mandates a system of service delivery to coordinate three WIA-funded programs and over a dozen other federally mandated workforce training programs. The Act requires that the system develop one-stop centers that provide single points of access to the many State and federal employment and training programs.

The JLARC staff review found that Virginia lacked a coherent, coordinated system of workforce training. There were 22 workforce training programs administered by ten State agencies in three secretariats. There was no formal coordination among these programs, many of which provided similar services to similar populations.

This study also found that while Virginia had implemented the basic framework of the one-stop service delivery system required by the WIA, the VEC did not have the authority to develop a true coordinated system. In fact, neither VEC nor any other existing State agency was able to develop the system as intended by the WIA. JLARC staff recommended creation of an independent, consolidated workforce training agency, apart from VEC, in order to facilitate a viable statewide system.

The Workforce Council statute has been amended to make TANF and FSET mandatory partners.

Although a separate workforce training agency has yet to be created, the JLARC study has had a number of positive impacts:

- The study recommended that employment and training programs funded through TANF, as well as Education for Independence programs, should be mandated to partner with the one-stop service delivery system as defined by the Workforce Investment Act. It was recommended that the Governor should make this declaration or the General Assembly should consider amending the *Code of Virginia* to reflect this mandated partnership. In the 2003 Session, Delegate Hogan sponsored the Governor's bill (H. 2075) to amend the Virginia Workforce Council statute, making TANF and Food Support Education and Training (FSET) mandatory WIA partners, per § 2.2-2670 of the *Code*. One of the first States to make this logical move, Virginia may have influenced the federal workforce program to follow suit, as Congress is considering legislation to mandate TANF as a required partner.

- The report recommended that several Workforce Investment Boards (WIBs) in the southwest and central areas apply for funding from the Virginia Tobacco and Indemnification Revitalization Commission. At least $125,000 in new grant money has been garnered through this means, and further inquiries are being made.

- In response to another recommendation, VEC is requiring regular, detailed expenditure reports from WIBs on training and supportive services.

- VEC has clarified policies for participants exiting WIA programs, and provides technical assistance when needed.

- In response to a study finding, the State Dislocated Worker Unit (SDWU) has implemented a Rapid Response Activity Report that captures various services offered to each employer prior to and/or during an employer briefing and employee layoff. In addition, files on weekly activities and contacts made by rapid response staff are kept at the VEC regional offices and the SDWU. The identification of industries and related contact information is also being collected. The SDWU has received commendations from the U.S. Department of Labor on its thorough reports for Worker Adjustment Retraining Notification (WARN) notices.

Specific performance measures adopted by the Workforce Council will enable evaluation of the local WIBs.

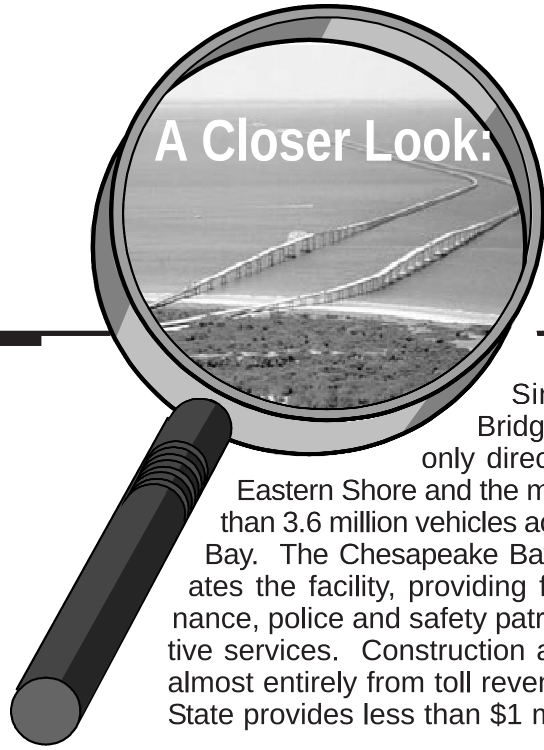
- As recommended, the Virginia Workforce Council has adopted specific workforce system performance measures so that the performance of the local WIBs can be evaluated. The Council has also adopted One Stop Center minimum standards, WIB member criteria, and governance standards.

Although considerable progress has been made, there are still numerous workforce training issues to be resolved. In the sessions subsequent to the JLARC study, the General Assembly has pondered the staff recommendations for an independent, consolidated workforce training agency, apart from VEC. Although such legislation has been proposed, it has not yet successfully negotiated both houses of the Assembly. However, the 2005 General Assembly established a joint subcommittee to study the need for greater consolidation and coordination of the workforce development and training resources available in the Commonwealth. This past summer, JLARC staff were asked to review and follow-up on the original study for the benefit of the HJR 713 Joint Subcommittee. At the subsequent briefing of the joint subcommittee, members repeatedly praised the quality of information presented on the complexities of workforce training in Virginia.

The workforce training report is another among numerous JLARC studies that remain "active" long after the initial research has been published. And, like many of these long-lived reports, this study is likely to have major impacts for years to come.

Section 3

A Closer Look: The Future of the Chesapeake Bay Bridge-Tunnel



Since 1964, the Chesapeake Bay Bridge-Tunnel (CBBT) has provided the only direct highway link between Virginia's Eastern Shore and the mainland. Each year, it carries more than 3.6 million vehicles across the mouth of the Chesapeake Bay. The Chesapeake Bay Bridge and Tunnel District operates the facility, providing for capital improvements, maintenance, police and safety patrols, toll collection, and administrative services. Construction and operations have been funded almost entirely from toll revenues collected on the facility. The State provides less than $1 million annually for operations.

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

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

Given its importance to transportation in the region, the appropriate role for the Bridge-Tunnel in economic growth is to ensure a safe, convenient, low-cost link between Virginia's Eastern Shore and the mainland.

Statutory language that created the Bridge-Tunnel district does not authorize it to involve itself in growth management or economic development, either as part of its operations or through the toll structure. The business and government leaders on the Eastern Shore interviewed for the study confirmed that they expect the local governments to be responsible for growth management, not the Bridge-Tunnel district. The review also found that the toll structure provides adequate revenue for operations, maintenance, and existing debt service. However, it may not provide adequate revenue for future capital expansion if parallel tunnels are needed by the year 2020. The report recommended that the district begin developing a long-range capital plan to address future facility needs and funding.

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

The district has taken actions to implement some of the 21 recommendations directed to it in the JLARC report.

The district has taken action to implement some of the 21 recommendations directed to it in the JLARC report. In its most recent status-of-action report, the CBBT district noted full or partial implementation of 14 of the 21 recommendations.

The District Acted Prematurely to Increase Tolls without Adequate Analysis or Capital Planning. The JLARC report called for the district to develop a long-range capital plan that included an analysis of the need for and cost of parallel tunnels. This recommendation was based on a JLARC staff analysis of projected traffic that indicated the potential need for parallel tunnels by 2020.

While the district reports that it is continuing to develop its long-range capital plan, the CBBT Commission has already committed to construction of the tunnels and increased the toll structure to provide financing for the tunnel project. Effective June 1, 2004, the Commission increased the tolls for all vehicle classes. For passenger cars, the toll was increased from $10 to $12.

The document supporting the Commission's action to proceed with the toll increases and the construction of parallel tunnels is a compilation of information produced by CBBT staff, the district's consulting engineer, the CBBT traffic consultant, and a financial consultant. It consists of estimates of tunnel construction costs, traffic and revenue trends and projections, and an analysis of the sources of funds for construction.

An aircraft carrier leaving Norfolk Naval Base for the Atlantic Ocean prepares to cross over the tunnel.

Neither safety nor facility maintenance concerns appeared to justify construction of parallel tunnels.

Traffic projections are a key element in the decision to proceed with tunnel construction because the earlier JLARC analysis found that neither safety nor facility maintenance concerns appeared to justify construction of the parallel tunnels. Therefore, the decision by the Commission should be based on an analysis of the capacity of the existing tunnels to handle the projected volume of traffic.

The traffic projections presented in the CBBT staff document are based on simple linear projections from 5-, 10-, 20-, and 40-year trends. All four projections appear to overstate the volume of traffic for the Bridge-Tunnel. Moreover, the traffic projections in the CBBT staff document do not present the independent, comprehensive analysis necessary to demonstrate the need for the parallel tunnels. For example, there is no analysis tying the projections of future traffic to the potential for congestion or reductions in levels of service. An analysis of the potential reductions in levels of service completed in 2002 by the district's traffic consultant examines the period from 2003 to 2010. That analysis is not updated for periods after 2010 in the staff document. There is also no statement by the traffic consultant contributing to the document that the parallel tunnels will be needed by a certain date, or that they will be needed at all.

The JLARC report recommended that the CBBT Commission evaluate a full range of options related to the construction of the parallel tunnels, including a no-build option that would have permitted long-term toll reductions. There is no evidence that the Commission has undertaken such an evaluation, or considered any alternatives suggested in the JLARC report.

It appears that the CBBT Commission has acted prematurely, without the benefit of the comprehensive analysis or capital planning called for by the JLARC report.

While the JLARC report found that traffic might justify construction of the parallel tunnels by 2020, it is not sufficient as a basis for the district's action to increase tolls and begin planning for the tunnel construction. Therefore, it appears that the Commission has acted prematurely, without the benefit of the comprehensive analysis or capital planning called for by the JLARC report.

The District Has Completed or Begun Other Capital Improvements. In addition to its decision to move forward with the construction of parallel tunnels by 2019, the district has begun or already completed other capital improvements. For example, it has completed repairs to the exterior of the tunnel ventilation buildings. In addition, the pavement in both tunnels has been replaced. The addition of a toll lane at both the north and south toll plazas is also now underway.

Still remaining are repairs to the substructure for portions of the trestle bridges and the retrofit of the existing tunnel interiors. The bridge repairs have already begun and the design phase for the tunnel retrofit has been completed.

The District Has Improved Security with Homeland Security Grants. The Chesapeake Bay Bridge-Tunnel is a vital high-

Inspecting the substructure of the bridge is a challenge in itself.

These pilings, damaged in construction, have been repaired.

way link to the Eastern Shore, and potentially at risk because of its proximity to the military facilities in Hampton Roads. The JLARC report recommended that the district retain expert advice in the development of a facility-wide security plan, and implement various security improvements, such as video surveillance and restricted access to certain portions of the facility.

At the request of the district, the Virginia Secretary of Transportation requested a physical site survey by the Virginia Department of Transportation (VDOT) Assessment Team. The VDOT security report was completed in February 2003. To fund the recommended improvements, the district requested and received an $869,000 State Homeland Security Grant. Some of the security improvements, including surveillance cameras, restricted access to the ventilation buildings, and improvements in the facility's communications network, have been completed or are now in progress. Additional recommendations from the VDOT assessment will be implemented as funding becomes available.

In addition, the CBBT became the first facility in Virginia to complete the development of a Buffer Zone Protection Plan. The district has been awarded a $50,000 Department of Homeland Security Grant for implementation of the plan.

The District Has Implemented Written Personnel Evaluations and Other Administrative Improvements. The district employs approximately 165 people. At the time of the JLARC report, the district did not conduct written evaluations of any of its employees. There was also no formal evaluation of the executive director by the Commission. The JLARC report recommended that the district develop a formal personnel evaluation process. The report also recommended that performance expectations be developed for the executive director, and that a written evaluation of the executive director be completed annually.

In response to the JLARC recommendations, the district reports that a formal written evaluation has been developed for all staff. The district has also updated its Employee Handbook and the Personnel Procedures Manual. This year will be the third year of annual employee evaluations.

The Commission now enters into a contract with the executive director and establishes written performance expectations. The Commission's personnel committee develops a written annual performance evaluation.

The District Has Not Yet Taken Steps to Reduce Excessive Speeds. The JLARC report found that in calendar year 2000, CBBT police officers issued 2,030 summonses for reckless driving (in excess of 75 miles per hour). This was an increase in the number of summonses of 475 percent compared to 1994. The increase in total traffic for the same period was only 12.8 percent. This increase in excessive speeds was the result of the new parallel bridges, which separated the opposing lanes of traffic and provided for two lanes in both directions.

Excessive speeds continue to be a problem.

Excessive speeds continue to be a problem, with 1,662 summonses for reckless driving in calendar year 2004. Of those, 177 citations were for speeds of 90 miles per hour or more. CBBT officers issued an additional 1,334 summonses for speeding.

It should be noted that more summonses are written for reckless driving than for speeding because, despite what the district advertises, the 55 mile-per-hour speed limit is not strictly enforced. This may be one factor that contributes to the problems with excessive speeds. Motorists have likely become accustomed to being able to drive 65 miles per hour or more without fear of being ticketed. As the average speed of all vehicles on the highway increases, the tendency for some motorists to drive faster than the flow of traffic will result in more vehicles traveling well in excess of the posted speed limit. While the district reports that police officers may write a summons for any violation of the speed limit, in practice it is clear that officers are consistently applying a tolerance of 25 percent of the posted speed limit. This is inconsistent with the well-advertised message to motorists that the speed limit will be strictly enforced.

The 2002 JLARC report recommended that the district reduce the tolerance above the posted limit before issuing summonses, evaluate the use of radar/speed indicator signs, and implement more visible police patrols. In its status-of-action response, the district reports that police patrols now total about 40,000 miles each month, and continues to maintain that there is no official tolerance above the posted speed limits.

The district also reported that it had chosen not to use speed indicator signs because of the costs and maintenance difficulties that district staff believe might be associated with that equipment. CBBT staff have reported more recently, however, that the decision not to deploy radar speed indicator signs has been re-evaluated, and such equipment is now on order for installation in the fall of 2005.

Section **4**

JLARC Among Its Peers: Recent Honors and National Recognition

The Commission and its staff continue to earn national recognition as well as awards from peer organizations. The previous (2003) *Report to the General Assembly* listed ten awards given to JLARC staff over the years by the National Conference of State Legislatures (NCSL) and the Governmental Research Association. These honors have recognized research design, excellence in program evaluation, and the impacts of individual studies.

JLARC has also received citations for its work in various fiscal and public policy journals, including *Governing, Education Evaluation and Policy Analysis, Financial World, and State Legislatures* (which devoted a cover article to the Commission). A respected university government textbook, *State and Local Government* by Boman and Kearney, praised JLARC as "a model for the rest of the country," and noted that the Commission was "reinventing government before it became fashionable."

Two recent additional honors are described below.

National Study Rates Virginia as Top-Managed State, Citing JLARC as a Factor

An independent, comprehensive study of how well the states are managed, conducted by the Government Performance Project (GPP) and published in February's *Governing* Magazine, graded Virginia highest in the nation and mentioned JLARC prominently among the criteria. GPP is funded by Philadelphia-based Pew Charitable Trusts, a nonprofit and nonpartisan grants organization that researches public issues. The study was conducted by academic researchers and journalists.

"Performance auditing [in Virginia] is very strong. In particular, the Joint Legislative Audit and Review Commission's audits are thorough in their review and evaluation of agency and program performance information, and JLARC takes care in verifying the data reported for each audit."
---*from* "Grading the States 2005," *Governing* Magazine

The "Grading the States 2005" report gave only two states — Virginia and Utah — grades in the 'A' range. Both states earned cumulative grades of A-minus, but Virginia was the only state in the nation to score in the A range in all four assessment categories: "Money" (fiscal issues), "People" (social issues), "Infrastructure," and "Information."

JLARC was cited no less than three times in the report as a factor contributing to Virginia's receiving the highest rating. The summary *Governing* article included praise for "excellent use of performance management by state agencies and by Virginia's Joint Legislative Audit and Review Commission — a national leader in performance auditing."

In addition to national comparisons, the report also provided for each state a detailed “report card,” wherein the major study categories were further detailed. It was in the “Information” category that JLARC’s primary role -- program evaluation -- was assessed. Below is the complete report citation about JLARC:

> **Program Evaluation:** The Joint Legislative Audit and Review Commission (JLARC) and the Auditor of Public Accounts (APA) are the two primary independent performance audit agencies in the state. All of the 33 total audits conducted by JLARC in 2002 and 2003 were performance audits. Of the 235 total audits conducted by APA during these same years, only seven were performance audits. A review of the performance audits from both agencies, but particularly JLARC, reveals that these audits are of remarkably high quality. The audits generally provided thorough recommendations concerning potential changes in either production or the use of performance information in the agency/program. Among the various ways in which JLARC verifies the data reported for each audit include: comparing data with other primary or secondary sources; referencing document data collection procedures; conducting interviews with agency personnel responsible for the data collection and maintenance; and comparing current data to data from prior years.

The study also praised the Commonwealth for its establishment of and continuing commitment to a “rainy day” fund, a fiscal tool that functions like an emergency State-level savings account. This approach has proven highly beneficial to several states experiencing revenue downturns during recent fluctuations in the national economy. Virginia’s Constitutionally based rainy day fund was created after a JLARC study recommended it.

JLARC Staff Garner Peer Awards for Two Recent Studies

The previous edition of this biennial report chronicled many important milestones and awards achieved by the Commission and its staff during 30 years of service to the General Assembly. In the short time since that report, the Commission has twice been recognized with additional honors from NCSL’s program evaluation section, whose members are JLARC’s national peer organizations.

Staff have received “Impact Awards” for two recent studies. Impact Awards recognize superior evaluation reports that result in program improvements through implementation of study recommendations. Criteria include documented impacts from the Legislature’s perspective, as well as benefits to citizens.

Information Technology Study. The study *Review of Information Technology Systems Development received* a 2004 Impact Award. JLARC staff reviewed information technology (IT) systems development in Virginia at the request of the Commission. The study found that many IT projects had failed in recent years, wasting more than $100 million. The report identified the need for stronger central direction and oversight of systems development and included 18 recommendations to improve the State's IT systems development process.

These recommendations formed the basis for HB 1926 (Nixon) and SB 1247 (Stosch), passed during the 2003 General Assembly, which significantly reformed the governance structure and process for IT systems development and management in Virginia. The enacted legislation fully implemented 13 of the 18 recommendations in the report and partially implemented four others. Please see page 30 for a fuller description of this study.

Emergency Medical Services Study. JLARC's latest (2005) peer award was for a review that focused on the availability and funding of emergency medical services (EMS) statewide, as well as recruitment and retention of EMS providers. Several recommendations for this study were implemented through House bills which were passed by both houses of the General Assembly and enacted into law. For a fuller description of this study, please see page 26.

Section **5**

Ongoing Oversight Responsibilities and Other Activities of JLARC

Although research and analysis are JLARC's primary work activities, JLARC and its staff also carry out other oversight and related responsibilities. Some of these duties, such as overseeing the Virginia Retirement System, have been permanently added to JLARC's statutory mandate over the years by the General Assembly. Other responsibilities have been assigned to staff for a limited time by the Commission, such as support or follow-up activities growing out of specific study recommendations. Still other activities are necessary in order to disseminate study findings to all interested parties, and to share best practices with JLARC's peer organizations. This section summarizes these ongoing activities.

Virginia Retirement System Oversight

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

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

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

JLARC's Oversight Responsibilities. The objectives of retirement system oversight are to:

- provide timely, accurate information about the retirement system to the General Assembly,

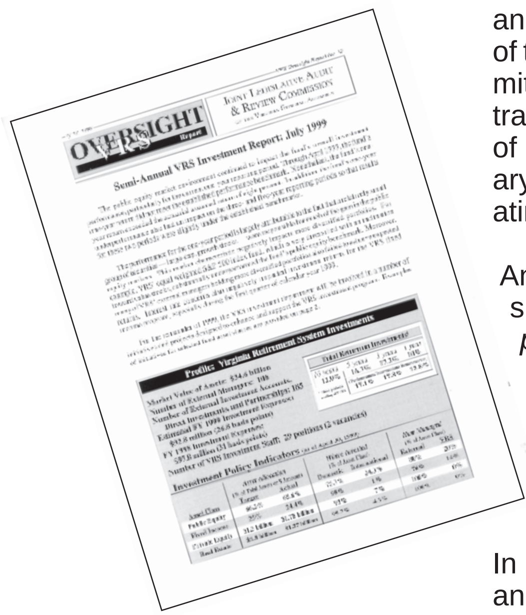
- assess the appropriateness of the structure of governance for the retirement system and recommend modifications to the structure as necessary,

- evaluate on a periodic basis the soundness of the retirement system trust funds,

- evaluate the performance of the VRS investment program and report to the General Assembly on any significant changes in the investment program, and

- evaluate the efficiency and effectiveness of VRS administration and operations.

JLARC and VRS staff work cooperatively under the Oversight Act to keep the General Assembly informed on all emerging and ongoing issues. JLARC staff attend the monthly meetings of the VRS Board of Trustees and the Investment Advisory Committee. Staff also periodically attend meetings of the Administration & Personnel, Benefits & Actuarial, and Audit committees of the VRS Board of Trustees. With the assistance of an actuary, an actuarial report is prepared once every four years, evaluating the financial soundness of the retirement funds.

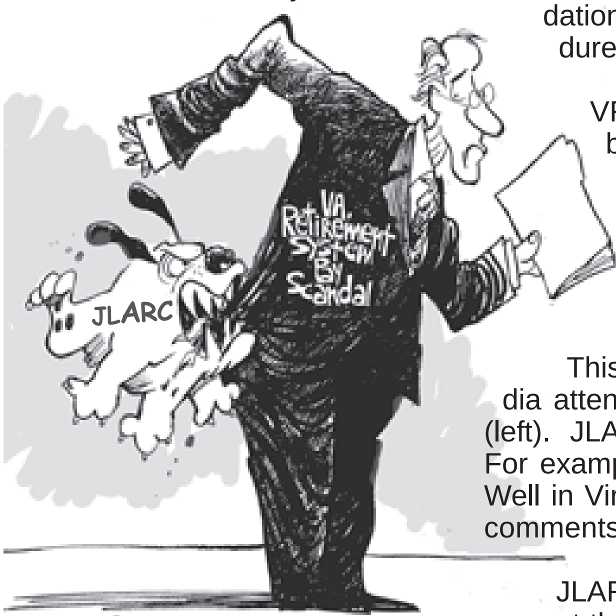


An important tool developed as part of JLARC's oversight responsibilities is a special publication, the *VRS Oversight Report*, which is researched and produced semiannually by JLARC staff and distributed to all members of the General Assembly. To date, 24 issues of the oversight report have been completed, typically focusing on the VRS investment program. This publication is a frequently accessed item on the JLARC web site.

In addition, the *Code of Virginia* requires that JLARC prepare and maintain an informational guide to VRS for the members of the General Assembly. JLARC staff maintain a compendium of useful information especially designed for legislators, titled *A Legislator's Guide to the Virginia Retirement System.* Originally offered as a limited-edition publication, the *Legislator's Guide* is now resident on JLARC's web site, allowing continuous updating of information. It has proven to be one of JLARC's most frequently accessed online documents, with more than 3,000 unique visitors and nearly 9,000 visits during the last fiscal year.

Recent Special Report Uncovers Improper Severance Payments. In June 2005, the Retirement System Oversight Subcommittee of JLARC directed staff to complete a special study of certain personnel issues at VRS, particularly the handling of the former director's severance agreement at the time of his retirement. The issues were brought to the attention of JLARC staff in the course of its normal oversight of the retirement system.

A recent editorial cartoon by Staunton News Leader *cartoonist Jim McCloskey*



Good Dog

The investigation found that the VRS Board Chairman had executed a severance agreement with the former VRS director without the full knowledge and authorization of the Board, and further that the severance package was excessive. Other findings related to proper adherence to FOIA regulations, as well as conflict-of-interest issues. The study made several recommendations to ensure that Board and VRS policies and procedures would prevent a reoccurrence of such problems.

VRS' new director and new Board chairman appeared before the Commission in July in response to the special study, pledging full cooperation with the report recommendations and the Commission's directives. VRS is seeking restoration of the severance funds, and the former Board chairman, a gubernatorial appointee, resigned from the Board.

This special oversight report received considerable media attention across the State, including an editorial cartoon (left). JLARC's role in correcting the situation received praise. For example, an editorial titled "Good Government, Alive and Well in Virginia" in the *Roanoke Times* included the following comments:

> JLARC's detection [of the severance arrangement] at the VRS attests to recent trends toward accountability and competence in Richmond....A culture that puts accountability, responsibility, competence and efficiency ahead of politics apparently prevailed. It had the oversight structure in place to enforce its will. In that combination, the system worked.

Monitoring of Internal Service Funds

JLARC monitors internal service funds on a continuing basis, pursuant to its authority under § 2.2-803 of the *Code of Virginia*. The Commission reviews the status of fund accounts and evaluates requests to change the nature and scope of the services provided or the customers served. The Commission also approves in advance the rates employed by fund managers for billing customer agencies. Twelve internal service funds are now monitored by JLARC:

- The **Virginia Distribution Center Fund** (Department of General Services) funds the procurement and distribution of various goods such as canned foods, paints, paper products, and cleaning supplies to State agencies, local governments, and school divisions.

- The **Office of Graphic Communications Fund** (Department of General Services) funds graphic design, layout, photography, and typesetting services provided to State agencies.

- The **Building Operations Program Fund** (Department of General Services) funds the building rent plan as well as special maintenance agreements between DGS and entities whose office space is located at the seat of government.

- The **State Surplus Property Operation Fund** (Department of General Services) funds the management and disposal of surplus property for State agencies and institutions.

- The **Federal Surplus Property Operation Fund** (Department of General Services) funds the acquisition and distribution of federal surplus property.

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

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

- The **Bureau of Capital Outlay Management Fund** (Department of General Services) funds the review of plans and specifications for capital and non-capital State projects to ensure compliance with the Virginia Uniform Statewide Building Code.

- The **Fleet Management Fund** (Department of General Services) funds the operation and management of the State's centralized fleet of passenger vehicles.

- The **Computer Services Fund** (Virginia Information Technologies Agency) funds data processing services to State agencies.

- The **Automated Services Fund** (Virginia Information Technologies Agency) funds automated systems design, development, and maintenance services to State agencies.

- The **Telecommunications Services Fund** (Virginia Information Technologies Agency) funds telephone and data transmission services to State agencies.

Fiscal Analysis Section

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

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

The section also has the continuing responsibility for conducting an annual review of State budget growth, required under §30-58.3 of the *Code of Virginia*. To date, four of these spending reports have been completed, with a fifth in process.

Review of Higher Education Institution Management Agreements

The Restructured Higher Education Financial and Administrative Operations Act (2005) directs JLARC to review the initial management agreements under which the State colleges and universities may operate with independent authority (§23-38.88 D.3, *Code of Virginia*). The reviews, in cooperation with the Auditor of Public Accounts, are to cover the first 24 months from the effective date of the management agreement. The purpose of the reviews is to evaluate the degree of compliance with the expressed terms of the agreements, the demonstrated ability of the institutions to manage their administrative and financial operations, and the impacts on students and employees resulting from the management agreements. A report is required by June 30 of the third year of each management agreement. JLARC may, but is not required to, conduct similar reviews of agreements subsequent to the initial agreements.

Inmate Forecast Technical Committee

The 1995 General Assembly session expressed an interest in developing a consensus prison population forecasting process. Subsequently, a technical forecast group was established, composed of representatives from the Department of Corrections, the Department of Criminal Justice Services, the Virginia Criminal Sentencing Commission, JLARC, and experts appointed by the Secretary of Public Safety from the fields of criminal justice, population forecasting, or other appropriate field of study. The Secretary acts as chair of the technical advisory group. The JLARC staff methodologist represents the Commission in reviewing the development of forecast methodologies and alternative forecasts of the State's prison and jail populations.

Debt Capacity Advisory Committee

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

Review of Performance Measures

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

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

All agencies in State government, including JLARC, are now in the process of developing their performance measures. JLARC staff have drafted such measures, which are currently being reviewed by the Commission.

Review of Administrative Process Act Exemptions

The Administrative Process Act (APA) is the law that structures the making and implementation of regulations by government agencies. Among other matters, the APA specifies certain opportunities that are to be provided to the public to be made aware of and to comment on regulations. Some regulatory activity is exempt from the APA and is not required to provide the same degree of opportunity for public notification and comment.

Section 2.2-4005 of the *Code of Virginia* requires JLARC to periodically review authorized exemptions to the Act. The purpose of this review is to assess whether there are any exemptions that should be discontinued or modified. The Commission initiates this activity at times when such a review appears merited, such as when meaningful issues or concerns have been raised relative to regulatory agency use or abuse of the exemptions.

Annual Review of State Spending on the Standards of Quality

Section 22.1-97 of the *Code of Virginia* requires JLARC to "report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the state expenditure provided each locality for an educational program meeting the Standards of Quality." This work by JLARC staff is coordinated with the Virginia Department of Education (DOE). (Section 22.1-97 also requires that DOE report local-level data on required local expenditures for the SOQ, and local operating dollars budgeted and spent to meet local SOQ cost responsibilities).

The first in what is expected to be a series of annual special reports in response to this mandate was completed in December 2004. That report addressed State SOQ spending in FY 2004, which amounted to $3.66 billion. The report was first briefed by JLARC staff to the Commission and then, as required by statute, was furnished to the House and Senate committees. An updated report on State SOQ spending is currently in process.

JLARC's Web Sites: New Features and Ever-Increasing Utilization

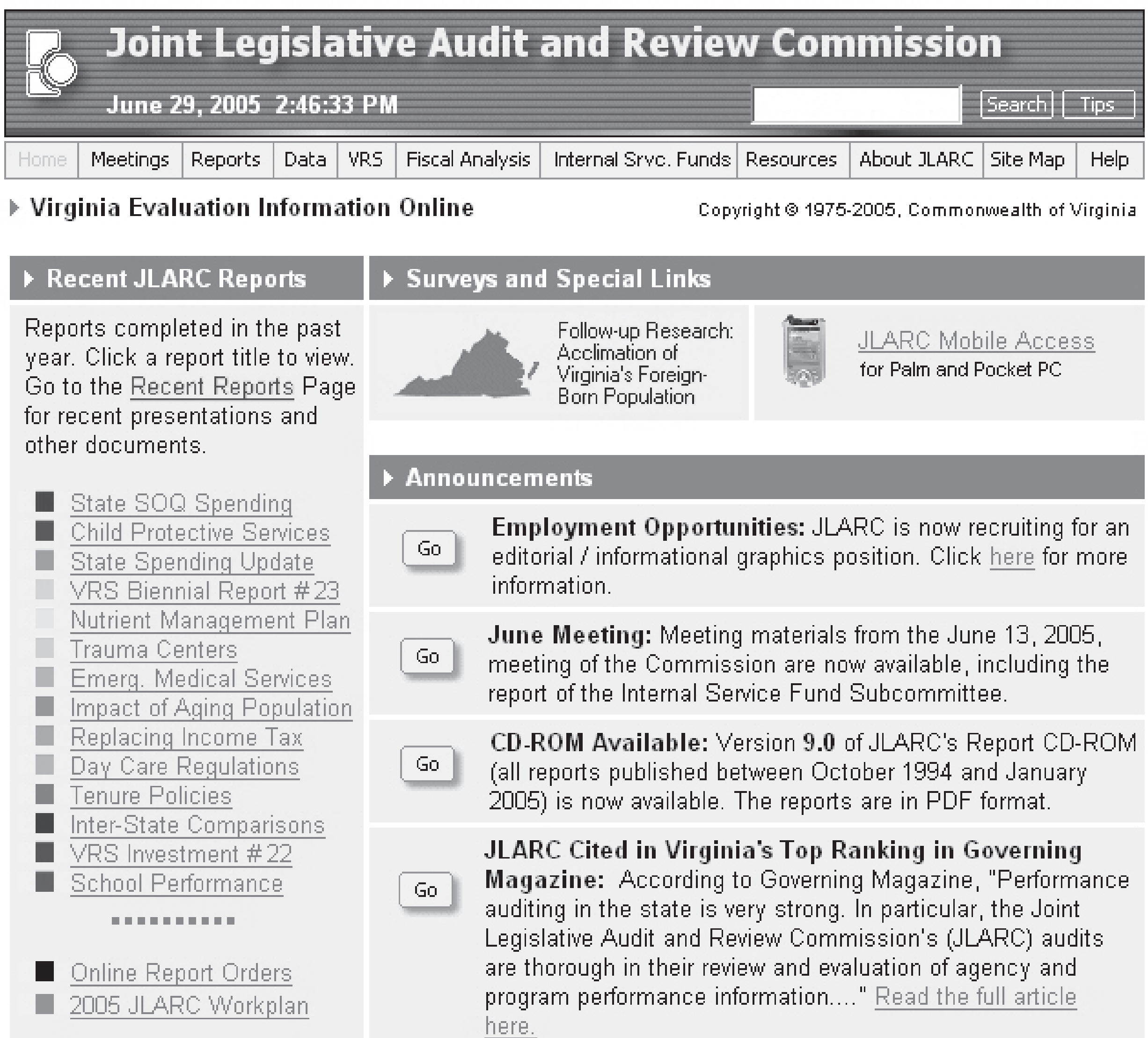
Since 1996, the Commission has maintained a World Wide Web internet site to distribute publications and to make other information available to the public. The site allows visitors to:

- read summaries of JLARC studies on-line,
- perform complete downloads of all reports published since 1994 in the popular PDF format for printing at home,
- search for documents using keywords,
- check the schedule of Commission meetings for the year,
- access draft reports, briefings, and other materials distributed at meetings,
- access JLARC's statutory authority and learn about the research process

> ***A Note on JLARC Publications***: Before JLARC established a site on the World Wide Web, this biennial *Report to the General Assembly* included an annotated listing of all JLARC reports. For cost efficiency considerations, this lengthy bibliography of well over 300 reports has been relocated to the web site. Moreover, the *complete texts* of all reports published during the past ten years are now available for downloading from the web site.

- check staff employment opportunities,
- link from the JLARC home page to the Virginia General Assembly, the Virginia Retirement System, other State agencies and Virginia sites, oversight agencies of other states, U.S. government agencies, and search engines,
- easily order printed reports for quick receipt through the mail,
- read about the legislative and fiscal impacts of JLARC reports, as well as national honors and awards won by the Commission and its staff, and
- use a periodically updated guide to Virginia Retirement System benefits and programs as an on-line reference.

Home Page of the JLARC Web Site



JLARC Reports Also Available on CD-ROM

Since 1998, JLARC has been publishing reports on compact disk. A CD-ROM is available which contains all studies since October 1994 – more than 150 reports. The reports are in PDF format, and can be selected from an index, using any Internet Web browser. This cost-effective option has helped to reduce JLARC's printing and report-mailing costs.

Publications. JLARC's extensive list of reports is organized chronologically and by subject area to aid users in finding materials of interest. In addition to disseminating the Commission's work to interested citizens, an added benefit of providing documents online is the reduction of publication costs, as far fewer "hard" copies of JLARC reports are needed.

A Popular Site. Use of the site by the public has grown significantly since its inception. During a ten-month monitoring period in 2004, more than 25,000 unique visitors accessed JLARC online. Most users returned multiple times, as indicated by a total of about 94,000 visits, and there were more than 225,000 downloads of reports, briefings and other Commission documents. On an average weekday, the JLARC site is visited well over 400 times.

There is great variation in the kinds of study topics that are popular on the web site. The reports most often accessed during 2004 included studies of school performance factors, the future of the Chesapeake Bay Bridge-Tunnel, and the costs of raising children. The report most often downloaded thus far in the web site's history is JLARC's study of Revolutionary War veteran gravesites, probably because of the popular interest nationwide in genealogical research.

VRS Oversight Web Site. Commission staff maintain a separate web site – seamlessly accessible from the main JLARC site – for the online *Legislator's Guide to the Virginia Retirement System*. Last year, more than 5,000 users visited this site, for a total of about 39,000 "hits" on VRS data. Undoubtedly, many General Assembly members, as well as State employees, made use of the extensive VRS information online.

A New Survey Tool. Surveys are an important part of many Commission studies, and are often sent to hundreds and sometimes thousands of potential respondents. Before the web-based survey system, administering surveys required considerable preparatory work (such as copying and mailing), significant expenditures for materials and postage, and further efforts for post-administration processing (such as keying responses). JLARC recently began using a new web site to administer surveys online, resulting in significant savings and efficiencies.

The new approach provides important features such as the ability of the respondent to secure responses via passwords and to save incomplete surveys for later resumption. These features are particularly useful for long surveys and those seeking in-depth data from State agencies. Over the past year, the web survey system has been used to survey State agencies, local governments, local social services agencies, school teachers in selected school divisions, EMS providers, and emergency medical workers.

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▣ *Indicates JLARC staff with primary responsibility for this publication.*

Again this year, JLARC was one of the few State agencies to receive *Charitable Virginia Campaign*'s Platinum Award. Over 90 percent of staff participated, with an average contribution of about $450 and total donations of more than $11,000. More than 40 charities are currently benefiting from our best-ever year of giving.

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