Report of the
Joint Legislative Audit and Review Commission
To the Governor and
The General Assembly of Virginia

Two-Year Review of Initial Higher Education Management Agreements

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In Brief

Two-Year Review of Initial Higher Education Management Agreements

In July 2006, the College of William and Mary, the University of Virginia, and Virginia Tech entered into management agreements with the Commonwealth. These agreements gave the institutions autonomy over their financial and administrative operations while committing the institutions to meeting a set of State goals. The initial management agreements will expire on June 30, 2010, if not renewed in 2009.

The study found that the three institutions have generally complied with the terms of the management agreements and achieved their performance benchmarks. However, for three of the 12 State goals, performance benchmarks have not been fully developed, including the goal of affordability.

A few State agencies have concerns about the institutions' operations in the areas of procurement, capital outlay, and information technology.

The need for effective State oversight has increased due to the management agreements, and many State entities have a role in this oversight. Two options are presented to improve coordination of this oversight: (1) a restructuring advisory committee, and (2) an expanded leadership role for the State Council of Higher Education for Virginia.

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COMMONWEALTH of VIRGINIA

Joint Legislative Audit and Review Commission
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Philip A. Leone
Director

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December 30, 2008

The Honorable M. Kirkland Cox
Chairman
Joint Legislative Audit and Review Commission
General Assembly Building
Richmond, Virginia 23219

Dear Delegate Cox:

Language in the Restructured Higher Education Financial and Administrative Operations Act (Section 23-38.88 of the *Code of Virginia*) directs the Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, to review the initial management agreements with public institutions of higher education. The findings in this report are from JLARC's review of the first three institutions to have management agreements: the University of Virginia, Virginia Tech, and the College of William and Mary.

Staff findings were presented to the Commission on November 10, 2008, and are included in this report.

For their assistance during this study, I would like to thank the staff at the State Council of Higher Education for Virginia, the Department of General Services, the Virginia Information Technologies Agency, the University of Virginia, Virginia Tech, and the College of William and Mary.

Sincerely,

Philip A. Leone
Director

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JLARC Report Summary:

Two-Year Review of Initial Higher Education Management Agreements

Key Findings

- Based on performance measures that have been developed, the University of Virginia, Virginia Tech, and the College of William and Mary have achieved their performance benchmarks and complied with the terms of their management agreements with the Commonwealth. (Chapters 2 and 3)
- A few State central agencies have concerns about the institutions' operations in the areas of procurement, capital outlay, and information technology. (Chapter 2)
- Performance measures for three of 12 State goals to be met by the institutions are not yet fully developed, including the measure(s) for affordability. While the institutions have implemented financial aid programs, some students may still have difficulty affording the cost of higher education. (Chapter 3)
- The institutions are generally satisfied with the management agreements and estimate savings of nearly $6.9 million in their capital outlay programs. They have some concerns as to whether the autonomy they are afforded by the agreements will be consistently recognized over time. (Chapter 4)
- The management agreements should increase access for underrepresented student populations and affordability for low- and middle-income students. (Chapter 4)
- As the State has ceded its transactional approval authority over the institutions, the need for effective State audit and oversight functions has increased. This need will be heightened as more institutions are covered by their own management agreements. (Chapter 4)
- The oversight process needs improvement to address concerns quickly and ensure the transfer of institutional memory between gubernatorial administrations. A restructuring advisory committee or an expanded leadership role for the State Council of Higher Education for Virginia could improve the oversight process. (Chapter 4)

Section 23-38.88 of the *Code of Virginia* is the Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act). Subsection D.3, paragraph 3 of the act directs the Joint Legislative Audit and Review Commission (JLARC), in cooperation with the Auditor of Public Accounts (APA), to "conduct a review relating to the initial management agreement with each public institution of higher education." This study mandate applies to the first three institutions to have management agreements: the

University of Virginia (UVA), Virginia Polytechnic Institute and State University (henceforth referred to as Virginia Tech), and the College of William and Mary (henceforth referred to as William and Mary). The review is to include

- the degree of compliance by the institutions with the expressed terms of the management agreements,
- the degree to which the institutions have demonstrated their ability to manage successfully the administrative and financial operations of the institution, and
- the degree to which the institutions are meeting the 12 goals listed in the Restructuring Act.

MANAGEMENT AGREEMENTS RESULTED FROM NEGOTIATIONS BETWEEN INSTITUTIONS AND THE STATE

The 2005 Restructuring Act (and the consequent management agreements) resulted from the concurrent initiatives of three institutions (UVA, Virginia Tech, and William and Mary) wanting to become "chartered universities" and the Governor's administration wanting greater accountability for achieving certain goals from the institutions. Chartered status would have given these institutions (1) power to set their own tuitions; (2) status as "political subdivisions" of the State rather than as traditional State agencies; and (3) more autonomy over their daily operations. The resulting Restructuring Act provided the three institutions with much of the autonomy they were seeking from chartered status (by entering into management agreements with the State) in exchange for their commitment to meet a series of State goals for Virginia's higher education system. In addition, the act created a pathway for the other public institutions to demonstrate their capabilities and eventually be governed by management agreements.

The Restructuring Act provided public institutions with greater levels of autonomy in exchange for greater accountability. All institutions are held accountable by being asked to meet a set of 12 goals listed in the act. All institutions achieved level I autonomy (the lowest level) by passing a resolution that they intend to meet the 12 goals. Level I entails minor autonomy in the areas of procurement, leases, capital outlay, and human resources. Institutions that meet the goals are able to retain this level of autonomy and are eligible for financial rewards, including

- interest earnings on tuition and fees and other educational and general (E&G) non-general fund revenues that the institutions have deposited into the State treasury;
- automatic re-appropriation of unexpended year-end balances;

- a prorated share of the rebate on small credit card purchases ($5,000 or less); and
- a rebate on transaction fees paid for sole-source procurements.

The level I public institutions received a total of $59.2 million from these incentives in FY 2007.

Institutions may achieve level II status by demonstrating the capability to conduct their operations autonomously in certain areas. Level II institutions may gain general autonomy in two of the three following operational areas: procurement, capital outlay, and information technology. The institutions are also asked to meet additional commitments for each additional area of autonomy as well as additional education-related measures.

Level III status is reserved for those institutions that have demonstrated advanced financial and administrative managerial competence, and have maintained a bond rating of at least AA- or its equivalent from one of the designated rating agencies. Level III institutions must sign a management agreement with the State that holds the Boards of Visitors of the institutions accountable for their operations in the areas of capital outlay, leases, information technology, procurement, human resources, and financial administration. Level III institutions, also known as "covered institutions" are asked to meet additional commitments in each of the operational areas as well as the 12 goals that all institutions are asked to meet. UVA, Virginia Tech, and William and Mary became covered institutions on July 1, 2006, and Virginia Commonwealth University became a covered institution on July 1, 2008.

INITIALLY COVERED INSTITUTIONS HAVE MET THEIR BENCHMARKS AND GENERALLY COMPLIED WITH TERMS OF THEIR MANAGEMENT AGREEMENTS

Covered institutions are held accountable to the State through a set of goals, benchmarks, and commitments to rules and procedures. For this review, JLARC staff examined institutional compliance with the benchmarks that were in place for the most recently completed certification (2008). For this certification, objective performance measures were in place for most of the 12 goals that all institutions are expected to meet.

The State Council of Higher Education for Virginia (SCHEV) is responsible for developing and reviewing performance benchmarks for the academic-related goals, while the Governor's cabinet is responsible for developing and reviewing performance benchmarks for the goal related to financial and administrative management.

In addition to the 12 goals, covered institutions are also required to meet four additional measures that further the State's goals for higher education. Finally, the covered institutions must comply with all of the rules and procedures in each of the operational areas of autonomy. The APA is the agency with primary responsibility for determining compliance with these rules and procedures.

The table on the following page summarizes the commitments agreed to by the covered institutions, and whether or not the institutions have complied with the rules and procedures or met their performance benchmarks for the 2008 certification. As the table shows, the three covered institutions have met all the performance benchmarks for which objective performance measures have been developed, and they are generally in compliance with the rules and procedures in the management agreements.

However, the table also shows that as of the 2008 certification, the State had not yet developed performance measures to gauge progress in meeting some of the goals. Performance measures for the goals of affordability and campus safety and security had not been fully developed for the 2008 certification process. (The campus safety and security measure has since been developed and enacted by the General Assembly, and SCHEV has since developed recommendations for the affordability measure.) JLARC staff analysis indicates that the cost of attendance at the institutions may pose affordability challenges for students with family income levels below $80,000. The campus safety and security measure does not take into account recommendations made to the State following the Virginia Tech shooting incident in 2007, some of which are specific to that institution while others have general applicability to many institutions. Also, the one performance measure for the academic offerings goal does not fully address the goal, as it only measures graduates in high-need areas but fails to measure the breadth of academic offerings. Performance measures that appropriately gauge progress toward meeting these goals will need to be developed to determine full compliance.

A FEW CENTRAL AGENCIES EXPRESSED CONCERNS ABOUT THE INSTITUTIONS' ABILITY TO MANAGE THEIR OPERATIONS

Despite the finding of overall compliance with the management agreements, a few State agencies expressed concerns regarding the institutions' ability to effectively manage their operations. The Department of General Services (DGS) raised concerns about the universities' capital outlay and procurement systems. With regard to capital outlay, DGS believed the in-house building code review units were not cost-effective, and also raised concerns about William and Mary's and UVA's building official functions through its

Summary of Institutional Compliance With Terms of Management Agreements

Commitment	Institutional Compliance: University of Virginia	Virginia Tech	William and Mary
Management Agreement Rules, Procedures, and Commitments			
Capital projects	✓	✓	✓[a]
Leases of real property	✓	✓	✓
Information technology	✓	✓[b]	✓[b]
Procurement	✓[c]	✓[c]	✓
Human resources[d]	?	?	?
Financial management	✓	✓	✓
Furthering State Goals	✓	✓	✓
Need-based grants	✓	✓	✓
Collectively enroll 900 transfer students	✓	✓	✓
Work with economically distressed region	✓	✓	✓
Match additional research funds from General Assembly	✓	✓	✓
State Goals in Restructuring Act			
1. Access	✓	✓	✓
2. Affordability[e]	?	?	?
3. Academic offerings[f]	✓	✓	✓
4. Academic standards	✓	✓	✓
5. Student progress and success	✓	✓	✓
6. Articulation agreements	✓	✓	✓
7. Economic development	✓	✓	✓
8. Research, patents, and licenses	✓	✓	✓
9. Elementary and secondary education	✓	✓	✓
10. Six-year financial plan	✓	✓	✓
11. Financial and administrative matters	✓	✓	✓
12. Campus safety and security[g]	?	?	?

[a] Code review in compliance beginning FY 2008.
[b] No major information technology projects have been undertaken. However, the universities have provided all necessary planning, expenditure, and procedural documents to VITA for compliance with the terms of the management agreements.
[c] 95 percent eVA transactions not achieved. However, eVA usage increased substantially from FY 2006 to FY 2007 at both universities, and the APA determined the universities were in compliance with the procurement rules contained in the agreements.
[d] Will be implemented in January 2009.
[e] Objective measures not fully developed for 2008 certification.
[f] All three universities met the benchmark for high-need degrees. Objective measure to address breadth of academic offerings not yet developed.
[g] Objective measures not developed for 2008 certification.

Source: JLARC staff analysis of 2007 data provided by State Council of Higher Education for Virginia; 2007-2008 data from Secretaries of Finance, Administration, and Technology, and from the Auditor of Public Accounts.

review and inspection of the universities. With regard to procurement, DGS raised concerns about fairness and competition in purchasing due to the universities' exemption from the Virginia Public Procurement Act. Also, DGS was concerned that UVA and Virginia Tech were not processing enough of their transactions through the State's electronic procurement system (eVA). The Virginia Information Technologies Agency (VITA) expressed concerns about its ability to effectively monitor major information technology (IT) projects and to suspend or terminate projects that are failing. These examples indicate that there are still some areas of tension between the universities and certain central agencies regarding the capabilities of the institutions and the level of State oversight that is needed and appropriate. A recent incident in which DGS inspected certain university buildings raised some issues about the scope of DGS's review authority and whether inspection findings should be released without seeking feedback on the reasons behind university decisions.

Although the concerns of DGS and VITA may have some merit based on their expertise in their respective areas, the historical relationship between these central agencies and the institutions may partially explain the agencies' concerns with the institutions' operations. These agencies had transactional approval over the institutions prior to the management agreements, whereas this pre-approval process has now been replaced by a post-audit process. Transactional approval is a central function of these central agencies, and the loss of this authority is accompanied by a loss of revenue. Also, despite concerns about the cost-effectiveness of in-house code review teams, the institutions estimate they saved approximately $6.9 million in construction costs by approving and completing projects more quickly.

The other central agencies with historical oversight functions did not identify any major concerns during this review with regard to the covered institutions' ability to effectively manage their operations. These agencies include the Department of Accounts, Department of the Treasury, Department of Planning and Budget, Department of Human Resource Management, and the APA.

MOVEMENT TOWARD GREATER AUTONOMY COULD HAVE CONSEQUENCES FOR STATE HIGHER EDUCATION SYSTEM

Based on the findings from this review, it appears that the management agreements have generally worked in a satisfactory manner to date. Based on the available measures, institutional compliance with the terms of the management agreements and the State goals is high. The institutions appear to be generally satisfied with the way in which they have been able to function under the new arrangement. However, they have some concerns about whether their autonomy for setting tuition and fees will be recognized consistently over time and whether the State will continue relinquishing transactional control in favor of requiring broader institutional accountability for meeting State goals. With some exceptions, State central agencies appear to generally believe in the capability of the institutions to exercise their increased operational autonomy.

As the initial management agreements reach the time for decisions on renewal, however, it is important to anticipate the changes that may occur to the State's higher education system as a result of the management agreements. Currently, there are four level III institutions that are covered by the agreements, and several other institutions have indicated that they are considering applying for level III status in the near future. The shift away from centralized control of financial and administrative operations at the institutions will lead to new challenges for effective cooperation and oversight. At the same time, the Restructuring Act and consequent management agreements present a great opportunity to make progress on State goals for higher education by holding institutions accountable and providing incentives for meeting the goals.

One consequence of the shift toward individual management agreements is that it may be more difficult for the State to get institutions to cooperate on major IT projects that could save the State money. The State has had limited success in the past in this area, and the management agreements may make success in this area even more difficult because VITA no longer has the authority to prevent the initiation of IT projects at the covered institutions. However, effective performance measures on collaboration and commitment to statewide projects could provide incentives for the institutions to jointly develop these projects.

The shift toward management agreements also increases the burden on the State for ensuring accountability. Because covered institutions are exempt from pre-approval of central agencies to conduct the various transactions, it is vital that State audit functions be effective. As more institutions gain level III autonomy under management agreements, this need will be heightened.

Still, there is a positive consequence of the Restructuring Act and management agreements. For the first time, State goals for higher education have been codified with financial and regulatory incentives for the institutions to meet these goals. By creating incentives for covered institutions to meet the goals, the State is in a better position to realize achievement of those goals. Also, the State can better adapt to changes and address emerging needs by altering the goals in the agreements with each contract renewal. These benefits could lead to greater access and retention of students, higher standards, and a better-prepared workforce.

STATE OVERSIGHT STRUCTURE COULD BE IMPROVED THROUGH GREATER COORDINATION

Given both the heightened burden of accountability and the potential benefits of the management agreements, effective coordination in the oversight of agreements is crucial. The Restructuring Act and the subsequent management agreements require many different commitments from the institutions, and determination of compliance with all these commitments requires cooperation among several State agencies and cabinet-level officials. Furthermore, given that the management agreements are in their initial stage, several of the measures are still being refined, and this refinement requires the cooperation of the institutions, various central State agencies, and the Governor's cabinet. Turnover in the Governor's cabinet every four years further complicates the process as new administration officials are required to learn the process and requirements for certification and renewal. Two options presented below could improve coordination of oversight and retention of institutional memory across gubernatorial administrations regarding the intent behind and nature of the management agreements.

Option 1: Restructuring Advisory Committee

An advisory committee could be created comprised of representatives from the central agencies, legislative money committees, and the institutions, and chaired by the executive director of SCHEV. This committee would serve as a forum for agencies and institutions to discuss and resolve concerns as they arise. The committee would also present recommendations to the Governor and General Assembly on matters of annual certification of the institutions and renewal of management agreements, as well as any changes that need to be made to the performance measures, State goals, and content of the management agreements. Staff time of SCHEV and the participating agencies would be required for SCHEV to coordinate and record the meetings and for the agencies to provide effective input.

Option 2: Expanded Leadership Role for SCHEV

SCHEV could assume the primary oversight responsibility for all performance benchmarks and commitments. As the coordinating public body for higher education in Virginia, SCHEV is the logical choice for leading this effort. SCHEV currently develops performance measures and evaluates the institutions' progress toward meeting their performance benchmarks, and thus is intricately involved in the annual certification process for eligibility for financial benefits under the Restructuring Act. However, SCHEV has no involvement or authority in the approval and renewal process for management agreements. In an expanded leadership role, SCHEV would coordinate with and address problems between the central agencies and institutions, and would present recommendations to the Governor and General Assembly regarding certification and renewal. If this option were pursued, SCHEV may need additional staff to be effective in this leadership role.

Chapter 1 Overview of Restructured Higher Education Act and Management Agreements

In Summary

The Restructured Higher Education Financial and Administrative Operations Act represents a compromise of two initiatives. On the one hand, the College of William and Mary, the University of Virginia, and Virginia Tech proposed to have more autonomy over their daily operations, to have greater control over setting their tuition and fees, and to be treated no longer as traditional State agencies. At the same time, the State wanted institutions to commit to meeting several basic policy goals. A compromise was reached and ratified in 2005, with new statutory language providing a way for institutions to acquire greater autonomy while also agreeing to meet the State goals. The Restructuring Act provides for three levels of autonomy. The College of William and Mary, the University of Virginia, and Virginia Tech became the first institutions to opt for the highest level of autonomy by signing management agreements with the State. Institutions covered by management agreements have their own administrative performance standards and additional commitments for furthering State goals. Oversight responsibilities of the management agreements are currently split among several State entities.

Section 23-38.88 of the *Code of Virginia* is the Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act). Subsection D.3, paragraph 3 of the act directs the Joint Legislative Audit and Review Commission (JLARC), in cooperation with the Auditor of Public Accounts (APA), to "conduct a review relating to the initial management agreement with each public institution of higher education." (See Appendix A.) This study mandate applies to the first three institutions to have management agreements: the University of Virginia (UVA), Virginia Tech, and the College of William and Mary (henceforth referred to as "William and Mary"). The review is to include

- the degree of compliance with the expressed terms of the management agreement,
- the degree to which the institution has demonstrated its ability to manage successfully the administrative and financial operations of the institution, and
- the degree to which the institution is meeting the objectives described in subsection B (these objectives are shown in Appendix A).

The research activities and methods that were used for this review are discussed in Appendix B.

The 2005 Restructuring Act has been characterized as "checks and balances at work." The act provides public colleges and universities in Virginia the power to conduct certain administrative and financial operations on their own. At the same time, the institutions are to be held more accountable to the State through new performance measures. The authority of the institutions to set tuition charges is supported by the act, although the General Assembly did not give up its power to adjust tuition increases in the future. The act also requires six-year plans from the institutions. The plans would more explicitly set forth the institutions' needs for State funding and tuition increases, and also help clarify the State's role as funding partner.

BACKGROUND ON THE RESTRUCTURING ACT

The Restructuring Act can be regarded as the combination of two separate initiatives. On the one hand, three of the most prestigious public institutions in Virginia (UVA, William and Mary, and Virginia Tech) were proposing to become "chartered universities." Chartered status would primarily have (1) reasserted these institutions' power to set their own tuitions; (2) given these institutions status as "political subdivisions" of the State rather than as State agencies; and (3) given these institutions more autonomy over their daily operations. At the same time, the Governor's administration (under Governor Mark Warner) was developing an agenda for higher education in Virginia, which included requiring greater accountability from the institutions.

The Institutions' Perspective

Top officials at UVA, Virginia Tech and William and Mary had been talking about seeking greater autonomy from the State for years. Virginia already has one of the most decentralized systems of higher education in the nation, because almost every institution has its own governing body (board of visitors). Furthermore, there were major decentralization initiatives in higher education institutions in the 1980s and 1990s, especially in the areas of personnel, accounting, and other financial operations. The desire for greater autonomy that led to the Restructuring Act was motivated by: (1) institutions wanting more control over their tuition and fees, and less revenue volatility; and (2) institutions wanting more freedom from State regulation and bureaucracy, through less reliance on pre-approval processes and more reliance on post-audit processes.

Consequently, the three universities initially proposed that they be designated "Commonwealth Chartered Universities." Under this proposal, their boards of visitors' right to set tuition and fees was reasserted, the universities would no longer be treated as State agencies (meaning they would no longer have to deposit non-general fund monies—including tuition and fees—in the State treasury), and they could develop their own policies and procedures regarding capital projects, procurement, and personnel.

More Control Over Tuition, Less Revenue Volatility. The main goal of the leaders of UVA, William and Mary, and Virginia Tech in seeking greater autonomy was to gain greater control over one of their most important revenue sources, tuition. Even though each public college's board of visitors technically has authority to set tuition, that authority had been overridden by the legislature and governors in recent years. For example, every year between FY 1995 and FY 2002, tuition for Virginia undergraduates at public institutions was capped, frozen, or rolled back by the governor or legislature, including a 20 percent rollback in FY 2000.

Further, from the institutions' perspective, State funding has been erratic. For example, in the early 1990s, when the State faced a serious budget crisis, Governor Wilder was perceived to have addressed the general fund shortfall by cutting back on funding to higher education. Again, in the early 2000s, when the State faced another serious budget crisis, Governor Warner reduced FY 2003 general fund appropriations to higher education by 22 percent. As UVA's executive assistant to the president for State government relations once commented, higher education funds are cut during every major recession because "no one died from not going to college." Further, a faculty member at UVA summarized: "The real problem in Virginia is not the lack of commitment to higher education, but the volatility of appropriations, which surge during economic booms and collapse during recessions."

According to a former Secretary of Education, institutions were feeling "whipsawed." When appropriations to the State's institutions were cut, tuition charges at first increased substantially. But then successive governors and the General Assembly responded to the higher prices by requiring a cap or a freeze on tuition increases. Ideally, from the institutions' perspective, gaining more control over tuition would help smooth out changes in State funding, ensure greater stability and predictability, and enable long-term planning.

The State's Secretary of Finance at the time of the Restructuring Act stated:

> When the legislation was proposed, the argument made by the universities was that State funding was completely unreliable from year to year. They were right. So this legislation, among other things, is an attempt to make the funding more reliable, not necessarily to increase the amount.

Under the act, the institutions are to make financial projections over a six-year time frame, estimating tuition increases under various scenarios regarding the level of State funds. The approach that appears to be called for under the Act has been likened to a "teeter-totter." That is, upward increases in State funding allow for lesser increases in tuition charges. Similarly, tuition increases may be greater during times when the State is hampered in its ability to provide more funding. The president of one of the colleges noted that "the agreements will make transparent the relationship between State funding and tuition increases, and that's good."

Freedom From State Regulation and Bureaucracy. Public college and university officials have claimed that State regulations are overly burdensome and bureaucratic. For example, UVA administrators complained of having to apply to the Department of General Services (DGS) for permission to put up a tent if they learned an outdoor event might be rained out, and pay a fee of $300 for that review. Often, administrators said, the approval would not be issued until after the event was over. (DGS staff, however, said that institutional officials could easily remedy this situation by submitting an application ahead of time for authority to handle such contingencies, but never did.) Some administrators at the institutions have claimed that if freed of regulations, especially those requiring pre-approval, public colleges might be able to operate more flexibly and efficiently, and respond faster to competition and the needs of students and the State. For example, administrators have cited instances of lengthy delays in capital outlay projects, due to the time required to get pre-approval from the State at key intervals. Instead, accountability could be maintained by relying more on post-audit processes.

The State's Perspective

At the same time that UVA, William and Mary, and Virginia Tech were proposing charter status for themselves, Governor Mark Warner and a group of Virginia's leaders and higher education experts embarked on a process to formulate an agenda for the State's higher educational system. The Governor and his colleagues identified 11 performance goals for higher education institutions to meet the State's needs:

1. Ensure access to higher education, including meeting enrollment demand.
2. Ensure affordability, regardless of income.
3. Provide a broad range of academic programs.
4. Maintain high academic standards.

5. Improve student retention and progress toward timely graduation.
6. Develop uniform articulation agreements with community colleges.
7. Stimulate economic development, and for those institutions seeking further autonomy, assume additional responsibility for economic development in distressed areas.
8. Where appropriate, increase externally funded research and improve technology transfer.
9. Work actively with K-12 to improve student achievement.
10. Prepare a six-year financial plan.
11. Meet financial and administrative management standards.

The legislature subsequently added a 12th performance goal:

12. Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.

These goals eventually became part of the Restructuring Act (and are stated in more detail in subsection B in Appendix A).

What Resulted: The Restructuring Act

The end result, the Restructuring Act, is not the same as the initial charter proposal made by UVA, William and Mary, and Virginia Tech. The end result can be characterized as a tradeoff: More autonomy, which is a positive move from the institutions' perspective, but also measurable accountability for meeting the State's goals.

All of the State's public colleges and universities were included in the Restructuring Act, and all public colleges and universities remained State agencies. However, it was clear that the three universities interested in charter status still wanted the broader autonomy they originally sought. As a result, a compromise was made that provides for three different levels of autonomy.

Accountability for Meeting the State's Goals. According to the Restructuring Act, each public college's board of visitors had to pass a formal resolution by August 1, 2005, agreeing to meet the State's goals and making the boards responsible for ensuring that the State's goals are met. Upon passing the resolution, the colleges automatically became eligible for level I operational autonomy (a description of level I, II, and III autonomy follows below). The State's goals are the 12 objectives outlined above, and more fully described in subsection B of the Restructuring Act (Appendix A).

The State Council of Higher Education for Virginia (SCHEV) was given responsibility for developing performance indicators to measure whether the institutions are meeting the first nine, education-related State performance goals. For each institution, SCHEV was to specify a measurable target to be met. SCHEV was also given the responsibility to certify by June 1, 2007, and every June 1 of each following year each institution's performance in meeting the targets.

SCHEV's Template for Six-Year Plans

Each plan includes a brief narrative on the institution's strategic direction. The next section is a description of the institution's academic activities that must address directly how the institution will meet the goals outlined in the Restructuring Act. The third section is a financial component with estimated revenues, expenses, financial aid, and tuition and fee charges for the six-year period under two separate funding scenarios: (1) assuming no increase in revenues from the State's general fund; and (2) assuming incremental increases in general fund support. In the last section, each institution must detail enrollment projections for the coming six years.

The tenth goal mandates that all public colleges and universities prepare a six-year plan. SCHEV developed a template for the plans. The Secretaries of Finance and Administration have responsibility for assessing the eleventh goal, which relates to financial and administrative management. SCHEV has responsibility for developing the performance measures for assessing the twelfth goal dealing with campus safety.

Each year, SCHEV evaluates institutions' performance on meeting their targets, and every other year reviews the six-year plans and revises the performance measures and targets. As part of the process, SCHEV is to identify any disparities between the institutions' plans and the statewide goals, recommend changes to the plans if necessary, and certify whether each institution is meeting its performance standards.

What the Institutions Get in Return. The institutions benefit from the Restructuring Act in two ways: financial incentives and varying levels of autonomy.

Financial Incentives. A series of financial incentives was put in place to motivate the institutions to agree to meet the statewide goals outlined in the Restructuring Act. If an institution is certified by SCHEV as meeting the performance measures, it will receive the financial incentives; if it is not certified, it will not. The financial incentives include

- interest earnings on tuition and fees and other non-general fund educational and general (E&G) revenues that the institutions have deposited into the State treasury;
- automatic re-appropriation of unexpended year-end balances;
- a pro-rated share of the rebate on small credit card purchases ($5,000 or less); and
- a rebate on transaction fees paid for sole-source procurements.

SCHEV reported that in FY 2007, the financial incentives totaled $59.2 million across the system, divided among all of the colleges and universities. The largest source of this funding was the re-appropriation of unexpended year-end balances, which represented \$42.4 million. The sum going to each institution varied, depending on factors such as size and tuition levels. The Virginia Community College System received the largest share (\$23.2 million) followed by UVA (\$11.4 million) and Virginia Tech (\$11.1 million).

Levels of Autonomy. The level of autonomy granted to each institution depends on each institution's financial strength and ability to manage day-to-day operations. Passing a resolution of intending to meet the statewide goals specified in subsection B of the Restructuring Act made each institution immediately eligible for level I autonomy. Level I autonomy entails some minor increased operational autonomy in areas including procurement, leases, personnel and capital outlay, and are listed in subsection A of the Restructuring Act (Appendix A). However, SCHEV staff have indicated that level I institutions do not have much more autonomy than before level I status was granted.

Level II autonomy is intended to be a transition level for institutions that plan to apply for level III autonomy, but are not yet ready for level III autonomy in all areas. Level II autonomy allows colleges and universities to seek autonomy in two of the following operational areas: information technology, procurement, and capital outlay (institutions must select two areas). Institutions may seek this additional operational autonomy through a memorandum of understanding with the appropriate cabinet secretary.

Level III autonomy consists of a negotiated management agreement that confers high levels of autonomy on boards of visitors and requires the boards to have their own policies in areas of delegated authority. These areas include (1) capital outlay, (2) leases, (3) information technology, (4) procurement, (5) human resources, and (6) finance and accounting. Level III is reserved for those institutions that have demonstrated advanced financial and administrative managerial competence, and have maintained a bond rating of at least AA- or its equivalent from one of the designated bond rating agencies. Initially, only UVA, William and Mary, and Virginia Tech aspired for level III autonomy. More recently, however, Virginia Commonwealth University (VCU) also achieved level III autonomy. Furthermore, institutions such as George Mason University (GMU), Old Dominion University (ODU), James Madison University (JMU), and the Virginia Community College System (VCCS) have indicated that they will be applying for level II autonomy, meaning that they may eventually be striving for level III autonomy.

BACKGROUND ON COMMITMENTS OF INSTITUTIONS WITH MANAGEMENT AGREEMENTS

In signing the management agreements with the Commonwealth, the three universities agreed to meet a set of commitments in exchange for increased autonomy and financial incentives. There are four sets of commitments with which the institutions must comply: the Commonwealth's management standards, institutional benchmarks for objective measures of education-related performance, institutional benchmarks for financial and administrative management performance, and commitments contained in the individual management agreements.

These commitments are designed to ensure that the institutions continue to be well-managed, that they promote the State's goals for higher education, and that they promote operational efficiencies due to increased autonomy and greater flexibility. Exhibit 1 summarizes the commitments and lists the State entity that is responsible for developing and reviewing the particular set of commitments. The first three sets of commitments apply to all public institutions, while the fourth set applies only to the institutions covered under the management agreements (those with level III autonomy).

Compliance With Commonwealth's Management Standards

The Commonwealth's management standards are specified in §2.2-5004 of the *Code of Virginia* and apply to all public institutions of higher education. The APA and the Department of Accounts (DOA) are responsible for ensuring that each public institution meets the following financial and administrative management standards:

- an unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- no significant audit deficiencies attested to by the Auditor of Public Accounts;
- substantial compliance with all financial reporting standards approved by the State Comptroller;
- substantial attainment of accounts receivable standards approved by the State Comptroller, including, but not limited to, any standards for outstanding receivables and bad debts;
- substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due; and

- such other financial and administrative management standards as the Governor may establish, or as may be included in the Appropriation Act currently in effect.

Exhibit 1: Four Sets of Commitments for Universities With Management Agreements

Commitment	Purpose	Review Responsibility
Commonwealth's Management Standards	Ensure proper accounting and financial reporting practices	Auditor of Public Accounts, Department of Accounts
Education-Related Performance Benchmarks	Ensure institutions are furthering State's goals for education, research, and economic development	State Council of Higher Education for Virginia
Financial and Administrative Performance Benchmarks	Ensure institutions conduct their operations efficiently and fairly	Secretary of Finance and Secretary of Administration
Management Agreement Commitments	Demonstrate commitment to State higher education system	Governor and General Assembly

Note: JLARC is responsible for overall review of compliance with the initial management agreements.

Source: *Code of Virginia* §23-38.88. 2006 Virginia Acts of Assembly, Chapter 933. 2007 Appropriation Act.

Compliance With Institutional Benchmarks for Education-Related Performance

The Restructuring Act directs SCHEV to develop institutional benchmarks for the goals and objectives set forth in the act (§23-88.88 B1-10 and B12). For each of the goals, there is at least one objective performance benchmark (there are 24 institutional benchmarks). The full list of goals and their corresponding institutional benchmarks are shown in Appendix C.

All public institutions in Virginia are required to meet these benchmarks in order to retain their level of autonomy and to receive the financial benefits. Section 4-9.02 of the 2008 Appropriation Act says that institutions are expected to meet all of the performance benchmarks (within a threshold variance) to be certified by SCHEV as being in compliance with the State goals.

Compliance With Institutional Benchmarks for Financial and Administrative Performance

In addition to the education-related commitments listed above, public institutions of higher education are also required to meet a set of financial and administrative benchmarks per goal 11 in the act. The act (§23-38.88 B11) states that institutions are to

> Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and

economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to §2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-, and minority-owned business enterprises.

The financial and administrative management standards (§2.2-5004), for which the APA is responsible for ensuring compliance, are noted above in the first set of commitments. The additional financial and administrative performance benchmarks are listed in the 2007 Appropriation Act (§4-9.02 K24). These benchmarks were developed by the Governor's staff, in consultation with the institutions, to promote operational efficiencies as well as to ensure continued use of the State's electronic purchasing system (eVA) and fairness in the State's procurement of goods and services. The secretaries of Finance, Administration, and Technology have responsibilities for certifying that the financial and administrative benchmarks are met. All institutions not covered by management agreements are responsible for meeting the following measures:

- The institution will achieve the classified staff turnover rate goal established by the institution (a variance of 15 percent from the established goal will be acceptable).
- The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) plan as submitted to the Department of Minority Business Enterprise (a variance of 15 percent from the SWAM purchase goal will be acceptable).
- The institution will make no less than 75 percent of dollar purchases from vendor locations registered in the Commonwealth's enterprise-wide Internet procurement system (eVA).
- The institution will complete capital projects (with an individual cost of over $1,000,000) within (1) the budget originally approved by its governing board for projects initiated under delegated authority, or (2) the budget set out in the Appropriation Act or other Acts of Assembly.
- The institution will complete major information technology (IT) projects (with an individual cost of over $1,000,000) within the budgets and schedules originally approved by its governing board. (The Secretary of Technology may determine that an institution is in compliance despite cost overruns or delays if the institution adhered to best management practices).

The institutions covered by the management agreements have their own administrative performance standards and benchmarks, as shown in Exhibit 2. (Exhibit 2 shows the performance measures proposed by William and Mary in its application for a management agreement. The performance measures proposed by UVA and Virginia Tech are the same.) However, the Appropriation Act states that covered institutions are subject to the administrative standards outlined in the agreements, but that the Governor may supplement or replace those standards with the five measures listed above. The three institutions have indicated that the Governor has not done so up to this time.

Exhibit 2: Financial and Administrative Performance Measures for Institutions With Management Agreements

Performance Measure	Benchmark
Capital Outlay, Leases, and Real Estate	
Average number of days for institution to process change orders locally	Before decentralization, number of days on average for Bureau of Capital Outlay Management (BCOM) to process change orders
Average number of days for institution to complete code review, including fire and life safety	BCOM established standard for code review turnaround time (21 days)
Number of days saved by Board of Visitors (BOV) approval of non-general-fund projects compared to state approval	Number of days that would have been required from BOV approval to Appropriation Act effective date
Average number of days for institution to approve a lease	Average number of days for Real Estate Services to approve a lease
Finance and Accounting	
Stability of tuition and fee increases over time	Trend tuition and fee percentage increases from 1990-2005 compared to percentage increase over the timeframe of the six-year plan
Bond rating from at least one of three rating agencies	An unenhanced rating received in the last three years within the double-A range or better from either Moody's S&P, or Fitch
Annualized investment returns earned on operating cash balance invested by the institution over a rolling three-year period	The annualized yield on the 91-day Treasury Bill index over a rolling three-year period
Debt burden ratio (actual annual debt service on long-term debt, excluding commercial paper or other bond anticipation notes, divided by total operating expenses	Equal to or less than seven percent
Write off of bad debts from tuition, fees, room, and board charges	Less than or equal to one percent of prior year's operating revenues over a rolling three-year period
Percentage of recovery of delinquent accounts receivable sent to collection agencies or litigation	Greater than or equal to ten percent of dollar value of the accounts referred to collection agencies, averaged over the last three years
Amount of need-based financial aid for undergraduate Virginia students	Trend data against a baseline calculation in 2005-2006
Amount of need-based grants for undergraduate Virginia students	Trend data against a baseline calculation in 2005-2006

Human Resources	
Percentage of turnover as an indicator of staff stability and staff satisfaction	Average percentage turnover should trend with College and University Personnel Administrators - Human Resources ("CUPA-HR") benchmark, which is approximately 11 percent
Internal transfers/promotions as a percentage of total number of hires as a measure of the extent to which the institution hires or promotes from within	Percentage rate should be equal to or greater than CUPA-HR benchmark, which is 25 percent
Average number of days to classify new positions or reclassify a staff position as a measure of effectiveness of the classification process	Average should be equal to or less than CUPA-HR benchmark, which is approximately 30 days
Average number of days to hire staff, from recruitment posting to the candidate's acceptance	Trend data against a baseline average in 2005-06
Compliance with Restructuring Act election provisions	Track percentage of (i) total employees who are participating in the institutional HR system and (ii) current employees who have elected to participate in the institutional HR system
Information Technology	
Major information technology projects will be completed on approved schedules and within approved budgets	Projects are completed on time and within budget at a rate that matches industry standards
All faculty and students have convenient access to a distributed learning and collaboration environment, with course management systems in support of such services as online content; student information and library systems upgraded as major changes in technology warrant	Meet specified percentage (based on individual university metric) of all 2005-2006 courses that utilize technically up-to-date course management systems
Institutions will leverage their collective expertise to save money and help strengthen security programs	Evidence of collaboration among institutions, such as the Higher Education Virginia Alliance for Security Computing and Networking (VA SCAN)
The institution complies with policies for the procurement of information technology goods and services, including professional services, that are consistent with the requirements of Section 23.38.110 of the Restructuring Act and that include provisions addressing cooperative arrangements for such procurement as described in Section 28.38.110	Results of external and internal audits indicate compliance
Procurement and Surplus Property	
Goals established in the plan submitted to the State under current law for small, woman-owned and minority-owned procurement. Performance will be reported quarterly	Accomplishment of goals and improvement on previous performance
Maximize operational efficiencies and economies through the adoption of best practices for electronic procurement	Increased use of electronic procurement as measured by dollar value
Volume of cooperative procurements	Increase in the number of existing contracts renewed and new contracts over the number of current contracts
Vendor protests with a legal basis for the protest	Number of such vendor protests as compared to 2005-2006

Source: College of William and Mary's application for a management agreement.

Compliance With Commitments Contained Within the Management Agreements

The management agreements specify a host of academic and administrative commitments for the three covered institutions in addition to the other commitments noted above. Each of the three universities has agreed to further the State goals through a set of four academic-related commitments. Furthermore, the agreements specify numerous procedures that the universities must follow in managing their business affairs within the areas of autonomy that they have been granted by the agreements.

Section 2.2 of the management agreements contains the universities' commitments to furthering State goals. These measures were added for the covered institutions in addition to the academic-related measures required of all institutions. Each of the three covered institutions has committed to

- External research funding – The institutions shall provide a dollar-for-dollar match to any additional research funds provided by the State above the amount that was provided by the institution in FY 2006.
- Enrollment of transfer students – The three institutions shall work collaboratively to expand educational opportunities to students transferring from the community colleges and Richard Bland College. By 2007-08, at least 900 new transfer students should be collectively enrolled each year in the three universities. By the end of the decade, at least 1,250 new transfer students should be enrolled each year.
- Work with economically distressed regions – The universities shall establish formal partnerships with distressed areas and develop specific action plans to use its faculty and students to help stimulate economic development in the areas.
- Need-based financial aid – The universities have committed to provide need-based grant aid for middle- and lower-income Virginia students to encourage enrollment and progression without respect to potential increases in tuition and fees. The three universities have specified programs to meet this commitment: Virginia Tech's Funds for the Future program, William and Mary's Gateway William and Mary program, and the University of Virginia's AccessUVA program.

Finally, the management agreements specify the policies and procedures that must be followed for each of the six areas of autonomy: capital projects, leases of real property, IT, procurement, human resources, and financial operations and management. Although there are no clear benchmarks for these commitments, the degree of compliance with the terms of the agreements should be clear from the APA's audits of the institutions.

STATE ENTITIES INVOLVED IN OVERSIGHT OF THE MANAGEMENT AGREEMENTS

At least ten State agencies and other public bodies are involved to varying degrees in the oversight of covered institutions. SCHEV monitors the institutions' academic-related commitments by determining if the institutional performance standards are met. The Governor's cabinet (namely, the Secretaries of Finance, Administration, and Technology) monitors and develops the institutions' financial and administrative commitments. Several State central agencies, such as the Department of General Services (DGS), the Virginia Information Technologies Agency (VITA), the Department of Human Resource Management (DHRM), the Department of Accounts (DOA), and the State Treasury, are responsible for collecting data and reports from the institutions on an ongoing basis per directives in the management agreements. The Department of Planning and Budget (DPB) approves budget requests and analyzes capital requests involving general funds. JLARC and the APA are required to determine the overall compliance of the universities with the initial management agreements (and are authorized but not required to review subsequent agreements). The General Assembly ultimately approves all performance measures and determines whether the management agreements will be renewed. Exhibit 3 lists the State entities involved in institutional oversight and their areas of oversight responsibility.

SCHEV is highly involved in monitoring all State institutions' compliance with the 12 goals listed in the Restructuring Act, yet the agency has very little involvement with the management agreements. The only involvement SCHEV has with the management agreements is that covered institutions must comply with the 12 goals in the Restructuring Act in order to be in compliance with their management agreement. SCHEV has no authority to measure compliance with the rules and procedures in the operational areas of autonomy nor with the additional performance measures listed in the agreements.

The Secretaries of Finance, Administration, and Technology evaluate the institutions' performance on the financial and administrative benchmarks for all institutions, and also evaluate the additional benchmarks that were submitted by the covered institutions with their applications for the management agreements. The results of this evaluation are then communicated to SCHEV for annual certification. The secretaries are in the process of developing new performance measures for the next round of agreements that will go into effect on July 1, 2009. In developing these measures, the secretaries are consulting with the institutions and relevant central agencies (for example, the Secretary of Finance consults with DGS to determine appropriate procurement and capital pro-

Exhibit 3: State Entities With Oversight Responsibilities and Concerns

Entity	Area of Responsibility
SCHEV	Develop and evaluate academic-related institutional performance standards. Annual certification of institutions.
Governor and Governor's Cabinet (Secretaries of Finance, Administration, and Technology)	Develop and evaluate administrative performance measures. As necessary, determine if an institution is "not in substantial compliance" with the terms of the management agreement, and void the agreement.
DGS	Collect data and reports from the institutions on an on-going basis regarding procurement and capital project matters
VITA	Collect data and reports from the institutions on information technology matters
DHRM	Collect data and reports from the institutions on human resource matters
DOA	Obtain data from the institutions relating to financial operations; assess compliance with the Commonwealth's management standards
Treasury	Obtain information from the institutions relating to debt management and insurance and risk management matters
DPB	Approve budget requests and analyze capital outlay policy decisions; assist cabinet secretaries in evaluation of performance benchmarks
APA	Assess compliance with the Commonwealth's management standards; audit revised policies established within the management agreements or established by the institutions in accordance with the management agreements; cooperate with JLARC in review of general compliance by institutions with the initial management agreements
JLARC	Review general compliance by the institutions with the initial management agreements
General Assembly	Approve institutional performance standards, renew management agreements

Source: JLARC staff analysis.

jects measures, and the Secretary of Administration consults with DHRM to determine appropriate human resources measures).

For the initial management agreements, JLARC and the APA are the primary entities responsible for determining compliance with the operational rules and regulations in the agreements, as discussed in Chapter 2 of this report. The Restructuring Act authorizes but does not require JLARC/APA reviews of compliance with subsequent management agreements. To assess compliance, all of the central agencies listed in Exhibit 3 needed to be consulted, in addition to consultations with the covered institutions.

It is not clear which entity is responsible for evaluating compliance with the additional commitments contained in the management agreements. These commitments include measures on transfer students, external research funding, financial aid, and work with a distressed region of the Commonwealth. The commitments were developed by the Governor's office in 2005 for UVA, Virginia Tech, and William and Mary. JLARC evaluated compliance with these commitments, and the results of this evaluation are in Chapter 3 of this report. Virginia Commonwealth University, whose management agreement went into effect on July 1, 2008, has a different set of commitments than the other three covered institutions.

UNCERTAINTY AS TO HOW WELL THE RESTRUCTURING ACT WILL WORK

A 2005 publication of the National Center for Public Policy and Higher Education noted that State officials and the institutions were optimistic about the Restructuring Act and the management agreements. However, the various actors acknowledged that it was uncertain how well these provisions would serve the State and the institutions. The article noted that "here in Virginia no one is celebrating yet. The arrangement is so complex—the legislation alone consumes 50 single-spaced pages—that few pretend to know exactly how it will play out." The following observations were also included in the article:

The Governor said,

> We have constructed these worthy goals for both sides, things like access to higher ed, and focusing on more research. The question is, can we translate these goals into a working arrangement that gets us where we want to go? I'm an optimist and I believe we can, but it's going to take patience and good will on both sides.

The Chairman of the Senate Finance Committee stated that "a real judgment as to whether we have succeeded is probably some time away."

A vice-president at one of the institutions stated,

> It is quite clear that the State always has the authority to overrule their agreement with us. We acknowledge that. But it is my experience in Virginia that parties usually operate in good faith. So we are going into this with the expectation that we can work out a reasonable financial plan with the Commonwealth and that we will be able to make decisions…to operate the campus, and to set tuition consistent with that plan.

As one step in the process of determining how well the provisions of the Restructuring Act and the management agreements are working, JLARC is required by the act to provide an assessment three years after adoption of the management agreements. This report addresses the status of the management agreements to date. Report findings should be regarded as preliminary results, as the terms of the act and the management agreements are still relatively new, and the State and institutional experience operating under these terms is still limited.

Chapter 2

Compliance With Terms of the Management Agreements

In Summary

The Restructuring Act gives covered institutions autonomy in their financial and administrative operations. However, the institutions are subject to the procedures and rules contained in the management agreements for each operational area. The Auditor of Public Accounts concluded that each of the institutions was in compliance with the procedures and rules. Although the institutions appear to have complied with the terms of the agreements, the Department of General Services raised concerns regarding the universities' procurement and capital outlay programs. Also, the Virginia Information Technologies Agency raised concerns about (1) the agency's ability to suspend or terminate failing information technology (IT) projects, (2) the added difficulty.of getting universities to work together on IT projects, and (3) the lack of an evaluation of university IT capabilities prior to implementation of the management agreements.

Pursuant to the Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act), the management agreements delegate authority to covered institutions in six broad areas of operation. These areas are

- capital projects,
- information technology,
- procurement of good and services,
- leases of real property,
- human resources, and
- financial management.

For each of these areas of operation, the management agreements specify rules and procedures the institutions must follow while conducting their business operations. The extent to which UVA, Virginia Tech, and William and Mary have complied with these rules and procedures is examined in this chapter. Compliance was determined by the Auditor of Public Accounts (APA) through the agency's annual *Report on Audit* and through discussions by JLARC staff with the institutions and the relevant State agencies that are responsible for oversight of the institutions' business operations.

REVIEW OF UNIVERSITIES BY AUDITOR OF PUBLIC ACCOUNTS

The Restructuring Act directs JLARC to conduct this review of the initial management agreements in cooperation with the APA. This cooperation entailed several meetings between staff of the two agencies to discuss the scope of JLARC's review and information needed from the APA in order to conduct a comprehensive review of the universities' compliance with the management agreements. The primary contribution of the APA to this review is its annual audits of the universities.

The audits concluded that each of the universities was in compliance with the terms of its management agreement.

In auditing the universities, the APA examined the rules governing the institutions' operations under the management agreements and evaluated their compliance with these rules. The audits concluded that each of the universities was in compliance with the terms of its management agreement. The APA reached this conclusion by reviewing financial records at the universities to determine compliance with the Commonwealth's management standards. In addition, APA staff randomly selected records of procurement contracts to determine the extent to which the rules were followed in soliciting vendors, evaluating proposals, awarding contracts, and considering all the additional requirements listed in management agreements (the procurement requirements are detailed later in this chapter within the procurement section).

CAPITAL PROJECTS

One major change brought about by the Restructuring Act and the management agreements is the transfer of authority to covered institutions to establish their own systems for carrying out capital projects. Prior to the management agreements, the covered universities (like all State agencies) were subject to authorization by a variety of central State agencies for the planning, budgeting, implementation, and review of capital projects. Although covered universities are now exempt from the State approval process except in the case of general fund projects, the management agreements dictate certain processes the universities must follow in exchange for their autonomy. The rules contained in the management agreements are summarized below.

- The university shall adopt a system for developing capital project programs consistent with the university's master plan.
- The Board of Visitors shall approve the size, scope, budget, and funding prior to the initiation of a major capital project (that is, projects costing $1 million or more).
- Procurement of capital professional services and construction services shall comply with the policy governing the procure-

ment of goods, services, insurance, and construction—thus ensuring competition and equity.

- A building official shall be designated who is responsible for building code compliance. The university may either hire its own building official or continue to use the services of the Department of General Services (DGS). If the university hires its own building official, the employee must be full-time, a registered professional architect or engineer, and certified by the Department of Housing and Community Development (DHCD). The official is responsible for certifying buildings for occupancy, accessibility, and fire safety. The university shall maintain a code review unit supported by resources and staff, and the building official shall report directly and exclusively to the Board of Visitors. Members of the code review unit shall not perform any other building-related functions on the same capital project.
- The university shall assess environmental, historic preservation, and conservation impacts of all capital projects to minimize all adverse impacts to the extent practicable.
- The university shall consider the environmental and historical aspects of any proposed demolition.
- For capital projects involving building or land acquisitions, the university shall perform due diligence prior to closing on the acquisition regarding environmental and land use considerations, infrastructure and site condition, title and survey, and appraisal to determine fair market value.
- The Board of Visitors shall approve all building and land dispositions. For building or land that was acquired with funds from the general fund or State tax-supported debt, further State approval is required.
- The university shall implement a project management system to ensure that capital projects comply with all applicable policies.
- The university shall comply with State reporting requirements for major capital projects funded entirely or in part by a general fund appropriation or State tax supported debt. The university shall report to DGS on the status of capital projects at the initiation of the project, prior to commencement of construction, and at the time of acceptance.

While the universities appear to be in compliance with the capital project policies, DGS expressed concerns regarding the in-house code review officials at the universities—particularly at William and Mary. Initially, William and Mary did not have an employee who was hired exclusively as a building official, but rather as-signed these duties to an associate vice president at the university. DGS raised concerns about this arrangement, and after negotiations between the university and the Secretary of Administration failed, a bill was submitted in 2008 (Senate Bill 705) to change the language and allow the building official to perform other functions on the same capital project. Although the bill failed, and William and Mary has since hired a building official who reports exclusively to their board of visitors, DGS believes that the university had tried to skirt the intent of the management agreement.

The Restructuring Act states that university building officials "shall be subject to review by the appropriate personnel in the Department of General Services." However, the act does not specify the nature of the review nor how often the review is to occur. The Bureau of Capital Outlay Management at DGS recently conducted its first review of UVA's and William and Mary's building officials (Virginia Tech does not have its own code review unit). For its review, DGS selected a sample of three building projects at each institution and conducted a review of the project records as well as an inspection of the buildings. DGS noted several deficiencies in each of the projects, a few of which they considered to be possibly hazardous. For example, DGS stated that a plastic hazardous gas hood and exhaust duct at a William and Mary science building was not consistent with the Virginia Uniform Statewide Building Code, which requires a self-supporting steel duct in order to avoid hazardous conditions in the case of a fire. However, DGS staff did not discuss these findings prior to issuing the report with William and Mary building officials, and did not seek the rationales of William and Mary officials for the decisions which had been made.

The universities contend that DGS's inspection of the buildings goes beyond the statutory authority provided in the act for DGS to review university building officials. They contend that the appropriate review function of DGS should be limited to the qualifications of the building officials and the appropriateness of the process which is used, and should not extend to what the universities see as "second guessing" the specific decisions of the university building officials. The William and Mary building official was also critical of DGS's conduct of the review in not affording the building official with an opportunity to explain university decisions in areas of deficiency perceived by DGS.

Further, the universities disputed most of the findings in the DGS review. They claimed that had the DGS inspectors discussed their findings with the university building officials prior to drafting the report, the inspectors would have determined that the university building officials interpreted the building code correctly in most of the cases. The DGS and university building officials all agree that the building code is open to interpretation in many cases, and that it is normal for building officials to disagree. For example, the William and Mary building official stated that the hazardous gas duct needed to be a plastic structure because the acid being used in experiments in the lab would corrode a steel duct. Furthermore, the State Fire Marshall would have inspected this installation as part of his building occupancy inspection. Finally, one university official noted that their code review officials are certified by DHCD (which promulgates the building code) while most DGS code review officials have not been certified.

INFORMATION TECHNOLOGY

The autonomy given covered institutions in information technology (IT) systems development represents a major departure from the previous relationship of universities with the Virginia Information Technologies Agency (VITA). Covered universities are now exempt from State Chief Information Officer (CIO) approval for major IT projects as well as project management oversight by the VITA Division of Project Management. Despite these exemptions, the management agreements do contain rules to which the universities must adhere to help ensure that IT investments and systems development projects are conducted appropriately. In addition, the State CIO still has the authority to suspend or terminate projects at the covered universities. Although these rules and procedures are in place for the covered universities, VITA and the State CIO still have concerns about the universities' autonomous IT operations.

The policies governing IT in the management agreements contain identical language for each of the covered universities. The Boards of Visitors of each institution are ultimately accountable for the success of their IT programs, and each university is responsible for reporting to VITA on its plans, expenditures, policies, and progress on ongoing major IT projects. Specifically, the agreements direct the covered universities to

- make available IT strategic plans to the State CIO at least 45 days prior to the start of the fiscal year;
- report annually to the State CIO and Information Technology Investment Board (ITIB) on the previous year's IT expenditures;
- submit copies of their policies, standards, and guidelines to the ITIB;
- report quarterly to the ITIB and CIO on the budget, schedule, and overall status of the university's major IT projects; and

- make available copies of policies, standards, and guidelines for independent validation and verification of IT systems.

According to VITA, the universities have complied with these directives, although the agency still has some concerns. One concern is that they may not get enough information from the universities to suspend or terminate a major IT project that has gone awry. Since the management agreements went into effect in July 2006, UVA is the only university to have undertaken a major IT project (that is, a project costing more than $1 million). VITA noted that UVA submitted its quarterly reports indicating the scope, schedule and budget of the project, yet the reports lacked the necessary detail, without which "it is hard to see how the CIO would exercise his authority to suspend troubled projects."

Another concern noted by VITA is that the agreements make it harder for the State to get the universities to work together on IT projects, such as enterprise student information, human resources, and financial systems. Covered universities do not need approval from the ITIB to initiate major IT projects. According to VITA, the universities do not make the most of available resources because they have not collaborated on IT investments, and the management agreements make matters worse.

A third concern raised by VITA regarding the management agreements is that covered universities are not required to notify VITA of security breaches within 24 hours of their occurrence, as the other institutions are required to do. VITA staff believe that adding this requirement to the management agreements would address this concern.

A final concern raised by VITA is that there was no evaluation of the universities' IT capabilities, and their performance measures and progress updates are self-reported. While the agency believes that UVA and Virginia Tech are capable of managing their IT operations, they had concerns about William and Mary, primarily based on a failed major IT project in 2001. VITA stated that before institutions are granted autonomy in the area of IT, an evaluation of their project management capabilities should be conducted.

The universities responded to VITA's concerns by stating that they were given IT autonomy because they have shown the ability to successfully manage their operations. Furthermore, they have internal processes and safeguards in place to help ensure that major IT projects stay on track. These internal processes are effective because the Boards of Visitors are ultimately accountable for the success of IT projects. The universities also disagreed that the State CIO does not receive enough information to suspend or terminate a failing project. The quarterly reports will alert the CIO if projects are over budget, behind schedule, or if the scope of the project has changed, at which point the CIO could take corrective action. William and Mary defended its IT capability by citing the success of their recent enterprise project following the failure of the first attempt. Furthermore, William and Mary terminated the project due to information uncovered by its own internal auditor, and has restructured its project management and executive oversight systems as a result of that failed project.

Because there has been only one major IT project initiated since inception of the management agreements, it is too early to determine if VITA's concerns are valid. VITA will need to closely monitor IT developments at the institutions and communicate effectively with the institutions regarding any concerns related to the reports submitted to them by the institutions.

PROCUREMENT OF GOODS AND SERVICES

The Restructuring Act provides covered institutions with the authority to conduct their procurements of goods, services, insurance, and construction and their disposition of surplus materials. Covered institutions are exempt from the Virginia Public Procurement Act (VPPA), yet they are still bound by many of the same rules that are found in the act. Furthermore, the management agreements direct the institutions to commit to certain State goals, such as maximizing efficiency through the use of statewide or cooperative contracts, using the State's electronic procurement system, and by adopting programs to increase opportunities for small, woman-owned, and minority-owned businesses. Finally, the management agreements specify a set of rules and metrics for those institutions that develop their own purchasing systems.

Commitment to Statewide Contracts, Electronic Procurement, and SWAM

The management agreements contain commitments from the universities to further certain state goals regarding the procurement of goods and services. The agreements direct that the universities

- participate in statewide contracts to leverage the buying power of the Commonwealth;
- use the Commonwealth's electronic procurement system (eVA);
- and adopt a small, woman-owned, and minority-owned (SWAM) business program.

The covered institutions have performance benchmarks related to these three procurement goals, which are listed in Exhibit 2 in

Chapter 1 of this report. The institutions' performance on these benchmarks provides a measure of the extent to which these goals have been achieved. The Governor's cabinet reviewed the institutions' performance on the benchmarks as part of the 2008 Restructuring Act certification process. Table 1 shows the results of this review.

Although UVA fell short of its SWAM goal and all the universities need to improve in purchasing from certain underutilized categories, it appears that the universities have fulfilled their commitments to these procurement goals. The Governor's cabinet believed the universities met their commitments, as they all received passing marks for their financial and administrative operations.

Table 1: Governor's Cabinet Reviewed Institutions' Commitment to Statewide Contracts, Electronic Procurement, and SWAM (2008)

Benchmark	Governor's Cabinet Evaluation of Benchmark
Increase in the number of existing cooperative procurement contracts renewed and new contracts over the number of current contracts	All three institutions increased the number of cooperative contracts from 2006 to 2007.
Increased use of electronic procurement as measured by dollar value	All three institutions increased their use of electronic procurement through eVA.
Accomplishment of SWAM goals and improvement on previous performance	Virginia Tech and William and Mary achieved 85 percent of their overall SWAM goal and improved their SWAM procurement over the previous year. UVA did not meet 85 percent of its SWAM goal but showed improvement over the previous year. All three need to improve in purchasing from certain underutilized categories.

Source: State Council of Higher Education for Virginia May 13, 2008 meeting.

Rules Governing Procurement of Goods, Services, Insurance, and Construction

The Restructuring Act exempts covered institutions from the VPPA. However, the management agreements contain rules which the covered universities must follow when procuring goods and services. These rules are basically the same as those found in the VPPA but have been streamlined. The Restructuring Act directs that the rules be uniform across all covered universities.

Although the procurement rules have been streamlined for the universities, they still contain those aspects that ensure competition, fairness, and the furtherance of additional State goals when the universities procure goods and services from outside vendors. For example, the rules direct the following:

- All public contracts of $50,000 or more shall be awarded through competitive sealed bidding or competitive negotiation.
- If a sole-source contract is awarded, written documentation of the basis for the award is required.
- Institutions shall not discriminate against a bidder or offer based on race, religion, color, sex, national origin, age, disability, or any other basis prohibited by State law.
- Institutions establish programs to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions.
- Employment discrimination by contractors is prohibited.
- All proceedings, records, contracts, and other public records relating to procurement transactions shall be open to inspection in accordance with the Virginia Freedom of Information Act.
- Contractors must maintain a drug-free workplace.
- Institutions establish a purchase program for recycled goods with advice from the Department of Environmental Quality.
- Preference shall be given to Virginia products and firms in the case of a tie bid.
- Institutions competitively procure recycled paper and paper products so long as the cost is no more than ten percent above the cost of the lowest bidder offering non-recycled paper.
- All bids or proposals in excess of $1 million shall be accompanied by a bid bond as a guarantee that the bidder will enter into the contract for the work mentioned in the bid.
- Institutions include in their contracts a procedure for consideration of contractual disputes.
- Institutions establish an administrative appeals procedure.
- Officers and employees of the institutions are governed by the Ethics in Public Contracting provisions of the VPPA.

The APA has audited each of the covered universities to assess compliance with the procurement rules. These audits did not uncover any incidents of non-compliance.

One concern raised by staff at DGS is that covered universities are not required to seek competition at the same levels as DGS. For example, covered institutions are not required to use competitive negotiation or competitive sealed bidding for purchases under $50,000. DGS staff stated that this departure from the VPPA makes procurement of purchases at this level less open and transparent than at other State agencies, which use the State's electronic procurement system (eVA) to maximize competition for purchases under $50,000.

Officials from the covered universities rebutted this argument by stating that their procurement system has never been more open, since most transactions go into the eVA warehouse, which can then be reviewed by the State. Furthermore, even though the management agreements allow covered institutions to circumvent the normal competition rules for purchases up to $50,000, university policies may not allow this. For example, William and Mary requires competitive sealed bidding for all purchases over $10,000. Finally, staff from the APA stated that "in ten years of auditing the institutions, the universities have been very diligent in ensuring they get the best possible price for their goods and services."

Implementation of University Electronic Procurement Systems With eVA

As noted earlier in this chapter, the universities are directed to use eVA for their procurements. The management agreements allow universities to use their own electronic purchasing systems, but these systems must integrate or interface with eVA. The University of Virginia and Virginia Tech have elected to implement their own electronic purchasing systems and to interface these systems with eVA. The College of William and Mary uses eVA directly for its procurements.

Because UVA and Virginia Tech use their own electronic procurement systems (SciQuest), their management agreements contain a set of rules and metrics for how the universities integrate SciQuest purchases with eVA. These rules and metrics are listed in Attachment 2 of the agreements and pertain to the universities' continued commitment to the Commonwealth's eVA procurement system. The rules are designed to ensure that covered institutions use eVA to the greatest extent feasible when dealing with vendors, and that vendors are not required to register with the Commonwealth or any of the universities more than once.

According to staff from DGS, which administers eVA, the universities are meeting most of the requirements outlined in Attachment 2. However, DGS staff noted a few areas in which the universities did not appear to meet the requirements and also noted some other concerns with the universities' procurement systems.

One metric the universities did not appear to meet was the percentage of transactions processed by eVA. Attachment 2 states that 95 percent of all non-exempt orders are to be processed by eVA. Table 2 shows that the universities did not meet the 95 percent threshold in either year, although they came much closer to meeting the threshold in FY 2008.

Table 2: Universities Were Unable to Process 95 Percent of Transactions Through eVA

	Percent of All Non-Exempt Transactions Processed Through eVA	
	UVA	**Virginia Tech**
FY 2007	27.0%	26.4%
FY 2008	87.7	86.0

Source: Department of General Services.

According to both UVA and Virginia Tech, the numbers of transactions processed through eVA were low in FY 2007 because SciQuest was not installed until December 2006—nearly halfway through the 2007 fiscal year. Officials from the universities admitted they did not meet the target in FY 2008, but claim the target was negotiated before they had a full understanding of SciQuest's capabilities. Furthermore, the target for all other institutions was later set at 75 percent of all dollar transactions. Officials from UVA and Virginia Tech believe the target should be based on the percentage of dollar transactions rather than on the percentage of the number of transactions. However, DGS believes the metric should continue to be based on the number of transactions because eVA transactions are an important source of data for vendors attempting to do business with the State.

Officials from the two universities do not believe the 95 percent threshold for eVA transactions could be achieved. Some vendors (particularly one-time and foreign vendors) refuse to accept an electronic order or refuse to accept the eVA terms and conditions, and will only do business with the universities through credit card transactions. Also, the universities have an incentive to use the State's credit card (the P-card) for transactions, because of convenience, reduced invoice handling and disbursement costs, and the rebate they get on credit card purchases of $5,000 or less according to the terms of the Restructuring Act. However, DGS claimed that eVA functionality allows agencies to create P-card orders to registered vendors, and thus eVA could be used to leverage P-card usage.

Another area in which DGS raised concerns about non-compliance with the rules in Attachment 2 is the issue of separate vendor registrations. The rules in Attachment 2 state that the universities "will not require separate vendor registrations as a prerequisite for responding to University solicitations." Both UVA and Virginia Tech require separate vendor registrations as a prerequisite for payment but not for responding to university solicitations. This registration involves collecting federal income tax W-9 forms from vendors the first time they do business with the universities. However, the management agreements direct the universities to collect the W-9 forms until "an enterprise W-9 process is established." Therefore, the universities appear to be in compliance with the rules regarding separate vendor registrations.

A final concern raised by DGS was that a vendor complained about having to pay $2,000 to register and do business with UVA. However, it appears that the vendor misinterpreted the university's instructions. The vendor was required to register with UVA so that the university would receive the W-9 form, but the $2,000 fee was optional in case the vendor wanted to post its catalogue on UVA's Marketplace (which is UVA's online shopping environment). Vendors are not required to post their catalogues on the Marketplace in order to do business with the university, but the online catalogue does provide an advantage to the vendor. A UVA official stated that the $2,000 catalogue fee is fair because it promotes the business and may reduce its marketing expenses. However, Virginia Tech does not have a catalogue fee for vendors, nor does DGS.

LEASES OF REAL PROPERTY

Related to the authority given the covered universities in the areas of procurement and capital projects, the management agreements also grant the universities the authority to execute leases of real property. However, these institutions have had relative autonomy in this area since 1996, and therefore the autonomy granted by the management agreements to execute leases does not represent much of a departure from the institutions' recent operations. Consequently, no concerns were raised by the APA or DGS regarding the covered institutions' ability to successfully execute property leases.

The management agreements contain several requirements the institutions must follow when entering into lease agreements for real property. As with procurement and capital projects, these requirements are intended to ensure efficiency and fairness in the process. Specifically, the agreements require the following:

- All leases shall be for a purpose consistent with the university's mission.
- Decisions to enter into a lease shall be based upon cost, demonstrated need, and a determination that the property is necessary.

- Competition is to be sought to the maximum practicable degree.
- Leases shall be reviewed and approved by the university's legal counsel.
- Leases are to be executed only by those university officers who are authorized by the president or chief operating officer.
- All leases shall be in compliance with applicable law.
- Leased properties shall be certified for occupancy by the appropriate public body or building official.

HUMAN RESOURCES

As with the autonomy to execute leases of real property, the covered institutions have had some form of human resources (HR) autonomy for years prior to implementation of the management agreements. Faculty at the universities were expressly exempt from the Virginia Personnel Act prior to the management agreements. Also, most HR functions have been outsourced to the institutions since the early 1990s, such as payroll administration; hiring, classification, and promotion practices; and the administration of separate retirement plans. The management agreements extend this autonomy by allowing the universities to develop their own HR systems (subject to the rules and procedures in the management agreements) for non-faculty employees. These HR systems at the three covered institutions are scheduled to go into effect on January 1, 2009. Because the new HR systems have yet to be implemented, there is no evaluation of compliance within this area of operation.

Current State classified employees at the covered institutions may elect to become university employees under the new system, or they may remain as State employees. Non-faculty employees hired by the institutions after July 1, 2006, will automatically become university employees once the systems are in place. The election period for classified employees will begin October 1, 2008, at each of the universities and will last for 90 days per the management agreement requirement. Thus, the universities will continue to operate separate HR systems for State and university employees until such time as all current State employees have left the universities or elect to become university employees.

The management agreements lay out a host of rules for the institutions in how they implement their HR systems. In addition to the election for existing State employees, the rules dictate procedures for compensation, employee grievances, benefits, severance, and equal employment opportunity, among other rules. Several of the important rules are listed below:

- The systems shall provide fringe benefits to all eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance.
- The systems shall contain provisions that protect the rights and privileges of university employees consistent with sound management principles and fair employment practice law.
- The systems shall provide counseling services, unemployment compensation, and workers' compensation.
- The systems shall include performance planning and evaluation processes.
- All salaried non-faculty employees, regardless of their date of hire, shall have access to the State Grievance Procedure.
- The systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses.

In addition to the HR policies listed in the management agreements, covered institutions are required to submit relevant employment data to the Department of Human Resource Management (DHRM) in order to meet the Commonwealth's reporting requirements and to ensure compliance with federal and State laws and regulations. The universities must electronically transmit personnel data to DHRM so that the State can report on employment positions and personnel actions. Also, the universities must submit an acceptable affirmative action plan to DHRM as demonstration of compliance with relevant federal and State laws and regulations. DHRM is to receive from the universities monthly employee position reports and an annual report on salaried, wage, and contract employees.

Because the new HR systems have yet to go into effect, there is no determination of compliance with the management agreements in this area of operation.

FINANCIAL OPERATIONS AND MANAGEMENT

The final business area of autonomy granted to the covered institutions under the management agreements is financial operations. The covered institutions have operated their own financial systems prior to implementation of the agreements, but the agreements extend their authority to manage and invest their financial resources, including general, non-general, and private funds. Based on discussions with the State Comptroller and staff from the APA and the Department of the Treasury, the universities have complied with the terms of the management agreements relating to financial operations. A summary of the terms of the agreements is provided below.

The agreements give broad authority to the institutions in how they manage their funds within certain accounting and reporting rules. One rule is that the financial reporting system used by the university must satisfy the requirements for inclusion in the State's Comprehensive Annual Financial Report (CAFR). Thus, even though the universities have their own systems to manage their funds, the agreements recognize the universities' responsibility in satisfying the State Comptroller's reporting requirements. In addition, the financial systems must satisfy the APA's requirements for the universities' separately audited financial statements. The management agreements also direct that the accounting and bookkeeping systems must be in compliance with Governmental Accounting Standards Board.

Regarding debt management, the covered institutions have the authority to issue bonds, notes, or other obligations that do not constitute State tax-supported debt without obtaining the consent of the General Assembly or any State agency. However, the universities are required to notify the State Treasurer of their intent to issue bonds at the time they adopt their bond issuance planning schedule.

The universities are free to invest their operating and reserve funds as they see fit. However, they still must conform to the Investment of Public Funds Act, which helps ensure prudent investing by public entities and lists the types of investment vehicles that may be used. Furthermore, investment of university endowment funds must be in accordance with the Uniform Management of Institutional Funds Act.

Finally, the universities are required to report to the Secretary of Finance of any intent to withdraw from any insurance or risk management program offered to the university through the Commonwealth's Division of Risk Management. This enables the State to complete an adverse selection analysis of the university's decision and to determine if the decision will result in additional costs to the State. If it is determined that the withdrawal by the university would result in additional costs to the State, the university would then have to reimburse the State for those additional costs.

Chapter 3 Compliance With Goals in the Restructuring Act

In Summary

The Restructuring Act requires the institutions to meet 12 higher education goals, and requires the State (the State Council of Higher Education for Virginia and the Governor) to develop objective performance measures for determining institutional compliance with these goals. For most of the goals, the State has fully developed performance measures, and in these areas, William and Mary, UVA, and Virginia Tech are largely achieving the performance benchmarks. In 2008, SCHEV certified the three institutions as complying with the performance measures that had been developed at that point to represent the goals of the Restructuring Act.

For three goals, including affordability, performance measures have not yet been fully developed or implemented, so achievement of these goals by the three institutions with management agreements is much more difficult to evaluate. JLARC staff analysis of the affordability goal indicates that affordability appears to depend on the student's family income. In-state undergraduates from families with incomes of \$80,000 or more generally have average total resources greater than the costs of attendance, but in-state undergraduates from families with incomes less than \$80,000 generally find the cost of attendance to be much closer to or to exceed their available resources. This situation is mitigated, but not entirely eliminated, by the institutions' financial aid programs described in their management agreements.

The study mandate in the Restructuring Act requires JLARC to review the degree to which the institutions which have been covered by management agreements for the last two years are "meeting the objectives described in subsection B"—that is, the 12 goals—of the Restructuring Act. Even though many of these goals have little direct application to administrative or financial management functions, the goals were part of the exchange made between the State and the institutions. The institutions had to agree to meet these 12 goals in order for the State to grant them greater administrative autonomy through their management agreements.

The Restructuring Act also directs the State Council of Higher Education for Virginia (SCHEV) to develop objective measures of educational-related performance and institutional performance benchmarks for Goals 1 through 10 and 12. The Governor is directed to develop objective measures of financial and administrative management for Goal 11 (which has been delegated to the offices of the Secretary of Finance and the Secretary of Administration). A description of these performance measures and benchmarks is provided in Appendix C.

Eight of the goals appear to be fully represented by currently existing performance measures. More specifically, SCHEV appears to have more fully developed performance measures for Goals 1 (access), 4 (academic standards), 5 (student progress and success), 6 (articulation agreements and dual enrollment), 7 (economic development), 8 (research, patents, and licenses), and 9 (elementary and secondary education). The offices of the Secretary of Finance and the Secretary of Administration have also operationalized the performance measures for Goal 11 (financial and administrative management). In addition, there are no performance measures for Goal 10 (six-year plans), although SCHEV staff indicated that they do evaluate all institutions' six-year plans for compliance.

There are three goals for which results from the performance measures (as they were during the most recent certification process in 2008) did not appear to be adequate. For instance, SCHEV staff had not yet fully developed all performance measures for Goal 2 (affordability), and Goal 3 (academic offerings) does not appear to be sufficiently represented by its performance measure. (However, the General Assembly directed SCHEV to develop additional measures for Goal 2, which SCHEV has done, and could be approved by the 2009 General Assembly.) In addition, the proposed performance measure for Goal 12 (campus safety and security), which does take into account best practices from a 2006 Crime Commission study, needs to comply with appropriate security measures applicable across campuses as identified by the Virginia Tech Review Panel in the aftermath of the campus shootings in 2007. At the May 13, 2008 SCHEV meeting, SCHEV staff did not report any results from performance measures for this goal, indicating that the performance measure representing this goal has yet to be implemented.

JLARC staff examined each of the 12 goals and its related performance measures, one goal at a time, to determine the degree to which the three institutions appear to be meeting the 12 goals of the Restructuring Act. Legislators have especially expressed concerns over the goal of affordability, so it received more attention.

GOAL 1: ACCESS

This goal requires each institution, "consistent with its institutional mission, [to] provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and meet enrollment projections and degree estimates" as agreed upon with SCHEV. Three performance measures appear to appropriately characterize the degree to which this goal is met by each institution:

1. The actual total in-state student enrollment is within 5 percent of the projected enrollment target.

2. An increasing percentage of in-state undergraduate enrollment comes from underrepresented populations (based on factors such as low income, first generation college status, geographic origin within Virginia, race, and ethnicity).

3. The institution annually meets at least 95 percent of its SCHEV-approved estimates of degrees awarded.

According to SCHEV staff's 2008 certification process, in FY 2007 the three institutions generally met the targets for these three performance measures (Table 3). Enrollment data from the three institutions showed that the 95 percent level of the FY 2007 projected target in-state enrollments had been exceeded by the number of actual in-state enrollments from the previous seven or eight years. Thus, Measure 1 does not appear to be outside the bounds of the three institutions' current levels of in-state enrollments. However, the targets for all three institutions are scheduled to be steadily increasing over the next five years.

Table 3: Performance Measure Results for Goal 1 (Access)

Performance Measure	Actual (FY 2007)	Target (FY 2007)	Threshold	Result[a]
College of William and Mary				
1: In-State Enrollment	4,907			
2: Underrepresented Enrollment	1,231	1,180	1,132	Achieved
3: Degree Awards	2,104	2,019	2,019	Achieved
University of Virginia				
1: In-State Enrollment	15,360			
2: Underrepresented Enrollment	3,500	3,469	3,318	Achieved
3: Degree Awards	5,898	5,775	5,775	Achieved
Virginia Tech				
1: In-State Enrollment	19,817	18,091	18,091	Achieved
2: Underrepresented Enrollment	5,036	5,100	5,004	Passed
3: Degree Awards	6,758	6,567	6,567	Achieved

[a]According to SCHEV staff assessment for certification as being in compliance with State goals. "Achieved" means that the institution's actual surpassed the target. "Passed" means that the institution's actual did not surpass the target but surpassed the minimum threshold.

Source: SCHEV, "First Certification of the Institutional Performance Standards, Benchmarks and Targets," http://research.schev.edu/ips/review/certification_2008.asp.

Measure 2 is based on a single variable that tallies the number of undergraduates that belong to various underrepresented groups, and recognizes that some undergraduates may belong to more than one group. Therefore, an in-state undergraduate student is counted once, and only once, if any of the following are true:

- The student is of African-American, Native American, Asian or Pacific Islander, or Hispanic origin; or
- The student receives a Pell grant (meaning that the student has a low family income); or
- The student is from a locality determined by SCHEV staff to be in the lowest quintile of participation rates at Virginia public four-year institutions (most of these localities are in the Southwestern or Southside regions of Virginia).

At this point, SCHEV staff do not yet have a clear indicator of whether an undergraduate is a first-generation college student. The institutions are currently surveying students to report their parents' educational attainment, but some institutions have found such self-reported data to be contradictory or inaccurate. However, data on the first three indicators may suggest what specific factors are driving the summary variable.

At William and Mary, increases in numbers of African-American, Native American, and Hispanic students appear to be behind the institution having achieved Measure 2. When examining data from the past 16 years, enrollments in these racial and ethnic groups have been substantially increasing. At the same time, the number of Pell students has been decreasing, as have the percentages of undergraduates from the Southwest and Southside regions of Virginia (and the number of students from Northern Virginia has slightly increased).

The pattern at UVA is more complicated, because changes in some underrepresented populations appear to be offsetting each other. For instance, the percentages of in-state undergraduates who are of Asian or Pacific Islander origin, and those who are Hispanic, have increased over the last 16 years. But over that same period of time, the percentage of students who are African-American has slightly decreased. Further, the percentage of students receiving Pell grants has decreased over time. In addition, the percentages of in-state undergraduates from the Southwest or Southside regions have slightly decreased.

Virginia Tech also shows a pattern of some underrepresented groups increasing while others are decreasing. The percentages of students in the Asian / Pacific Islander, Native American and Hispanic groups have increased in the past 16 years. Over this same time period, the percentage of African-American students has fluctuated and decreased slightly in recent years. The number of Pell students has also decreased over time, and the percentages of students from the Southwest and Southside regions of Virginia have slightly declined.

There are some fundamental differences in the composition of the in-state undergraduate populations between the three universities. Virginia Tech has a smaller percentage of non-white students than UVA or William and Mary (in the fall of 2007, 16 percent compared to 27 and 23 percent, respectively). In terms of geographic distribution among undergraduates whose in-state domicile is known, Virginia Tech has a higher percentage of students from the Shenandoah Valley, the Southwest and Southside regions (28 percent, compared to UVA's 15 percent and William and Mary's 12 percent), and a smaller percentage of students from Northern Virginia (39 percent, compared to 47 and 45 percent). Therefore, changes in race/ethnicity may have a relatively larger impact on whether UVA or William and Mary reach their "underrepresented enrollment" targets, while changes in the geographic origins of in-state students may have a relatively larger impact on Virginia Tech.

Examination of data on degrees conferred (Measure 3) revealed a similar pattern as that of Measure 1. Among the three institutions, the 95 percent level of the FY 2007 projected targets had been exceeded by the actual number of degrees conferred from the previous three years. It appears that the three institutions easily achieved the required levels in FY 2007 of Measure 3. However, the required levels in the next five years generally are projected to rise slightly, so the institutions may be more challenged in the future.

GOAL 2: AFFORDABILITY

This goal entails ensuring that "higher education remains affordable, regardless of individual or family income" and periodically assessing "the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees."

At this point, the goal does not appear to be fully represented by the performance measures. SCHEV staff have proposed four performance measures, but have not yet developed and applied Measures 4 and 6.

4. An institution's in-state undergraduate tuition and fees, both gross and net of need-based gift aid, as a percentage of the institution's median student family income.

5.1. Average debt (in dollars) of in-state undergraduate borrowers.

5.2. Percent of in-state undergraduate borrowers.

6. Estimated impact of tuition and fee level net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees.

Key Student Financial Need Variables Are Derived in the Federal Aid Process

A key variable for determining student financial need is derived from Free Application for Federal Student Aid (FAFSA) data. Responses to the FAFSA are entered into a formula (known as the Federal Methodology), which is regulated by the Higher Education Act of 1965, as amended. The result is the student's Expected Family Contribution (EFC). The EFC is a preliminary estimate that measures the financial strength of the student's family. It is subtracted from the institution's cost of attendance to determine the student's eligibility for federal student aid. The EFC is a major component of the individual's estimated Total Resources, which is a combination of student and family contribution, work study, grants (from all sources known to the institution) and loans (again, from all known sources).

The total cost of attendance for an individual student is estimated by the institution and is also used for determining financial need under the federal student aid model. Tuition and fees, room and board, transportation, books and supplies, and personal expenses are typically included in the cost of attendance estimate.

SCHEV staff indicated during the 2008 certification process that the three Level III institutions all surpassed their targets in FY 2007 on Measures 5.1 and 5.2. However, a more complete picture regarding the affordability of higher education at these institutions is needed.

Financial aid applications are a source of information on affordability of higher education. Although not all students at the three institutions apply for financial aid, those who do would more likely be affected by affordability of the cost of attendance. Further, a substantial percentage of degree-seeking in-state undergraduates do apply for financial aid and are found to have need: 25.8 percent at William and Mary, 26.1 percent at UVA, and 33.8 percent at Virginia Tech.

The first step for the student in the financial aid process is to fill out a Free Application for Federal Student Aid (FAFSA). The FAFSA asks a set of questions to determine the resources already available to students to meet the cost of attendance at a higher education institution. Most states and schools use FAFSA information to award their financial aid. The FAFSA information is also used to determine the amount of federal student financial aid (such as through Pell Grants, student loans, and college work-study) for which an individual is eligible.

Key variables used in determining financial aid for students can give some indication of the affordability of attending an institution for different groups of students. These variables are (1) the total resources a student is known to have, and (2) the total cost of attendance of an individual at a particular institution.

The most recent data reported by SCHEV is from the 2006-07 school year. However, costs that were effective in the 2007-08 school year and that will be effective in the 2008-09 school year are also known at this point. Therefore, in Table 4, the increases in tuition, fees, and room and board in 2007-08 and 2008-09 were added to the 2006-07 average cost of attendance.

Table 4 shows that affordability of the cost of attendance at William and Mary, UVA, and Virginia Tech varies depending on a student's family income range. If a student has a family income of less than $40,000, the average total resources available are well below the cost of attendance. The student in this lower income group may have to incur additional debt (or take on a part-time job or make some other sacrifice) to make ends meet. However, this

Table 4: Average Total Resources and Average Cost of Attendance of Students From Different Family Income Groups

Family Income Range	Number of Students	Average Total Resources in 2006-07	Average Cost of Attendance in 2006-07	Cost of Attendance Plus 2007-08 and 2008-09 Cost Increases
College of William and Mary				
$0 to $39,999				
40,000 to 79,999	464	19,317	18,213	20,813
80,000 and above	778	26,020	18,257	20,857
University of Virginia				
0 to 39,999				
40,000 to 79,999	1,188	18,764	17,891	20,257
80,000 and above	2,235	22,726	17,829	20,196
Virginia Tech				
0 to 39,999				
40,000 to 79,999	2,224	16,666	18,241	20,176
80,000 and above	4,443	23,783	18,554	20,489

Source: SCHEV, "Cost of Attendance and Income," http://research.schev.edu/ips/affordability_1.asp.

situation may be mitigated to varying degrees by the institutions' financial aid programs: Gateway William and Mary, AccessUVa, and Virginia Tech's Funds for the Future.

If students are from the middle family income group ($40,000 or more but less than $80,000), the average total resources are relatively closer to the cost of attendance. But if total resources do not increase like the cost of attendance did in 2007-08 and 2008-09, then these students may also have to borrow more money or make some other sacrifice. Further, students in this income group may not qualify for the need-based financial aid programs that are tailored more for students from the lower-income group.

All in all, affordability of the cost of attendance does not appear to be as much of a problem for about half of the students (those from families with $80,000 or more income), although it can be a problem for the other half. Table 4 shows that at all three institutions, about half of the students applying for financial aid come from families with incomes of $80,000 or more. According to the federal financial aid rules, these students on average have total resources that are well above the cost of attendance, even when including the most recent two years of cost increases in tuition, fees, and room and board. Therefore, about half of the students at these three institutions (that is, the ones in this higher income group) appear to be better able to afford further increases in the cost of attendance, compared to students in the lower and middle income groups.

For those students participating in the Virginia Prepaid Education Program (VPEP), tuition and mandatory fees would not increase over time, so the cost of attendance would not increase as much. Yet the main finding remains the same, for two reasons. One is that a small minority of in-state undergraduates actually participate in VPEP, so that the vast majority is still subject to increases in tuition and fees. The other reason is that higher-income families are more likely to participate in VPEP than lower-income families. As a result, any exemption from tuition and fee increases would more frequently occur among students from higher-income families compared to those from lower-income families.

Institutions' Financial Aid Programs Mitigate, But Do Not Entirely Eliminate, Potential Problems of Affordability

Section 23-38.104 of the *Code of Virginia* states:

> The Board of Visitors [of a covered institution] shall include the institution's commitment to provide need-based grant aid for middle- and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees.

The Gateway William and Mary, AccessUVa, and Virginia Tech's Funds for the Future programs are specified in each respective institution's management agreement as a way to address the requirement in Section 23-38.104 of the *Code of Virginia.*

Gateway William and Mary. William and Mary's management agreement characterizes Gateway William and Mary as the "primary initiative" to assure "access to any qualified and admitted Virginian regardless of family income." At the time William and Mary's management agreement was initiated (in 2005), "any needy Virginian at the College receives a combination of grants and loans so that his or her indebtedness will not exceed one year's cost of education." However, the management agreement recognizes that having $16,000 or more in indebtedness may discourage students from lower socio-economic status (SES) groups from applying to or accepting admission to William and Mary. Consequently, over a six-year period,

> the College of William and Mary is committed to seeking from all sources – state-appropriated scholarship funds, federal, and private support -- sufficient funds to assure that 1) we meet 100% of financial need for in-state undergraduates and 2) any student whose family's annual income is less that $40,000 can spend four years at the College and graduate debt-free.

So, it appears that William and Mary plans across six years to make sufficient grants and other financial aid available to students from families with incomes less than $40,000 such that they do not need to incur any debt.

William and Mary's management agreement also addresses financial aid to students whose families earn $40,000 or more.

> [We] will continue our commitment to providing additional financial aid through grants and loans to those Virginians whose families are not in the lower SES groups, but who still have demonstrable need…The College commits to meeting 100% of the need for these students consistent with the federal definition of unmet needs over the six year planning period. In addition, as tuition and fees increase over the period of the six-year plan, we will readjust the level of financial aid for all students to assure that insufficiency of family resources will not be a barrier to attending the College.

In other words, William and Mary promises over the six-year planning period to help these other students afford the cost of attendance, but that help may include loans that would have to be repaid. Consequently, this policy may make affordability—and indebtedness—more of an issue to students in the $40,000 to $79,999 income group than to students in the less than $40,000 group.

AccessUVa. In its management agreement, UVA states the "Academic Division will continue to offer enrollment to in-state undergraduate students without regard to ability to pay and shall continue implementation of AccessUVa." It characterizes AccessUVa as "a financial aid program designed to keep higher education affordable for all undergraduate students, including Virginians and non-Virginians, who qualify for admission, regardless of economic circumstance." Further, "the Academic Division currently offers financial aid packages to meet 100% of demonstrated need to all qualified undergraduate students."

UVA's management agreement specifies what it will do for low-income undergraduate students, and for all other undergraduates as well. For low-income students,

> The Academic Division will eliminate all need-based loans, replacing them with grants, in the financial-aid packages of low-income undergraduate students, beginning with the fall 2004 entering class. At this time low-income is defined as families with an income equivalent to 200% of the federal poverty line or less [which is currently about $40,000 for a

> family of four]. This phase will be fully implemented by fall 2007.

By fall 2008, UVA will fully implement the other part of its financial aid policy, targeting especially "middle-income students whose families earn between $75,000 and $149,999":

> The Academic Division will cap the amount of need-based loans to any undergraduate student who qualifies for some form of financial aid to a maximum of 25% of the total in-state cost of attendance over four years and will meet the remaining need with grants.

As a result, starting in fall 2008, students from families earning more than 200 percent of the federal poverty level will have their indebtedness capped to about $20,000, while those from lower-income families would have no indebtedness. While $20,000 of indebtedness may be considerably less than what the amount would have been without AccessVa aid, the remaining $20,000 in debt would still have to be paid off. So for UVA students, as with students at William and Mary, affordability—and related indebtedness—may be more of an issue for students in the $40,000-to-$79,999 income group than for those in the less than $40,000 income group.

Funds for the Future. Virginia Tech's Funds for the Future program is designed to address more directly the effects of future increases in tuition and fees compared to the other institutions' programs, which focus more on student indebtedness. Students who qualify for this program will receive new financial aid awards to help offset the annual increases in tuition and mandatory fees. The Funds for the Future program works on a sliding scale of family responsibility for coverage of tuition and fee increases (Table 5).

This program addresses only increases in tuition and fees, and does not address gaps between the cost of attendance and a student's total resources that may have originally existed. As a result, the Funds for the Future program does less to mitigate afforda-

Table 5: Virginia Tech's Funds for the Future Program for In-State Students

Family Adjusted Gross Income (Per Federal Tax Return)	Family Responsibility for Tuition and Fee Increases
Less than $30,000	0%
$30,000 - $49,999	30%
$50,000 - $74,999	70%
$75,000 - $99,999	90%

Source: Virginia Tech brochure "Funds for the Future."

bility problems than Gateway William and Mary or AccessUVa. This situation may exist because, on a per-student basis, Virginia Tech has less money, especially endowment funds, that could be used for financial aid, compared to William and Mary or UVA.

Tuition and Fee Increases and the Higher Education Tuition Moderation Incentive Fund

Although the *Code of Virginia* gives "sole authority" to the Board of Visitors of each institution to set tuition and fees, legislators can still influence the rate-setting process through the Appropriation Act. In particular, Section 23-38.104 of the *Code of Virginia* states:

> [T]he Board of Visitors of a covered institution shall have sole authority to establish tuition, fee, room, board, and other charges consistent with sum sufficient appropriation authority for all nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization.

This passage acknowledges that any provision in the *Code of Virginia* is subordinate to the Appropriation Act, through which the Governor and legislators can exercise their authority over nongeneral funds (which include tuition and fees at public colleges and universities). Further, legislators have expressed concern about recent tuition and fee increases, including those at the three covered institutions that are the focus of this study.

As a result, the General Assembly established the Higher Education Tuition Moderation Incentive Fund. This legislation can be regarded as a compromise between the authority granted to the institutions' boards of visitors and that of legislators. Rather than simply mandating a cap on tuition and fees, this legislation provides an incentive program for the boards of visitors to hold down increases in tuition and fees, but leaves the final decision of whether to participate up to the boards.

The provisions of the Tuition Modification Incentive Fund are specified in Item 254.10, Chapter 879 of the Acts of the 2008 General Assembly. An annual total of $17.5 million from the general fund shall be granted to public colleges and universities that limit the increase of tuition and mandatory Educational and General (E&G) fees for in-state undergraduates to no more than three percent for the 2008-09 and 2009-10 academic years. However, institutions can exceed the three percent limit by one percent if the additional revenue is used solely to increase financial aid for in-state students.

Further, Item 254.10 specifies that if an institution increases tuition and mandatory E&G fees for in-state undergraduates in FY 2009 greater than 12 percent, the institution shall not be eligible for an allocation from the fund in either fiscal year. William and Mary, UVA, and Virginia Tech increased their tuition and mandatory E&G fees in the 2008-09 school year by 9.7, 9.9, and 11.9 percent, respectively. Consequently, all three institutions are eligible to receive an allocation from the fund in FY 2010 if they keep their increases in tuition for that year to a maximum of three percent (or four percent, if the extra one percent is used solely for financial aid for in-state students).

Determining exactly what is driving the institutions' tuition and fee increases is outside the scope of the mandate for this study, but tuition and fee increases have been analyzed in other reports released by SCHEV. Every year since 1999 SCHEV has issued an annual report, *Tuition and Fees at Virginia's State-Supported Colleges and Universities*, in which tuition trends are examined, as well as budget conditions and tuition policy. SCHEV staff further examined the links between budget conditions and tuition levels in its May 2003 report, *Condition of Higher Education Funding in Virginia*. This report stated that tuition revenue had been "used to offset general fund reductions during economic downturns when students and their families can least afford to pay." The report noted that one approach to achieving a steadier funding stream for the institutions might be to develop a reserve fund similar in concept to the Commonwealth's Revenue Stabilization Fund. An allocation by institutions of one percent of their annual tuition revenue into a reserve fund, the report suggested, would provide some spare resources to assist with costs during economic downturns.

The six-year financial plans prepared by the three institutions with management agreements suggest percentage increases in tuition and mandatory E&G fees for in-state undergraduates which will likely exceed average growth in family income levels. For the six-year plan, the institutions prepared planned tuition and fee rates based on (1) an assumption of no increase in general fund support from the State budget, and (2) an assumption of incremental general fund support increases. Under scenario one, the planned rates for 2009-10 to 2013-14 represent an average annual increase of 10.8 percent at UVA, 13.0 percent at Virginia Tech, and 7.4 percent at William and Mary. Under scenario two, the planned rates of the three institutions increase an average of 6.4 percent, 7.8 percent, and 6.5 percent, respectively. The rates shown in the financial plans thus suggest that affordability, for the State and for families, may represent an increasing challenge in the years ahead.

GOAL 3: ACADEMIC OFFERINGS

This goal has two main parts. One part states that the institution is to "offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission." In addition, the goal states that the institution is to "assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions." The current single performance measure for operationalizing this goal is

7. Total number and percentage of graduates in high-need areas, as identified by SCHEV.

This measure is represented in the 2008 certification process as the number of "high-need degrees." The results reported by SCHEV staff in May 2008 are shown in Table 6. The three institutions surpassed either the threshold or the target for this measure. However, there are problems regarding how well the performance measure is representing this goal. One problem is that parts of the goal are not currently addressed by the performance measure. The other problem is that the number of "high-need" degrees may not be appropriately counted.

Table 6: Performance Measure Results for Goal 3 (Academic Offerings): High-Need Degrees

Institution	Actual (FY 2007)	Target (FY 2007)	Threshold	Result[a]
College of William and Mary	192	195	147	Passed
University of Virginia	1,475	1,567	1,458	Passed
Virginia Tech	1,851	1,741	1,659	Achieved

[a]According to SCHEV staff assessment for certification as being in compliance with State goals. "Achieved" means that the institution's actual surpassed the target. "Passed" means that the institution's actual did not surpass the target but surpassed the minimum threshold.

Source: SCHEV, "First Certification of the Institutional Performance Standards, Benchmarks and Targets," http://research.schev.edu/ips/review/certification_2008.asp.

Parts of Goal Are Not Currently Addressed by the Performance Measure

Part of Goal 3 appears to be addressed by its single performance measure, while other parts are not. If Goal 3 were solely assessing "the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines and professions," then the single performance measure of "number of high-need degrees" could be sufficient. In that case, the institution would appear to do well if it narrowed its mission to the areas that SCHEV staff defined as "high-demand," such as nursing or engineering. But Goal 3 also includes language about the institution offering "a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission." SCHEV staff have mentioned that this aspect of the goal is not currently measured because there is a widely-held perception that the institutions already have enough breadth in their academic programs. But if the goal is not for the institutions ultimately to narrow their focus, an additional performance measure is needed to represent the variety of academic programs offered.

Further, Goal 3 states that the institution is to "assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific…geographic regions." However, the single current performance measure focuses on the total number of "high-demand" degrees produced, and does not distinguish between the needs of different geographic regions. If this part of Goal 3 is to be implemented, an additional performance measure is needed (1) to identify "the Commonwealth's need for sufficient graduates in particular shortage areas" in specific geographic regions of Virginia, and (2) to assess how well institutions are addressing the shortages in these different geographic regions.

Another option, besides adding performance measures to address currently unaddressed parts of Goal 3, is to revise Goal 3 so that those parts are dropped. However, revising Goal 3 could open the door to revising or dropping other goals as well. Whether there is a need to overhaul the 12 goals in the Restructuring Act is outside the scope of this study. However, SCHEV currently has a task force that is reviewing this issue.

Performance Measure May Not Appropriately Count "High-Demand" Degrees

Another potential problem with performance measurement for this goal is that the current measure for "high-need degrees" may be too narrow and off the mark. "High-need degrees" are currently defined by SCHEV staff as those in engineering, education, nursing, and medicine. But there are two ways the current measure may not be fully addressing the part of Goal 3 dealing with shortage areas in the academic disciplines and professions. There are two questions that arise: First, are there other "high-demand" areas that should be included as well, such as those in computer science/information technology, other biological and biomedical sciences, other health professions, physical sciences, mathematics and statistics, and business? Second, are all engineering degrees the best choice for a "high-demand" degree, since there are times when there is an oversupply of engineers in certain areas?

Other "High-Demand" Areas. According to the Bureau of Labor Statistics of the U.S. Department of Labor, some of the fastest-growing occupations require degrees other than just those in engineering, education, nursing and medicine. As shown in Exhibit 3, occupations requiring degrees in some engineering fields, education, nursing, and medicine are included among the occupations with the highest demands. But so are occupations requiring degrees in other areas as well. Although some of the occupations with large numerical increases that are shown in Exhibit 3 (such as lawyers and some of the jobs in business administration) also already have large numbers of individuals with the necessary degrees to exceed the demand, most of the occupations listed do not.

Some Engineering Specialties Are Not in High Demand. According to the Bureau of Labor Statistics, employment of engineers is expected to grow about as fast as the average for all occupations over the next decade, but growth will vary by specialty. For example, biomedical and environmental engineers are expected to have much faster employment growth compared to the average. On the other hand, electrical, materials, and mechanical engineers are expected to have slower employment growth compared to the average. Consequently, engineering specialties such as these slow-growth ones should not be counted among "high-need areas."

GOAL 4: ACADEMIC STANDARDS

This goal ensures "that the institution's academic programs and course offerings maintain high academic standards, by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors." The goal appears to be appropriately addressed by having programs regularly reviewed by the Southern Association of Colleges and Schools (SACS), as indicated with the following performance measure:

8. Institution reports on total programs reviewed under Southern Association of Colleges and Schools assessment of student learning outcomes criteria within the institution's established assessment cycle in which continuous improvement plans addressing recommended policy and program changes were implemented.

SCHEV staff have rated William and Mary, UVA, and Virginia Tech as having achieved this performance measure, stating in each case "the institution has provided a statement on current SACS program reviews." JLARC staff review of statements by the three institutions supports this finding.

Exhibit 3: Fastest Growing Occupations and Occupations Projected to Have Largest Numerical Increases in Employment Between 2006 and 2016, by Minimum Level of Post-Secondary Education Required

Fastest Growing Occupations	Occupations Having Largest Numerical Job Growth
Requiring First-Professional Degree	
Veterinarians	Physicians and surgeons
Pharmacists	Lawyers
Chiropractors	Pharmacists
Physicians and surgeons	Veterinarians
Optometrists	Dentists
Requiring Doctoral Degree	
Postsecondary teachers	Postsecondary teachers
Computer and information scientists, research	Clinical, counseling, and school psychologists
Medical scientists, except epidemiologists	Medical scientists, except epidemiologists
Biochemists and biophysicists	Computer and information scientists, research
Clinical, counseling, and school psychologists	Biochemists and biophysicists
Requiring Master's Degree	
Mental health counselors	Clergy
Mental health and substance abuse social workers	Physical therapists
Marriage and family counselors	Mental health and substance abuse social workers
Physical therapists	Educational, vocational, and school counselors
Physician assistants	Rehabilitation counselors
Requiring Bachelor's Degree, Plus Work Experience	
Actuaries	Management analysts
Education administrators, preschool and child care	Financial managers
Management analysts	Computer and information systems managers
Training and development specialists	Medical and health services managers
Public relations managers	Training and development specialists
Requiring Bachelor's Degree	
Network systems and data communications analysts	Computer software engineers, applications
Computer software engineers, applications	Accountants and auditors
Personal financial advisors	Business operations specialists, all other
Substance abuse and behavioral disorder counselors	Elementary schoolteachers, except special education
Financial analysts	Computer systems analysts
Requiring Associate Degree	
Veterinary technologists and technicians	Registered nurses
Physical therapist assistants	Computer support specialists
Dental hygienists	Paralegals and legal assistants
Environmental science and protection technicians, including health	Dental hygienists
Cardiovascular technologists and technicians	Legal secretaries

Source: Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, 2008.

GOAL 5: STUDENT PROGRESS AND SUCCESS

The main idea of this goal is to "improve student retention such that students progress from initial enrollment to a timely graduation, and that the number of degrees conferred increases as enrollment increases." SCHEV staff have proposed four performance measures for operationalizing this goal:

9. Number of students denied enrollment in required 100- and 200-level courses (that are necessary for timely graduation).

10. Ratio of degrees conferred per full-time equivalent (FTE) instructional faculty member.

11. Annual retention and progression rates of degree-seeking undergraduate students.

12. Ratio of total undergraduate degree awards per annual full-time equivalent (FTE), degree-seeking undergraduate students (except in those years whereas the institution is pursuing planned enrollment growth).

Although SCHEV staff do not have Measure 9 operational yet, Measures 10 through 12 are. Measures 10 through 12 may be sufficient to indicate whether a retention or timely graduation problem exists, while Measure 9 may indicate more the possible source of the problem (if it exists).

Table 7 shows the results from Measures 10 through 12, and their targets. As shown in the table, William and Mary, UVA, and Virginia Tech generally met or surpassed their retention and graduation rate targets. Consequently, no problems with student retention and timely graduation appear to exist at these institutions.

Table 7: Performance Measure Results for Goal 5 (Student Progress and Success)

Performance Measure	Actual (FY 2007)	Target (FY 2007)	Threshold	Result[a]
College of William and Mary				
10: Degrees per FTE faculty				
11: Retention rate	93.0%	94.0%	92.0%	Passed
12: Degrees per FTE undergraduate students	24.0%	22.7%	21.6%	Achieved
University of Virginia				
10: Degrees per FTE faculty				
11: Retention rate	93.4%	92.0%	90.0%	Achieved
12: Degrees per FTE undergraduate students	24.5%	24.5%	23.8%	Achieved
Virginia Tech				
10: Degrees per FTE faculty	5.4	5.3	5.0	Achieved
11: Retention rate	91.1%	88.2%	86.2%	Achieved
12: Degrees per FTE undergraduate students	21.8%	21.8%	20.3%	Achieved

[a]According to SCHEV staff assessment for certification as being in compliance with State goals. "Achieved" means that the institution's actual surpassed the target. "Passed" means that the institution's actual did not surpass the target, but surpassed the minimum threshold.

Source: SCHEV, "First Certification of the Institutional Performance Standards, Benchmarks and Targets," http://research.schev.edu/ips/review/certification_2008.asp.

JLARC staff examined total degrees per faculty FTE from the past ten years, retention rates from the past 15 years, undergraduate degrees per undergraduate FTE from the past 20 years, and the targets and thresholds projected for Measures 10 through 12, from data posted on SCHEV's website. Although there are some differences between the exact values of the historical data for FY 2007 on the SCHEV website and the values shown for the performance measures for FY 2007 (because of slightly different definitions being used), the overall patterns shown for the historical data and the projected targets and thresholds are still meaningful.

Degrees Conferred per FTE Faculty Member

This variable can be considered an overall measure of faculty productivity. The numerator is the total number of bachelor's, first professional, master's, and doctorate degrees conferred at each university in a given year. The denominator is a calculation of the number of FTEs of the instructional component of faculty (Instruction, Research, and Public Service) submitted by each institution to SCHEV staff for the given year.

William and Mary. From FY 1998 to FY 2007, the average ratio of degrees conferred per faculty FTE was around 3.3. There was some slight fluctuation around this average from one year to the next, but little steady growth. However, the projected targets are increasing slightly in future years: from 3.2 in FY 2007 to 3.3 in FY 2009 and to 3.4 in FY 2012. Yet in three of the past ten years, William and Mary had already exceeded the FY 2012 target (and in five of those ten years, met or exceeded the FY 2012 threshold), so it seems reasonable to expect William and Mary to be able to reach these higher targets and thresholds in future years.

UVA. At UVA, the ratio of degrees conferred per faculty FTE has increased over the last ten years, averaging around 5.1. In the first six years, the ratio was below the average; in the last four years, it was above the average. Projected targets for future years are slightly decreasing, from 5.2 in FY 2007 to 5.1 in FY 2009, and to 5.0 in FY 2011. Consequently, if the pattern from the past ten years is an indication, UVA should be able to meet the targets for this measure in future years.

Virginia Tech. The rate of degrees conferred per faculty FTE at Virginia Tech also appears to have increased slightly over the last ten years. From FY 1998 to FY 2007, the average ratio of degrees per faculty FTE was 5.6. In one out of the first five years, the ratio was above the average; in four out of the second five years, the ratio was above the ten-year average. Projected targets in future years are decreasing slightly, from 5.3 in FY 2007 to 5.2 in FY

2009 and beyond. Therefore, Virginia Tech should also be able to meet its targets in future years.

Retention Rates

According to the SCHEV website, retention rates were based on "the number of first-time, full-time students (classified, degree-seeking undergraduates: freshmen, sophomores and juniors) who enrolled at a Virginia college or university in the fall and returned to the same institution the following fall."

William and Mary. The SCHEV website data shows that the retention rate at William and Mary averaged 94.8 percent between the fall of 1993 and the fall of 2007, with rates tending to be above the average in 1993 through 1999 and below the average in 2000 through 2007. The projected targets from FY 2008 through FY 2012 are all at 94.0 percent, and the thresholds are at 93.0 percent. William and Mary appears to have had slightly declining retention rates over the past 15 years, whereas the targets and thresholds in the future five years will remain the same.

UVA. According to data on the SCHEV website, the retention rate at UVA averaged 96.6 percent, with rates tending to be below the average in 1993 through 1999 and above the average in 2000 through 2007. The projected targets from FY 2008 through FY 2012 are all at 92.0 percent, and the thresholds are at 90.0 percent. UVA appears to have had slightly increasing retention rates over the past 15 years, whereas the targets and thresholds in the future five years will remain the same.

Virginia Tech. The SCHEV website data showed that the retention rate at Virginia Tech averaged 88.0 percent, with rates tending to be above the average in 1993 through 1999 and below the average in 2000 through 2007. The projected targets for FY 2008 and FY 2009 are 87.5 percent, and they increase slightly in FY 2010 through FY 2012 to 87.8 percent. Likewise, the thresholds are at 85.5 percent in FY 2008 and FY 2009, and are 85.8 percent in FY 2010 through FY 2012. Virginia Tech appears to have had slightly declining retention rates over the past 15 years, whereas the targets and thresholds in the future five years will slightly increase.

Overall, if past performance is an indicator, William and Mary and especially Virginia Tech may find it more challenging in future years to meet their retention rate targets and thresholds. UVA can be expected to meet its retention rate targets more easily.

Degrees per FTE Undergraduate Student

This variable can be considered to be measuring the rate of completion of undergraduates, while standardizing in order to hold constant the size of the undergraduate student population. The numerator for this ratio was the number of bachelor's degrees conferred by the institution in a given year (from FY 1988 to FY 2007). The denominator was the number of annualized FTE undergraduates at the institution in that year.

William and Mary. The rate of undergraduate degrees conferred at William and Mary has fluctuated with a very slight increase over the last 20 years. From FY 1988 to FY 2007, the average ratio of undergraduate degrees per FTE was 23.6 percent. In five out of the first ten years, the ratio was at or above the average; in seven out of the second ten years, the ratio was also above the 20-year average. However, projected targets for future years are increasing at a more rapid pace. From a target in FY 2007 of 22.7 percent, it is projected to increase to 23.8 percent in FY 2008, 24.0 percent in FY 2009, 24.3 percent in FY 2010, and 24.4 percent in FY 2011 and FY 2012. Likewise, the thresholds for future years are also projected to be increasing: from 21.6 percent in FY 2007 to 22.6 percent in FY 2008, 22.8 percent in FY 2009, and 23.2 in FY 2009, FY 2010, and FY 2011.

UVA. According to data from the SCHEV website, the rate of bachelor's degrees conferred per FTE undergraduate appears to have increased at UVA over the last 20 years. From FY 1988 to FY 2007, the average ratio of undergraduate degrees per FTE was 23.1 percent. In three out of the first ten years, the ratio was above the average; in eight out of the second ten years, the ratio was also at or above the 20-year average. Projected targets for all future years are flat, at 24.5 percent (the corresponding threshold is 23.8 percent).

Virginia Tech. The rate of bachelor's degrees conferred per FTE undergraduate at Virginia Tech also appears to have increased over the last 20 years. From FY 1988 to FY 2007, the average ratio of undergraduate degrees per FTE was 20.1 percent. In one out of the first ten years, the ratio was above the average; in eight out of the second ten years, the ratio was also at or above the 20-year average. Projected targets in future years are fluctuating slightly, but remain at basically the same levels. In particular, they are 21.5 percent in FY 2008 and FY 2009, 21.8 percent in FY 2010, 21.5 percent in FY 2011 and 21.8 percent in FY 2012. The corresponding thresholds are 20.0 percent in FY 2008 and FY 2009, 20.3 percent in FY 2010, 20.0 percent in FY 2011 and 20.3 percent in FY 2012.

Overall, if trends from the past 20 years continue, in future years William and Mary may have greater difficulty meeting its targets (compared to FY 2007), while UVA and Virginia Tech may more easily meet their targets. In particular, William and Mary's ratios have been fluctuating and showing a very slight increase for the last 20 years, while its targets for the next five years are steadily increasing. On the other hand, UVA and Virginia Tech have experienced more steadily increasing ratios for the last 20 years, when their targets for the next five years are relatively flat.

GOAL 6: ARTICULATION AGREEMENTS AND DUAL ENROLLMENT

The articulation agreement part of this goal applies to four-year undergraduate programs at the universities, and the dual agreement part applies to two-year programs at the community colleges and Richard Bland College. Four-year institutions are (1) to "develop articulation agreements that have uniform application to all Virginia community colleges and meet appropriate general education and program requirements" and (2) to "provide additional opportunities for associate degree graduates to be admitted and enrolled." Two-year colleges are to "offer dual enrollment programs in cooperation with high schools."

SCHEV staff operationalized the parts of the goal applying to four-year institutions with two performance measures:

13. Institution increases the number of undergraduate programs or schools for which it has established a uniform articulation agreement for associate degree graduates transferring from all colleges of the Virginia Community College System (VCCS) and Richard Bland College; and

14. The total number of associate degree graduates enrolled as transfer students from Virginia's public two-year colleges.

In 2008, SCHEV staff gave passing marks to William and Mary, UVA, and Virginia Tech on these two measures. In particular, they characterized the three institutions as having achieved Measure 13, saying that each institution "has provided evidence of increasing numbers of transfer agreements." Table 8 shows how the three institutions were rated on Measure 14: William and Mary and Virginia Tech surpassed their targets, and although UVA did not, it surpassed the threshold.

According to the SCHEV website, the Measure 14 targets projected for the next five years are expected to increase substantially. In particular, the targets for William and Mary, UVA, and Virginia Tech are projected to steadily increase from 44, 98, and 96 in FY

Table 8: Performance Measure Results for Goal 6 (Articulation Agreements and Dual Enrollment): Degree Transfers

Institution	Actual (FY 2007)	Target (FY 2007)	Threshold	Result[a]
College of William and Mary	51	44	36	Achieved
University of Virginia	89	98	78	Passed
Virginia Tech	159	96	83	Achieved

[a]According to SCHEV staff assessment for certification as being in compliance with State goals. "Achieved" means that the institution's actual surpassed the target. "Passed" means that the institution's actual did not surpass the target, but surpassed the minimum threshold.

Source: SCHEV, "First Certification of the Institutional Performance Standards, Benchmarks and Targets," http://research.schev.edu/ips/review/certification_2008.asp.

2007 to 87, 161, and 151 in FY 2012, respectively. Given that the State will be setting such higher targets in future years, it is reasonable to examine the numbers of transfers these institutions have had in the past 15 years to anticipate how difficult it may be for them to reach these targets in future years.

Although the SCHEV website does not provide the actual numbers corresponding exactly to Measure 14 from the past 15 years, it does provide data on new transfers from the VCCS entering each institution in the fall during this time period. From these data, it appears that the institutions have accommodated enough new transfer students from the VCCS in the past that they would be able to meet the higher targets in future years. The targets, though, may require the institutions to give higher priority to those transfer students from the VCCS (and Richard Bland College) who graduated with an associate degree over those who did not.

In the past 15 years, there appears to have been volatility in the number of new transfer students from the VCCS entering William and Mary, UVA, and Virginia Tech. For instance, in some years the institutions have had large increases in the number of new transfer students from the VCCS entering (of 20 percent or more), when in other years there have been large decreases. With the targets steadily increasing, they may no longer allow major contractions in the number of new transfer students with associate degrees from the VCCS to occur. Consequently, the higher targets in future years may cause the institutions not to have as much volatility in expansions and contractions in the number of entering transfer students with associate degrees from the VCCS as may have occurred in the past.

In addition to the targets of Measure 14, the covered institutions made additional commitments in their management agreements regarding the acceptance of transfer students. William and Mary, UVA, and Virginia Tech committed "to establish a program under which these three institutions will increase significantly the number of such students transferring to their institutions." Specifically, William and Mary, UVA, and Virginia Tech collectively committed

> to enroll as transfer students from VCCS institutions and Richard Bland College (i) by the 2007-08 fiscal year, not less than approximately 300 new such transfer students each year over the number enrolled in 2004-05, for a total of approximately 900 such transfer students each year, and (ii) by the end of the decade, not less than approximately 650 new such transfer students each year over the number enrolled in 2004-05, for a total of approximately 1,250 such transfer students each year. These three institutions have agreed that they will mutually determine how to divide the responsibility for these additional transfer students equitably among themselves.

These numbers and commitments apply to transfers from Virginia's two-year public colleges, regardless of whether or not the students graduated with associate degrees.

The three institutions have agreed to divide the responsibility such that in future years, they will aim to enroll the same proportions of transfer students from Virginia two-year colleges as each of the three had enrolled in the 2004-05 school year. These proportions are 7.5 percent for William and Mary, 31.3 percent for UVA, and 61.2 percent for Virginia Tech. As a result, the collective target of approximately 900 transfer students in 2007-08 would be divided such that William and Mary's target is 68, UVA's is 282, and Virginia Tech's is 551. Similarly, the collective target of approximately 1,250 in 2009-10 would mean that William and Mary's target would be 94, UVA's would be 392, and Virginia Tech's would be 765.

The universities have collectively met their transfer enrollment target for 2007-08, but Virginia Tech indicated that they will have difficulty meeting the target for 2009-10. The problem, according to one Virginia Tech official, is not in finding space for the transfer students, but rather in finding enough qualified applicants.

GOAL 7: ECONOMIC DEVELOPMENT

This goal has little to do with an institution's administrative or financial management, but was a condition to which the State required institutions to agree. All institutions are expected to "actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located."

This goal is addressed by Performance Measure 16. Measure 16 includes "an annual standardized survey" of local and regional leaders and economic development partners "regarding the success of [the institution's] local and regional economic development plans." In 2008, SCHEV staff indicated that William and Mary, UVA, and Virginia Tech all achieved Measure 16, saying each "institution received overall satisfactory scores from survey respondents." JLARC staff examination of the survey responses confirmed this statement.

Further, institutions with management agreements have additional commitments to the economic development of economically distressed regions or localities in Virginia. The institutions are expected to contribute to the economic development of regions or localities "that lag the Commonwealth in terms of income, employment, and other factors." Each institution is committed

> to establish a formal partnership with that area to develop jointly a specific action plan that builds on the [institution's] programmatic strengths and uses the [institution's] faculty, staff and, where appropriate, student expertise to stimulate economic development in the area to make the area more economically viable….The [institution] shall submit the action plan to the Governor and General Assembly by no later than December 31, 2006, and shall report to the Governor and General Assembly by September 1 of each year on its progress in implementing the action plan during the prior fiscal year.

William and Mary shows how it meets this commitment by pointing to its partnership with the City of Petersburg in its September 2007 annual report on its action plan. Similarly, UVA notes its partnership with Southwest Virginia in its September 2007 annual report on its economic development action plan.

Virginia Tech, as a land grant institution, has already made a considerable commitment to local and regional economic development activities, especially in economically distressed parts of the State. For instance, *Virginia Tech News* has cited two examples of this long-standing involvement in economic development:

- The Institute for Advanced Learning and Research in Danville is a Virginia Tech-led partnership with the local community and local institutions of higher learning for using university research tailored to local needs and carried out in Danville as the engine for economic development, to replace the failing textile and tobacco industries.

- The university's Office of Economic Development has been working with communities in Southside and Southwest Virginia for over a dozen years to perform the feasibility studies, impact assessments, and other analyses that can be critical in planning an economic agenda.

Although Virginia Tech had created its center in Danville before 2005, it uses this center as the focus of its response to its management agreement commitment.

GOAL 8: RESEARCH, PATENTS, AND LICENSES

This goal has two parts (assuming they are consistent with the institutions' missions). One is "to increase the level of externally funded research conducted at the institution." The other is to "facilitate the transfer of technology from university research centers to private sector companies." The performance measures follow straightforwardly from these two parts of Goal 8:

17. Institution maintains or increases the total expenditures in grants and contracts for research, within the prescribed range of permitted variance, according to targets mutually agreed upon with SCHEV and/or consistent with the institution's management agreement.

18. Institution maintains or increases the annual number of new patent awards and licenses, within the prescribed range of permitted variance, according to targets mutually agreed upon with SCHEV and/or consistent with the institution's management agreement.

The most recent results of these performance measures are shown in Table 9. All three institutions surpassed their targets or minimum thresholds on these two measures.

In addition to their targets for Measure 17, the covered institutions' management agreements made other commitments regarding research funding. Each management agreement states that each institution "commits to match from institutional funds, other than general funds or tuition, on a dollar for dollar basis, any additional research funds provided by the State in the Appropriation Act above the amount provided from institutional funds for research in 2005-06."

William and Mary, UVA, and Virginia Tech, among other doctoral institutions, reported on the use of these specific State funds for research and progress made in building research capacity to the Chairmen of the House Appropriations and Senate Finance Committees in October 2007. William and Mary reported that in FY

Table 9: Performance Measure Results for Goal 8 (Research, Patents and Licenses)

Performance Measure	Actual (FY 2007)	Target (FY 2007)	Threshold	Result[a]
College of William and Mary				
17: Research expenditures	$48,833,775	$48,060,000	$42,379,000	Achieved
18: Patents and licenses	2	3	2	Passed
University of Virginia				
17: Research expenditures	$235,670,666	$264,100,000	$201,900,000	Passed
18: Patents and licenses	56	55	53	Achieved
Virginia Tech				
17: Research expenditures	$326,225,333	$294,699,166	$257,688,945	Achieved
18: Patents and licenses	20	24	13	Passed

[a]According to SCHEV staff assessment for certification as being in compliance with State goals. "Achieved" means that the institution's actual surpassed the target. "Passed" means that the institution's actual did not surpass the target, but surpassed the minimum threshold.

Source: SCHEV, "First Certification of the Institutional Performance Standards, Benchmarks and Targets," http://research.schev.edu/ips/review/certification_2008.asp.

2007, its appropriation of $200,000 from the State's general fund allowed it to leverage approximately $1 million in federal and other funds to support biomedical and bioengineering projects. UVA reported that its appropriation for the 2006-2008 biennium of about $11,450,000 from the general fund, along with about $7.8 million from the Equipment Trust Fund, allowed it to leverage approximately $52.6 million in external federal and private funds. And Virginia Tech reported that its appropriation of approximately $7,524,000 from the State's general fund allowed it to leverage $67.9 million in awards of externally sponsored grants and contracts during FY 2007.

GOAL 9: ELEMENTARY AND SECONDARY EDUCATION

The main objectives of this goal are for the institution to "work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions" to

- improve student achievement;
- upgrade the knowledge and skills of teachers; and
- strengthen leadership skills of school administrators.

Like Goal 7, the primary performance indicator (Measure 19) of this goal is a survey, this time "of the superintendents, principals, and appropriate other parties" regarding how well the objectives of the goal are being achieved. William and Mary had six school divisions (Gloucester, Hopewell, Newport News, Norfolk, Northumberland, and Petersburg), UVA had two (Amherst and Hanover), and Virginia Tech had eight school divisions (Carroll, Lee, Lynchburg, Pulaski, Radford, Roanoke City, Roanoke County, and Tazewell) responding to the most recent survey.

In 2008, SCHEV staff indicated that William and Mary, UVA, and Virginia Tech all achieved Measure 19, saying each "institution received overall satisfactory scores from survey respondents." JLARC staff examination of the survey responses confirmed this statement. For example, survey respondents were asked to rate each program "compared to other school-university partnership programs" on a scale from 1 (lowest) to 7 (highest). Average scores ranged from 5.57 to 6.67.

Further, survey respondents were also asked to rate the extent to which these programs address each of the statewide goals listed above, namely improving student achievement; improving the knowledge and skills of teachers; and strengthening leadership skills of school administrators. Respondents scored the programs on a scale from 1 ("not at all") to 7 ("to a great extent"). Average scores on each of these goals ranged from 4.86 to 6.67.

GOAL 10: SIX-YEAR FINANCIAL PLAN

This goal is to have each institution develop and adopt a six-year financial plan consistent with Section 23-9.2:3.03 of the *Code of Virginia*. Although no performance measures were developed explicitly for this goal, Section 23-9.2:3.03 of the *Code* specifies that SCHEV "shall annually review and assess the six-year institutional plans," and SCHEV developed a template for the plans, as mentioned in Chapter 1. SCHEV staff indicate that they have indeed reviewed the plans and use them for projecting funding scenarios, although the plans are not explicitly referred to in SCHEV's certification process.

JLARC staff examined the most recent six-year plans of William and Mary, UVA, and Virginia Tech. All three institutions appear to have followed SCHEV's template and developed meaningful plans.

GOAL 11: FINANCIAL AND ADMINISTRATIVE MEASURES

Goal 11 appears to have more to do with the activities addressed by the management agreements themselves than any other goal. And in contrast to the other goals, which are evaluated by SCHEV staff, Goal 11 is evaluated by the Secretariats that oversee most of the central State agencies that had been more involved in these activities before the management agreements went into effect.

Goal 11 has several parts. One part is a general objective from the institution's perspective, another part is another general objective from the State's perspective, and the third part has to do with specific financial and administrative standards. In particular, this goal is to "conduct the institution's business affairs in a manner that"

- "maximizes operational efficiencies and economies for the institution";
- "contributes to maximum efficiencies and economies of state government as a whole"; and
- "meets the financial and administrative standards" that are described in Chapter 1 of this report. In the case of the three institutions with management agreements, the specific standards that were used in the 2008 certification process are listed in Exhibit 2 in Chapter 1. However, the Secretary of Finance has mentioned using different standards in subsequent years after the initial management agreements expire and are replaced by new, renegotiated management agreements.

This goal is operationalized by whether the performance measures meet the benchmarks listed in Exhibit 2 in Chapter 1. It is assumed that if most of the financial and administrative standards are met, then the broad objectives of maximizing efficiencies and economies are also achieved.

Overall, in the 2008 certification process, the Secretary of Finance characterized William and Mary, UVA, and Virginia Tech as having met the financial and administrative standards. Table 10 summarizes how many performance benchmarks in each of the five categories were met. Some performance measures were considered more important than others, and if most, but not all, performance benchmarks are met, the Secretary of Finance considered the institution to have met the financial and administrative standards.

Table 10: Number of Performance Benchmarks Met for Goal 11 (Financial and Administrative Standards)

Performance Measure Category (Total Number of Performance Measures)	William and Mary	University of Virginia	Virginia Tech
Capital Outlay, Leases, and Real Estate (4)	3	4	4
Finance and Accounting (8)	8	8	8
Human Resources (5)	5	4	5
Information Technology (4)	4	4	4
Procurement and Surplus Personal Property (4)	4	3	4

Source: Letter from Secretary of Finance to Executive Director of State Council of Higher Education for Virginia, May 1, 2008.

GOAL 12: CAMPUS SAFETY AND SECURITY

This goal is for each institution to "seek to ensure the safety and security of the Commonwealth's students on college and university campuses." The performance measure for operationalizing this goal is that

> The institution shall work to adopt an acceptable number of the 27 Best Practice Recommendations for Campus Safety adopted by the Virginia Crime Commission on January 10, 2006. Each practice should be considered by the institution as to how it fits in with current practices and the needs of the institution.

SCHEV staff have for the first time recently collected data regarding which of the 27 Best Practice Recommendations for Campus Safety have been adopted by each institution, or what it is doing to meet these recommendations. SCHEV staff have yet to determine whether this performance measure, and therefore Goal 12, has been met.

The Crime Commission's 2006 study of campus safety showed that by far the highest number of reported incidents of crime on campus fall into three broad categories:

- property crimes (including larceny, vandalism, burglary, and motor vehicle theft);
- drug and alcohol-related crimes (including drug offenses, liquor law violations, and drunkenness); and
- assaults and forcible sexual offenses.

The Crime Commission's finding is based on all Virginia colleges and universities in general. This finding indicates what types of incidents typically appear to be more frequently breaching "campus safety and security." Murder and manslaughter are not among the most frequently occurring incidents. JLARC staff examined crime statistics for multiple years from the three covered institutions in particular, and found that this overall pattern is typical of the three covered institutions as well.

However, in light of the mass shootings at Virginia Tech in April 2007, a review panel made recommendations in its August 2007 report regarding how campus security could be enhanced to better address this kind of emergency situation. Some recommendations are specific to Virginia Tech, but many recommendations have broader applicability. The performance measure for this goal could be expanded to include campus security recommendations from this report.

Chapter 4

Conclusions and Future Directions

In Summary

The timeframe covered by the initial management agreements is drawing to a close, and a decision on renewal of the agreements will need to be made. Based on the findings from this review, it appears that the management agreements have generally worked in a satisfactory manner to date. The covered institutions are generally satisfied with the agreements, but they do have some concerns about whether the autonomy they are afforded by the agreements will be consistently provided. For the most part, State central agencies believe the institutions can successfully manage their operations and handle their increased autonomy under the agreements, but there are a few exceptions. The management agreements have streamlined operations and approval processes for the covered institutions, and the institutions estimate resulting cost savings of nearly $2.5 million in their capital outlay programs. However, as more institutions achieve level III status as covered institutions, the ability of the State to get institutions to cooperate on major information technology projects could be decreased and the burden of ensuring accountability could be heightened. Several State entities are responsible to some extent for ensuring accountability, and it is important that these entities coordinate with each other and the institutions to ensure effective oversight. Two options are presented to improve oversight: (1) a restructuring advisory committee and (2) an increased oversight role for the State Council of Higher Education for Virginia.

The Restructured Higher Education Financial and Administrative Operations Act (Restructuring Act) gives institutions greater autonomy in exchange for greater accountability. Those institutions with the most autonomy, the level III institutions covered by management agreements, have the most accountability in terms of the number of commitments they are asked to meet. As was discussed in Chapters 2 and 3 of this report, the covered institutions have generally met their commitments and complied with the terms of the agreements. There are some goals to which the institutions are committed, however, which have not yet been translated into fully adequate performance measures.

This final chapter explores the overall success of the initial management agreements in terms of satisfaction with the results of the agreements and benefits resulting from the agreements. Also, possible effects on students and employees at the covered universities are considered. Future implications of the agreements are also considered, including the need for more effective oversight to ensure accountability of institutions with the management agreements.

INSTITUTIONS ARE GENERALLY SATISFIED WITH THE MANAGEMENT AGREEMENTS

Based on interviews with university officials, the covered institutions are mostly satisfied with the terms of the management agreements but have concerns about some of the commitments and agency interpretations of the agreements. Furthermore, they feel that they did not receive full autonomy to set tuition and fees, which was a primary reason for initiating the agreements. Based on a survey of level I and level II institutions, these institutions had few concerns regarding other institutions being governed by management agreements.

Officials from the three covered universities claimed that, in most cases, they got what they wanted out of the management agreements. Autonomous business operations have resulted in more efficient operations, according to the institutions. The institutions also feel the management agreements have enabled them to respond more rapidly to changing market conditions and to adopt practices better suited to the higher education environment. Another benefit of the management agreements cited by the institutions is that they are able to avoid costs such as VITA governance fees and oversight and consulting fees. Table 11 lists some of the benefits cited by the institutions that have resulted from the management agreements.

Along with the successes noted in the table, the covered institutions also expressed concerns regarding the nature and execution of the management agreements. The universities desired autonomy to set tuition and fees in order to improve long-range planning and budgeting. While the management agreements express that this authority resides with the boards of visitors, the agreements are still subject to the annual Appropriations Act. Although the General Assembly has not negated this authority in the Appropriations Act, the universities are concerned that the Tuition Moderation Incentive Fund is an indication that the General Assembly may at times in the future seek to override institutional authority under the agreements for tuition and fee increases.

Another concern raised by the institutions is their inability to hire out their code review teams to other agencies. During the negotiations for the agreements, this authority was removed due to concerns by the Department of General Services (DGS). The annual cost of employing a code review team at the universities is at least $500,000, and the universities wanted the ability to offer their services to other colleges and universities undertaking capital projects in order to recoup their costs. However, DGS insists that they are the central repository for building code regulations, and they do not want agencies or institutions “shopping” for preferential building code certifications that could undermine the safety of State buildings.

UVA and Virginia Tech also believe that the requirement to input purchasing data into the State's electronic procurement system (eVA) and pay eVA fees for each purchase is counterproductive. They believe that since they developed their own purchasing systems, they do not need to use eVA. The universities claim the data transfer and billing process is very complicated, and suggest a budget transfer to DGS for eVA fees would be more efficient.

While level III institutions are directly affected and governed by the management agreements, the other State institutions are also affected by the Restructuring Act. Most of these institutions view

Table 11: Institutional Perceptions of Management Agreement Successes

Operational Area	Successes Noted by Covered Institutions
Capital Outlay	• Autonomy from Bureau of Capital Outlay Management has resulted in expedited projects • Immediate resolution of building code issues • Ability to respond quickly to market conditions when purchasing real estate
Leases	• Transactions are completed in less time
Information Technology	• Avoided VITA governance fees (annual service charges to non-level III institutions) of $79,360 during FY 2007 and 2008 • UVA estimates it avoided $63,529 in VITA project oversight and consulting fees for its major IT projects (Virginia Tech and William and Mary did not initiate any major IT projects during the period) • Ability to reassign staff time to more value-added efforts by not having to meet VITA requirements
Procurement	• Simplified rules document that applies specifically to level III institutions • Streamlined small purchase procedures • Permission to use SciQuest e-procurement system at UVA and Virginia Tech has improved their procurement processes and resulted in cost savings • Streamlined surplus property operations
Financial Administration	• Six-year plan process has enabled institutions to forecast more predictable and consistent tuition and fee increases • Ability to avoid cash flow problems by drawing down general funds to coincide with actual payroll dates • Not having to interface with the Commonwealth Accounting and Reporting System (CARS) has allowed the institutions to redirect staff resources to more significant processes • Increased efficiency due to Board of Visitors authority to issue nongeneral fund debt as needed for projects

Source: March 1, 2008 memo from UVA, Virginia Tech, and William and Mary summarizing functional area successes and problems.

the act and the ability of some institutions to enter into management agreements as a positive development for higher education in Virginia, and most aspire to at least level II that would give them autonomy in procurement, capital outlay, or information technology. However, a few institutions raised concerns about "being left behind" as the large universities gain independence from the system. They fear that this could result in a divided system and weaken their input on important policy issues. Also, some institutions are concerned that the tiered system could lead to reduced financial support for the lower level institutions.

CENTRAL AGENCIES' SATISFACTION WITH MANAGEMENT AGREEMENTS IS MIXED

Several of the central State agencies that historically have performed business operations for the colleges and universities had no major concerns about the covered institutions ability to manage their operations under the agreements. The Department of Accounts (DOA) and the Department of the Treasury (Treasury) both felt that the three institutions had plenty of experience in handling financial transactions according to the Commonwealth's Management Standards and in issuing and managing debt, respectively. The Department of Planning and Budget (DPB) had no major concerns about the institutions' capital outlay programs, and the APA found that the institutions' procurement practices are sound. Although the human resources systems have yet to be implemented, the Department of Human Resource Management (DHRM) had no major concerns about the universities' abilities to implement and manage these systems.

DGS and VITA, on the other hand, had the most concern about the covered institutions' ability to effectively manage their operations (see Chapter 2 of this report). While these concerns may be valid based on their knowledge and expertise in particular areas, DGS and VITA are the two agencies that have lost revenue due to the universities' autonomous operations.

DGS raised concerns regarding the institutions' code review capabilities in their capital outlay programs and eVA usage in their procurement programs. The concern regarding William and Mary's use of a building code official who had other project management responsibilities may have merit, as this situation could lead to undue pressure being exerted on the official to approve occupancy for buildings that may not be safe. However, it should be noted that before the building official can approve occupancy, the management agreement requires that the building be inspected by the State Fire Marshall. In practice, the State Fire Marshall, or his designee, provides written agreement for occupancy before it is approved by the building official. William and Mary has addressed this problem to eliminate this concern, but DGS still has other concerns about the capabilities and necessity of the universities' code review teams and procurement systems. These are areas in which DGS has historically held transactional approval authority over the institutions and had received revenues from the institutions for its services. This relationship with the institutions could partially explain the agency's concerns. As one university official stated, "Central agencies view transactional approval as their lifeblood."

MANAGEMENT AGREEMENTS HAVE RESULTED IN SEVERAL BENEFITS TO THE STATE

In addition to the benefits noted previously that institutions have received, the Restructuring Act and management agreements have resulted in several benefits to the State. The management agreements have reduced costs in capital outlay programs by an estimated $2.5 million and have reduced the administrative burden on some central agencies. Perhaps the greatest benefit arising from the agreements is that they enable the State to set forth expectations and goals for the institutions and to cause the institutions to focus on those goals and expectations.

Because the management agreements have only been in effect for slightly more than two years, it is not feasible to conduct a comprehensive analysis of cost savings at this time. Savings due to increased efficiency in the various business operations are subjective in many cases and may only be estimated after careful examination of many years of data. Furthermore, startup costs to implement new programs and procedures at the universities could obscure cost savings in the near term. However, the universities have estimated cost savings in one program—code review of capital projects—based on the number of days saved in code review applications and the annual construction inflation rate. By resolving and approving building code issues in a timely manner, the universities indicate that they have been able to avoid paying higher costs at a later date. Combined cost savings of nearly $2.5 million are estimated by UVA and William and Mary for FY 2007. (The DGS director questions this estimate and believes the code review process can be conducted more efficiently through the use of one agency.) Although Virginia Tech does not have an in-house code review team, the university estimated savings of $4.4 million by not having to wait for the State's biennial and annual appropriation process for initiating non-general fund projects, and thereby avoiding inflationary costs.

By granting authority to conduct business transactions without prior approval from central agencies, the administrative burden on several of these agencies should be lessened. DPB, in particular, noted the reduced burden of not having to approve capital outlay appropriations for non-general fund projects. However, the State Comptroller noted that the agreements have increased the burden of financial accounting at DOA due to the institutions no longer using the Commonwealths Accounting and Reporting System (CARS).

The greatest benefit of the Restructuring Act and management agreements may be in the State's ability to more effectively lead the institutions toward meeting established goals and expectations. For the first time, the State's goals for higher education have been codified with financial and regulatory incentives for the institutions to meet these goals. The Restructuring Act created changes in how the institutions conduct their financial and administrative operations, but these operations are all done in support of their core academic missions. By creating incentives for covered institutions to meet the academic-related goals in the Restructuring Act and the further State goals in the management agreements, the State is in a better position to achieve its goals for the higher education system. Also, the State can better adapt to changes and address emerging needs by altering the goals in the agreements with each contract renewal. These benefits could lead to greater access and retention of students, higher standards, and a better-prepared workforce.

For the first time, the State's goals for higher education have been codified with financial and regulatory incentives for the institutions to meet these goals.

POSSIBLE EFFECTS ON STUDENTS AND EMPLOYEES AT COVERED INSTITUTIONS

As part of the study mandate, JLARC's review is to include "any related impact on students and employees of the institution from execution of the management agreement." The main impacts on students are likely to result from the degree to which the institutions are successful in meeting State goals and university commitments to improve education affordability and access. Non-faculty university employees will likely be most affected by the new human resource (HR) systems that will go into effect in January 2009. Also, the movement of State classified employees to university employees could have a slight impact on the Virginia Retirement System and employee contributions to the retirement system.

Possible Effects on Students

Commitments made by the covered institutions will increase access to the universities for underrepresented student populations and community college students attempting to transfer to a covered institution. One performance measure under Goal 1 is to increase the percentage of in-state undergraduate enrollment from underrepresented populations. Achievement of this benchmark will mean that a higher proportion of the student body will be: African-American, Hispanic, Asian, Pacific Islander, or of Hispanic origin; low-income; or from localities in the State with low participation rates at the institutions. More community college students will also be enrolled at the institutions due to the commitment to add a combined 650 new transfer students each year by 2011. Thus, the management agreements should increase diversity among the student bodies at these institutions.

The management agreements should also make college more affordable for most students at the covered institutions. The universities have committed to provide need-based grant aid for lower- and middle-income Virginia students. Each institution has implemented a program to meet this commitment and mitigate impacts of future tuition and fee increases on the students (see Chapter 3 – Goal 2: Affordability). However, implementation of these programs could cause increases in tuition and fees for upper-income students, as the universities may be forced to raise rates in order to pay for the financial aid programs.

Possible Effects on Employees

The new HR systems will have an impact on non-faculty employees at the covered institutions. However, because the plans for the new HR systems have not been finalized, it is not possible to evaluate exactly how these employees will be affected. Employees who were hired prior to the implementation of the management agreements (July 1, 2006) will have the choice of remaining State classified employees or becoming university employees under the new system. Employees hired after the implementation date will automatically be governed under the new systems. Teaching faculty at the covered institutions will not be affected by the new HR systems.

Based on interviews with university officials, the university HR systems will be based more on a pay-for-performance system, with pay increases being based on merit. The success of the new systems, and the consequences for employees, will largely depend on how well the systems are designed and executed. The appropriateness of the design and execution can potentially have an impact upon employee satisfaction levels, employee turnover, and the level of efficiency achieved in meeting personnel expenses.

Possible Effects on Virginia Retirement System

With the onset of the university HR systems, the number of State classified employees will shrink as the number of university employees increases. Given the reduction in the number of State classified employees, the director of the Virginia Retirement System (VRS) raised the concern that fewer employees would be contributing to the State's retirement plan, thereby raising the necessary contribution rates for employees at other agencies. Employee contribution rates are based on the expected number of years of service for State employees and the cost of providing retirement benefits to retirees. An actuarial analysis would need to be conducted to determine the cost (if any) to the VRS resulting from employees leaving State service earlier than expected.

After speaking with university officials, the VRS director now believes the new HR systems will have no adverse financial effects on VRS. Officials at the covered institutions stated that the management agreements require them to reimburse the State for any losses to VRS due to their university HR systems. However, they also stated that any losses would be minimal, since all employees who are vested in VRS (that is, those with at least five years of service) would stay in the system. Furthermore, new employees (those hired as of July 1, 2006), who will automatically be governed under the university HR system, were given the same VRS benefits as classified employees. Most of these new employees will keep their defined benefit plans under VRS. However, there is a small group of administrative and professional positions that will have the option of choosing an optional retirement plan over the VRS defined benefit plan (if they are not already vested in VRS). At UVA, for example, of the 4,957 classified positions, there are 586 employees with less than five years' experience who will have the option of switching retirement plans. Of this number, 320 are under the age of 40 and would be more likely to switch retirement plans. However, even many of these younger employees are expected to keep their VRS defined benefit plans.

POSSIBLE CONSEQUENCES AS MORE INSTITUTIONS ADOPT MANAGEMENT AGREEMENTS

As the initial management agreements reach their time for decisions on renewal, it is important to anticipate the impacts of the agreements on the State's higher education system. With the recent addition of Virginia Commonwealth University, there are currently four level III institutions covered by the agreements, and several others have indicated that they may apply for level III status in the near future. The shift away from centralized control of financial and administrative operations at the institutions will likely lead to new challenges for effective cooperation and oversight.

While the management agreements greatly impact financial and administrative operations at covered institutions, they have only limited or indirect effects on academic operations. The management agreements do not alter the relationship of the institutions with SCHEV in terms of SCHEV's authority to approve or disapprove new degree programs, close degree programs that are nonproductive, or approve changes to the institutions' mission statements. The only effect the agreements have on academic operations is through the additional commitments for furthering State goals. For example, the commitment to add 650 new transfer students each year by 2011 at the three institutions could possibly affect admissions policies or academic standards at the institutions. Similarly, VCU has committed to improving its student retention rate as part of its new management agreement with the State, which could positively affect the university's academic standards if it enhances academic counseling to meet the commitment.

Another implication of institutions' entering into management agreements is that it may make it more difficult for VITA and the State to get institutions working together for joint or statewide information systems development projects. Past efforts to encourage collaboration among State colleges and universities on major IT projects have not been successful, and the management agreements may make it even more difficult for this collaboration to occur. VITA can review and comment on the covered institutions' IT strategic plans, but it has no authority to prevent them from initiating major IT projects. VITA staff noted of the covered institutions' IT operations, "They're operating in their own worlds." However, the agreements do state that the institutions are committed to statewide contracts and utilizing the "leveraged buying power of the Commonwealth as a whole." Thus, with appropriate performance benchmarks and oversight, the agreements can be used to foster cooperation among the institutions when developing major IT projects.

Another likely consequence of institutions being governed by management agreements is that the burden on the Governor and General Assembly for ensuring accountability will increase. The management agreements move the relationship of institutions with the State from one of transactional approval to one of fundamental accountability for procedures and events. UVA, Virginia Tech, and William and Mary have been stable institutions for many years and may have the staff and expertise necessary to handle their business operations. However, as more institutions seek level III autonomy, the importance of effective audit and oversight functions will increase. To ensure accountability, it is vital that performance measures appropriately gauge the institutions' progress toward meeting the State' goals and the institutions be held accountable for meeting their benchmarks. Furthermore, it is also important that central agencies ensure that the institutions continue to meet their commitments according to the rules and procedures in the agreements. Given the heightened need for effective oversight, it appears that a more coordinated oversight process would be prudent.

OVERSIGHT OF COVERED INSTITUTIONS REQUIRES COORDINATION AND COMMUNICATION

As discussed in Chapter 1, several State agencies, public officials, and other public entities have some level of oversight responsibility with regard to institutions governed by management agreements. Public officials responsible for the oversight of these covered institutions must coordinate with each other and communicate with the institutions to ensure that State universities are effectively managing their operations. A lack of coordination could result in overly burdensome reporting requirements for the universities, which could reduce the efficiency gained through the autonomous business operations granted by the management agreements. Furthermore, a lack of coordination could result in some requirements and commitments being overlooked. The change in gubernatorial administrations every four years makes coordination and consistency of oversight more difficult, which further emphasizes the need for greater coordination and communication mechanisms. This need will likely increase if more institutions achieve level III status as covered institutions.

Lack of Coordination Creates Several Problems

Effective oversight of the covered institutions requires cooperation and communication between the various entities with oversight responsibilities and the institutions. Without this coordination, the universities could be faced with an inordinate number of commitments and performance measures, which could cause the universities to spend too much time and effort showing compliance with the intent of the agreements. Also, it is possible that some of the measures could get overlooked without effective coordination, especially as officials leave their positions and their replacements are unaware of all the measures that must be tracked. Given Virginia's one-term limit on governors, this problem could repeat itself every four years. Additionally, communication is needed between the institutions and the central agencies (such as DGS, VITA, and DHRM) so that problems and concerns can be addressed immediately instead of at the end of the contract period (three years for the initial management agreements and five years for subsequent agreements).

The need for effective cooperation will likely increase as more institutions apply for and achieve level III status. Currently, there are four institutions of level III status, and it is possible another four institutions may apply for level III status in the near future.

The office of the Secretary of Finance took the lead in coordinating with the institutions and central agencies to determine compliance with the financial and administrative performance measures. The office has also been engaged in developing new performance measures for the next round of agreements that will begin July 1, 2009 (if approved by the General Assembly). The existing performance measures were approved by the previous administration, and the secretary's office claimed they were unaware of these measures until late in the certification process. The secretary's office stated that there should be a smoother transition between administrations with a more automated process for developing and evaluating performance measures. They also noted that some sort of technical advisory committee would be helpful in bridging oversight responsibilities between administrations and in easing the burden on the Governor's cabinet.

Based on interviews with university officials, the covered institutions would also like there to be better coordination and fewer performance measures in the oversight process. Further, they noted that, in many cases, DGS and VITA did not voice their concerns to the institutions prior to voicing these concerns to JLARC staff. However, they were skeptical about the need for a formal committee structure to address problems and concerns regarding the management agreements. One university official claimed that these problems only exist now because the management agreements are new, and that the process will become more automated over time as the measures are finalized and reporting is routine. However, a formal oversight structure may still be necessary as more institutions achieve level III status, and each new Governor may wish to change or amend the performance measures to address emerging State goals.

Two Options May Improve Oversight and Effectiveness of Management Agreements

Given the concerns about lack of coordination in oversight of covered institutions and lack of communication between the institutions and central agencies, it appears that a more formal oversight structure is needed. Two options for creating such a structure include the creation of an advisory committee comprised of officials from the relevant State agencies, institutions, and the General Assembly or an expanded leadership role for SCHEV in coordinating oversight and communicating findings to the Governor and General Assembly.

Option 1: Restructuring Advisory Committee Comprised of Relevant State Officials. An advisory committee comprised of State officials from the relevant central agencies, institutions, and the General Assembly could provide a forum for discussion on compliance evaluation and other concerns. At these meetings, central agencies and the institutions could voice their disagreements and hopefully resolve them prior to certification or renewal of the management agreements. For example, VITA could address its concerns regarding internal oversight of major IT projects at the universities, and DGS could voice its concerns about the universities' eVA usage or vendor registration requirements. Furthermore, the committee would provide the institutions with a forum for their concerns about meeting any of the performance measures and possibly renegotiation of the measures (if warranted) prior to the certification or renewal process. As such, the committee could serve to refine and improve the performance measures.

The committee would advise the Governor and General Assembly on matters of performance measures, goals in the Restructuring Act, contract renewal, and any other changes to the Restructuring Act or management agreements that might be needed. The committee could also advise SCHEV on matters of annual certification. This aspect of the committee would also serve to retain institutional memory and act as an effective bridge between administrations.

The committee could be chaired by the executive director of SCHEV and be comprised of representatives from the following:

- Department of General Services
- Virginia Information Technologies Agency
- Department of Human Resource Management
- Department of the Treasury
- Department of Accounts
- Department of Planning and Budget
- Auditor of Public Accounts
- Joint Legislative Audit and Review Commission
- Senate Finance Committee
- House Appropriations Committee
- All State institutions of higher education

The committee could meet quarterly or semi-annually.

A potential drawback to the use of such a committee is that it would entail the use of some staff time by the agency coordinating the meetings, and by participating agencies, in order to ensure that needed information and input is brought to the committee's attention. However, the time required to prepare for meetings on an as-needed or quarterly or semi-annual basis is not anticipated to be great, and the meetings would be addressing issues which are already of concern to the participants. Consequently, the committee could save staff time and resources at the various agencies and institutions if issues are adequately and quickly addressed by the committee. This type of committee process is already used by the State to effectively address some issues where obtaining multi-agency participation or expertise is considered appropriate, such as prison population forecasting.

Option 2: Increased Oversight Role for SCHEV. While a separate advisory committee could be an effective mechanism for improving oversight and maximizing the value of the Restructuring Act, it may not be necessary. The State already has a higher education coordinating body in SCHEV, which makes it a logical choice to coordinate oversight of the covered institutions. Giving SCHEV an expanded leadership role in the oversight process could provide the same benefits that would be attained from an advisory committee.

SCHEV already develops measures for 11 of the 12 goals in the Restructuring Act and receives verification from the Governor's cabinet on whether the institutions are meeting the other goal concerning financial and administrative operations. SCHEV could also be responsible for determining if the institutions are meeting the special benchmarks contained in the agreements. These special benchmarks are not very different in nature from the benchmarks that SCHEV reviews for all institutions when recommending certification. In this expanded leadership role, SCHEV would also need to coordinate with the central agencies and institutions to determine if the institutions are meeting their commitments for each of the operational areas. Also, SCHEV could act as a mediator between the institutions and central agencies to address perceived problems that may arise. SCHEV could then make recommendations to the Governor and General Assembly for any needed changes to the language in the agreements.

SCHEV currently employs a Director of Higher Education Restructuring, and this office would be responsible for coordinating with the institutions and central agencies on matters regarding the management agreements. Currently, the office primarily addresses issues related to the 12 goals in the Restructuring Act and has had very little input on the content of the management agreements. According to SCHEV staff, the agency would likely need to devote additional staff resources to effectively fulfill this leadership role. However, due to likely budget cuts in the 2008-2010 biennium, the agency will likely need to reduce its overall staff resources, and therefore the timing may not be propitious for devoting more resources at the agency toward restructuring.

Appendix A Study Mandate and the Restructured Higher Education Financial and Administrative Operations Act

Code of Virginia § 23-38.88. Eligibility for restructured financial and administrative operational authority.

A. Public institutions of higher education shall be eligible for the following restructured financial and operational authority:

1. To dispose of their surplus materials at the location where the surplus materials are held and to retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. To have the option, as provided in subsection C of § 2.2-1132 and pursuant to the conditions and provisions under such subsection, to contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;

3. For those public institutions of higher education that have in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act, as provided in subsection C of § 2.2-1132, to enter into contracts for specific construction projects without the preliminary review and approval of the Division of Engineering and Buildings of the Department of General Services, provided such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division and the Office of the Attorney General;

4. To acquire easements as provided in subdivision 4 of § 2.2-1149;

5. To enter into an operating/income lease or capital lease pursuant to the conditions and provisions provided in subdivision 5 of § 2.2-1149;

6. To convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150;

7. In accordance with the conditions and provisions of subdivision C 2 of § 2.2-1153, to sell surplus real property valued at less than $5 million, which is possessed and controlled by the institution;

8. For purposes of compliance with § 2.2-4310, to procure goods, services, and construction from a vendor that the institution has certified as a small, women-, and minority-owned business enterprise pursuant to the conditions and provisions provided in § 2.2-1404.1;

9. To be exempt from review of their budget request for information technology by the CIO as provided in subdivision A 4 of § 2.2-2007;

10. To be allowed to establish policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions provided in subsection E of § 2.2-2901;

11. To receive the financial benefits described under § 2.2-5005 pursuant to the conditions and provisions of such section;

12. To be exempt from reporting its purchases to the Secretary of Education, provided that all purchases, including sole source purchases, are placed through the Commonwealth's electronic procurement system using proper system codes for the methods of procurement;

13. To utilize as methods of procurement a fixed price, design-build or construction management contract notwithstanding the provisions of § 2.2-4306; and

14. The restructured financial and operational authority set forth in Subchapter 2 (§ 23-38.90) and Subchapter 3 (§ 23-38.91 et seq.) of this chapter.

No such authority shall be granted unless the institution meets the conditions set forth in this chapter.

B. The Board of Visitors of a public institution of higher education shall commit to the Governor and the General Assembly by August 1, 2005, through formal resolution adopted according to its own bylaws, to meeting the state goals specified below, and shall be responsible for ensuring that such goals are met, in addition to such other responsibilities as may be prescribed by law. Each such institution shall commit to the Governor and the General Assembly to:

1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;

2. Consistent with § 23-9.2:3.03, ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment, determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees;

3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;

4. Ensure that the institution's academic programs and course offerings maintain high academic standards, by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;

5. Improve student retention such that students progress from initial enrollment to a timely graduation, and that the number of degrees conferred increases as enrollment increases;

6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all Virginia community colleges and meet appropriate general education and program requirements at the four-year institution, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, in areas that lag the Commonwealth in terms of income, employment, and other factors;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23-9.2:3.03;

11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-, and minority-owned business enterprises; and

12. Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.

Upon making such commitments to the Governor and the General Assembly by August 1, 2005, the public institution of higher education shall be allowed to exercise the restructured financial and operational authority set forth in subdivisions A 1 through A 13 of § 23-38.88, subject to such conditions as may be provided under the enabling statutes granting the additional authority.

C. As provided in § 23-9.6:1.01, the State Council of Higher Education shall in consultation with the respective chairmen of the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health or their designees, representatives of public institutions of higher education, and such other state officials as may be designated by the Governor, develop objective measures of educational-related performance and institutional performance benchmarks for such objective measures. At a minimum, the State Council shall develop such objective measures and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1 through B 10 and B 12. In addition, the Governor shall develop objective measures of financial and administrative management performance and related institutional performance benchmarks for the goals and objectives set forth in subdivision B 11.

As provided in subsection C of § 23-9.6:1.01, any public institution of higher education that has been certified during the fiscal year by the State Council of Higher Education for Virginia as meeting the institutional performance benchmarks in effect for the fiscal year as set forth in the general appropriation act shall be provided the financial benefits under § 2.2-5005. Such benefits shall first be provided as determined under such section.

D. 1. The restructured financial and operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter shall only be granted in accordance with the expressed terms of a management agreement between the public institution of higher education and the Commonwealth.

No restructured financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter shall be granted to a public institution of higher education unless such authority is expressly included in the management agreement. In addition, the only implied authority that shall be granted from entering into a management agreement is that implied authority that is actually necessary to carry out the expressed grant of restructured financial or operational authority. As a matter of law, the initial presumption shall be that any restructured financial or operational authority set forth in Subchapter 3 is not included in the management agreement. These requirements shall also apply to any other provision included in Subchapter 3.

2. No public institution of higher education shall enter into a management agreement unless:

a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors Service, Inc., (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial agreement is entered into or (ii) the institution has (a) participated in decentralization pilot programs in the areas of finance and capital outlay, (b) demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary or Secretaries designated by the Governor, (c) received additional operational authority under a memorandum of understanding pursuant to § 23-38.90 in at least one functional area, and (d) demonstrated management competency in that area for a period of at least two years. In submitting "The Budget Bill" for calendar year 2005 pursuant to subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or not an institution has demonstrated the management competency required by clause (ii) of this subdivision;

b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and should be, governed by the provisions of Subchapter 3 (§ 23-38.91 et seq.) of this chapter, which resolution shall be included in the initial management agreement;

c. The institution agrees to reimburse the Commonwealth for any additional costs to the Commonwealth in providing health or other group insurance benefits to employees, and in undertaking any risk management program, that are attributable to the institution's exercise of any restructured financial or operational authority set forth in Subchapter 3. The institution's agreement to reimburse the Commonwealth for such additional costs shall be expressly included in each management agreement with the institution. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the programs whose costs have been affected.

In developing management agreements, public institutions of higher education shall give consideration to potential future impacts of tuition increases on the Virginia College Savings Plan (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such agreements. The executive director of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

d. Before executing a management agreement with the Commonwealth that affects insurance or benefit programs administered by the Virginia Retirement System, the Governor shall transmit a draft of the relevant provisions to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions in order to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures and federal regulations governing retirement plans. The Board shall advise the Governor and appropriate Cabinet Secretaries of any conflicts.

3. Each initial management agreement with an institution shall remain in effect for a period of three years. Subsequent management agreements with the institution shall remain in effect for a period of five years.

If an existing agreement is not renewed or a new agreement executed prior to the expiration of the three-year or five-year term, as applicable, the existing agreement shall remain in effect on a provisional basis for a period not to exceed one year. If, after the expiration of the provisional one-year period, the management agreement has not been renewed or a new agreement executed, the institution shall no longer be granted any of the financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter, unless and until such time as a new management agreement is entered into between the institution and the Commonwealth.

The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public Accounts, shall conduct a review relating to the initial management agreement with each public institution of higher education. The review shall cover a period of at least the first 24 months from the effective date of the management agreement. The review shall include, but shall not be limited to, the degree of compliance with the expressed terms of the management agreement, the degree to which the institution has demonstrated its ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution, the degree to which the institution is meeting the objectives described in subsection B, and any related impact on students and employees of the institution from execution of the management agreement. The Joint Legislative Audit and Review Commission shall make a written report of its review no later than June 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission is authorized, but not required, to conduct a similar review of any management agreement entered into subsequent to the initial agreement.

4. The right and power by the Governor to void a management agreement shall be expressly included in each management agreement. The management agreement shall provide that if the Governor makes a written determination that a public institution of higher education that has en-

tered into a management agreement with the Commonwealth is not in substantial compliance with the terms of the agreement or with the requirements of this chapter in general, (i) the Governor shall provide a copy of that written determination to the chairmen of the Board of Visitors or other governing body of the public institution of higher education and to the members of the General Assembly, and (ii) the institution shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of the management agreement and with the requirements of this chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If after a reasonable period of time after the corrective action plan has been implemented by the institution, the Governor determines that the institution is not yet in substantial compliance with the management agreement or the requirements of this chapter, the Governor may void the management agreement. Upon the Governor voiding a management agreement, the affected public institution of higher education shall not be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Subchapter 3 (§ 23-38.91 et seq.) unless and until the institution enters into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the void management agreement is reinstated by the General Assembly.

5. A management agreement with a public institution of higher education shall not grant any of the restructured financial or operational authority set forth in Subchapter 3 (§ 23-38.91 et seq.) of this chapter to the Virginia Cooperative Extension and Agricultural Experiment Station, the University of Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity of the institution unless such intent, as well as the degree of the restructured financial or operational authority to be granted, is expressly included in the management agreement.

6. Following the execution of each management agreement with a public institution of higher education and submission of that management agreement to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health pursuant to § 23-38.97, the Governor shall include a recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management agreement to such Committees. Following the General Assembly's consideration of whether to approve or disapprove the management agreement as recommended, if the management agreement is approved as part of the general appropriation act, it shall become effective on the effective date of such general appropriation act. However, no management agreement shall be entered into by a public institution of higher education and the Secretary or Secretaries designated by the Governor after November 15 of a calendar year.

E. A covered institution and the members of its governing body, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the institution were not governed by this chapter; provided further, that the Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and its limitations on recoveries shall remain applicable with respect to institutions governed by this chapter.

Appendix

B Research Activities and Methods

JLARC staff used primarily four types of research activities for this study: (1) structured interviews; (2) a brief survey of institutions; (3) analysis of data obtained from SCHEV; and (4) document reviews.

STRUCTURED INTERVIEWS

The study team interviewed representatives from key entities involved in Virginia's higher education restructuring effort, and other experts on higher education restructuring. Virginia entities include

- University of Virginia
- College of William and Mary
- Virginia Tech
- Virginia Commonwealth University
- State Council of Higher Education for Virginia (SCHEV)
- Auditor of Public Accounts
- Office of the Secretary of Finance
- Department of General Services
- Virginia Information Technology Agency
- Department of Human Resource Management
- Department of Planning and Budget
- Department of Accounts
- Department of Treasury

SURVEY

A brief survey of Level I and II institutions was carried out. The institutions surveyed included

- Christopher Newport University
- George Mason University
- James Madison University

- Longwood University
- Norfolk State University
- Old Dominion University
- Radford University
- Richard Bland College
- University of Mary Washington
- Virginia Community College System
- Virginia Military Institute
- Virginia State University

Of the 12 institutions sent a survey, all responded.

ANALYSIS OF DATA FROM SCHEV

Data analysis was conducted to determine institutional compliance with the performance benchmarks and to assess the rigor of the performance targets established by SCHEV. The study team gathered data from SCHEV and the institutions to determine the extent to which the covered institutions have met their 2007-08 performance targets.

More analysis was required to determine the rigor of the performance targets (that is, whether SCHEV has set the bar high enough to challenge the institutions to further the goals of the State). To determine the appropriateness of the targets, historical data was reviewed to establish a trend for these measures at each of the institutions. For example, ten or twenty years of retention, progression, and graduation rates were shown for each institution to put the performance targets in context. By comparing the targets to the historical rates, the difficulty of meeting the targets can be better understood. The team collected historical data on the following measures (with numbers corresponding to the actual performance benchmarks):

- total in-state enrollment
- in-State undergraduate enrollment from under-represented populations
- percentage of in-state students who borrow money for tuition and fees
- average level of borrowing for in-state students
- number of graduates in high-need areas
- ratio of degrees conferred per full-time equivalent instructional faculty member

- average annual retention and progression rates of degree-seeking undergraduate students
- ratio of total undergraduate degree awards to the total number of full-time degree-seeking undergraduate students
- total number of associate degree graduates enrolled as transfer students
- total expenditures in grants and contracts for research

Document Reviews

The team reviewed three types of documents:

- the *Code of Virginia*, particularly the portions cited by the Restructuring Act;
- the management agreements between the State and UVA, William and Mary, and Virginia Tech (as specified in Chapter 933 of the Virginia Acts of Assembly – 2006 Session); and
- the six-year plans submitted to SCHEV by each institution, as required by the Restructuring Act.

Appendix C

Education-Related State Goals and Institutional Benchmarks

***Goal 1. Access* - Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and meet enrollment projections and degree estimates as agreed upon with SCHEV.**

1. Institution meets its SCHEV-approved biennial projection of total in-state student enrollment within the prescribed range of permitted variance. (Permitted range of variance for this measure is 5 percent.)

2. Institution increases the percentage of in-state undergraduate enrollment from underrepresented populations. (Such populations should include low income, first generation college status, geographic origin within Virginia, race, ethnicity, or other populations as may be identified by SCHEV.)

3. Institution annually meets at least 95 percent of its SCHEV-approved estimates of degrees awarded.

***Goal 2. Affordability* - Ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment, determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees.**

4. With the intent of developing a clearly understandable measure of affordability no later than July 1, 2008, SCHEV shall report annually an institution's in-state undergraduate tuition and fees, both gross and net of need-based gift aid, as a percentage of the institution's median student family income. By October 1, 2008, each institution shall identify a "maintenance of effort" target for ensuring that the institutions' financial commitment to need-based student aid shall increase commensurately with planned increases in in-state, undergraduate tuition and fees.

5.1. Institution maintains acceptable progress towards an agreed upon target that decreases the average debt of in-state undergraduate borrowers.

5.2 Institution maintains acceptable progress towards an agreed upon target that decreases the percent of in-state undergraduate borrowers.

6. Institution conducts a biennial assessment of the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition and fees.

Goal 3. Breadth of academics **- Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions.**

7. Institution maintains acceptable progress towards an agreed upon target for the total number and percentage of graduates in high-need areas, as identified by SCHEV.

Goal 4. Academic standards **- Ensure that the institution's academic programs and course offerings maintain high academic standards, by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors.**

8. Institution reports on total programs reviewed under Southern Association of Colleges and Schools assessment of student learning outcomes criteria within the institution's established assessment cycle in which continuous improvement plans addressing recommended policy and program changes were implemented.

Goal 5. Student retention and timely graduation **- Improve student retention such that students progress from initial enrollment to a timely graduation, and that the number of degrees conferred increases as enrollment increases.**

9. Institution demonstrates a commitment to ensuring that lower-division undergraduates have access to required courses at the 100- and 200-level sufficient to ensure timely graduation by reporting to SCHEV on the number of students denied enrollment in such courses for each fall and spring semesters.

10. Institution maintains acceptable progress toward a mutually agreed upon target that maintains or increases the ratio of degrees conferred per full-time equivalent instructional faculty member.

11. Institution maintains or improves the average annual retention and progression rates of degree-seeking undergraduate students.

12. Within the prescribed range of permitted variance, the institution increases the ratio of total undergraduate degree awards to the number of annual full-time equivalent, degree-seeking undergraduate students except in those years when the institution is pursuing planned enrollment growth as demonstrated by their SCHEV-approved enrollment projections.

***Goal 6. Articulation agreements and dual enrollment* - Consistent with its institutional mission, develop articulation agreements that have uniform application to all Virginia community colleges and meet appropriate general education and program requirements at the four-year institution, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools.**

13. Institution increases the number of undergraduate programs or schools for which it has established a uniform articulation agreement by program or school for associate degree graduates transferring from all colleges of the VCCS and Richard Bland College consistent with a target agreed to by the institution, the VCCS, and SCHEV.

14. Institution increases the total number of associate degree graduates enrolled as transfer students from Virginia's public two-year colleges with the expectation that the general education credits from those institutions apply toward general education baccalaureate degree requirements.

15. Institution increases the number of students involved in dual enrollment programs consistent with a target agreed upon by the institution, the Department of Education and SCHEV.

***Goal 7. Economic development* - Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement, in areas that lag the Commonwealth in terms of income, employment, and other factors.**

16. In cooperation with SCHEV, institution develops a specific set of actions to help address local and/or regional economic development needs consisting of specific partners, activities, fiscal support, and desired outcomes. Institution will receive positive feedback on an annual standardized survey developed by SCHEV, in

consultation with the institutions, of local and regional leaders, and the economic development partners identified in its plans, regarding the success of its local and regional economic development plans.

Goal 8. Research, patents, and licenses **- Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies.**

17. Institution maintains or increases the total expenditures in grants and contracts for research, within the prescribed range of permitted variance, according to targets mutually agreed upon with SCHEV and/or consistent with the institution's management agreement.

18. Institution maintains or increases the annual number of new patent awards and licenses, within the prescribed range of permitted variance, according to targets mutually agreed upon with SCHEV and/or consistent with the institution's management agreement.

9. Elementary and Secondary Education **- Work actively and cooperatively with elementary and secondary school administrators, teachers, and students in public schools and school divisions to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators.**

19. In cooperation with SCHEV, institution develops a specific set of actions with schools or school district administrations with specific goals to improve student achievement, upgrade the knowledge and skills of teachers, or strengthen the leadership skills of school administrators. Institution will receive positive feedback on an annual standardized survey developed by SCHEV, in consultation with the institutions, of the superintendents, principals, and appropriate other parties. Institution shall provide a brief narrative describing each K-12 cooperative action meeting the stated intent of the measure.

Goal 10. Six-Year financial plan **- Prepare a six-year financial plan consistent with §23-9.2:3.03.**

***Goal 11. Finance and administrative* – Conduct the institution's business affairs in a manner that maximizes operational efficiencies and economies for the institution, contributes to maximum efficiencies and economies of state government as a whole, and meets the financial and administrative management standards as specified by the Governor pursuant to §2.2-5004 and included in the appropriation act that is in effect, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-, and minority-owned business enterprises.**

21. As specified in §2.2-5004, *Code of Virginia,* institution takes all appropriate actions to meet the following financial and administrative standards:

    a. An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;

    b. No significant audit deficiencies attested to by the Auditor of Public Accounts;

    c. Substantial compliance with all financial reporting standards approved by the State Comptroller;

    d. Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and

    e. Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

22. Institution complies with a debt management policy approved by its governing board that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year, and the maximum amount of debt that can be prudently issued within a specified period.

23. The following administrative standards in §4-9.02 of the Appropriation Act shall become effective July 1, 2007:

    a. The institution will achieve the classified staff turnover rate goal established by the institution (a variance of 14 percent from the established goal will be acceptable);

b. The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) plan as submitted to the Department of Minority Business Enterprise (a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable);

c. The institution will make no less than 75 percent of dollar purchases from vendor locations registered in the Commonwealth's enterprise-wide internet procurement system (eVA);

d. The institution will complete capital projects (with an individual cost of over $1,000,000) within (1) the budget originally approved by its governing board for projects initiated under delegated authority, or (2) the budget set out in the Appropriation Act or other Acts of Assembly. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun;

e. The institution will complete major IT projects (with an individual cost of over $1,000,000) within the budgets and schedules originally approved by its governing board. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Technology may determine that an institution is in compliance with the measure despite cost overruns or delays if the institution adhered to best management practices; and

f. Institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly shall be measured by the administrative standards outlined in the Management Agreements. However, the Governor may supplement or replace those administrative performance measures with the administrative performance measures listed as "a." through "e" upon notification to the Chairmen of the House Appropriations and Senate Finance Committees and the institutions 45 days prior to the start of the fiscal year.

***Goal 12. Campus safety and security* - Seek to ensure the safety and security of the Commonwealth's students on college and university campuses.**

24. The institution shall work to adopt an acceptable number of the 27 Best Practice Recommendations for Campus Safety adopted by the Virginia Crime Commission on January 10, 2006. Each practice should be considered by the institution as to how it fits in with current practices and the needs of the institution.

Appendix D

Agency Responses

As a part of the extensive validation process, State agencies and other entities involved in a JLARC assessment are given the opportunity to comment on an exposure draft of the report. Appropriate technical corrections resulting from comments provided by these entities have been made in this version of the report. Page references in the agency responses relate to the exposure draft and man not correspond to page numbers in this version. This appendix includes written responses from the State Council of Higher Education for Virginia, the University of Virginia, the Department of Human Resource Management, the Department of General Services, and the College of William and Mary.

COMMONWEALTH of VIRGINIA

Daniel J. LaVista
Executive Director

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November 4, 2008

Mr. Philip A. Leone
Director
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Dear Phil:

Thank you for the opportunity to respond to the exposure draft report: *Two-Year Review of Initial Higher Education Management Agreements.* It is an excellent and thorough analysis of the management agreements for CWM, UVA, and VT. I commend you and your staff for your good work in developing it.

Last Friday, Jim Alessio of my staff sent Aris Bearse "recommended corrections" and "technical changes" to the report. I hope these will be useful. However, beyond these suggested corrections and changes, I want to express the following concerns about the conclusions and options stated in the report regarding "oversight and effectiveness of management agreements":

- SCHEV is featured centrally in both options but, as you know, SCHEV does not have any authority regarding management agreements under current legislation. Nor does it have any responsibility or authority for developing or implementing any of the non-education-related standards or measures contained in legislation or in the management agreements. Further, the education-related and administrative measures contained in the management agreements are not part of the annual certification process. Finally, even under current legislation, SCHEV is not responsible for measuring institutional progress toward Administrative, Finance, and Information Technology standards. In light of these realities, significant legislative changes would be required to facilitate SCHEV's increased involvement.

Advancing Virginia Through Higher Education

- SCHEV did not have any input into the current management agreements. Based on the State Council's involvement in the development of criteria for the certification process, over which it has significant authority, the absence of similar involvement in its new, recommended role regarding management agreements would be problematic.

- Your considerate references to SCHEV staffing issues in the report bear repeating here. Currently, one staff member leads the numerous and complex aspects of SCHEV's restructuring obligations, with help from various other staff on a limited basis. Next year's staffing levels may decrease, by our estimates as much as 20-30%. SCHEV's enhanced role in any aspect of restructuring must be accompanied by increased staff support.

I urge you to consider these concerns as you move toward finalizing the report. If you think that discussing these concerns and related issues not noted here (e.g., the role of the Secretary of Education in the new oversight and effectiveness model) would be helpful, please let me know.

Sincerely,

Daniel J. LaVista

Joint Legislative Audit and Review Commission
Exposure Draft – Two Year Review of Initial Higher Education Management Agreements
October 23, 2008

Response from the University of Virginia

The University would like to thank JLARC for a very thorough review of the current state of restructuring and of the management agreements. The report fairly represents where we are today and appropriately reflects opinions held by those at the Level III institutions and those in central state government. It is important to recognize that restructuring is still a work in progress. The University of Virginia, Virginia Tech, and the College of William and Mary continue to revise our processes and procedures to take full advantage of the delegated authority. Central agencies must migrate their processes from pre-approval to post audit. SCHEV is still working, in consultation with institutions, to define the appropriate performance measures.

In 2005 when the Restructuring Act was passed and in 2006 when the General Assembly and Governor approved the management agreements, the Commonwealth of Virginia took a bold step forward to change its relationship with the public institutions of higher education. These were groundbreaking pieces of legislation that have been studied and written about by higher education experts and by other public institutions around the country. The University of Virginia has focused resources and time in ensuring that this new model is a success. Overall the University is pleased with where we are today, but recognizes that improvements can be made.

The University would like to comment on several items included in the report.

<u>Tent permits</u>

The University erects about 80 tents around the grounds each year for a variety of events. Prior to the management agreement the Bureau of Capital Outlay Management (BCOM) approved the tent permits. BCOM took between two and four weeks to process the permit and charged about $95 each. Now the University can approve the tent permits at a savings of almost $8,000 per year. DGS never informed us that there was an avenue available to get advanced authorization to handle tent permits on an emergency basis.

<u>Additional commitments included in the management agreements</u>

Governor Warner negotiated additional commitments with each of the three management agreement institutions that address transfer students, external research funding, financial aid, and economic development in a distressed region of the Commonwealth. On page 16 of the report it states that it is not clear which entity is responsible for evaluating compliance with the additional commitments. It is important to mention that the additional commitments were intended to be aspirational in nature. There was no specific performance metrics developed and no explicit penalties or rewards for performance. Each of the level III institutions has been reporting its progress on these commitments to SCHEV along with the management agreement performance measures.

Institutional code review units for capital outlay projects

The report cites on page 22 that “The DGS Director also expressed doubt as to whether all the universities had certified professionals in their code review departments, and questioned the cost savings claimed by the universities by employing their own code review units.” At the University of Virginia, the University Building Official is both a registered engineer and a DHCD Certified Building Official. He is supported by two DHCD certified technical assistants, who are also registered engineers. Neither the Restructuring legislation (23-38.109) nor the Management Agreement stipulate the size of the code review unit. Further, the Virginia Uniform Statewide Building Code does not prescribe staff size, and provides only that “The building official, subject to any limitations imposed by the locality, shall be permitted to utilize technical assistants to assist the building official in the enforcement of the USBC.” (Virginia Construction Code Section 105.2 Technical assistants). Other individuals who are registered engineers or architects, but have not yet obtained DHCD certification as technical assistants lend their expertise to the Building Official. [See Appendix for specific code citations]

The University has had a code review unit since the early 1990s. Prior to restructuring, its function was to review design documents for building code compliance. DGS was responsible for fire and life safety review and then issued the certificate of occupancy. In 1996 when the Medical Center was granted codified autonomy the University was delegated authority for fire and life safety review as well as occupancy certification for Medical Center facilities. Ten years later under the management agreement we have extended what we have been doing for Medical Center projects to those projects in the Academic Division. We did not have to add resources when we expanded the work of the review unit under restructuring. The University’s review unit costs about $520,000 per year and equates to 0.27 percent of the $190 million of construction put in place during 2007-08. In addition, the University has calculated an annual cost savings in 2007-08 of $1.7 million as a result of doing our own code reviews and building occupancy certifications. With a total capital program that exceeds $1 billion the University strongly believes that its code review unit is cost effective; that we regularly save money by more expeditious review of design documents; and that we can now deliver projects sooner than under the former process.

Information Technology

Page 23 of the report cites VITA’s concern that covered institutions are not required to notify VITA of security breaches within 24 hours of their occurrence. The University has developed a security program that is aligned with international security standards. In the event of a data breach resulting in exposure of personal information, we are required by law to report the breach to the Office of the Attorney General.

The specific standard upon which the University’s security program is based is the “Code of Practice for Information Security Management” published by the International Organization for Standardization and the International Electrotechnical Commission (ISO/IEC 27002, renumbered last year from ISO/IEC 17799). The University program also incorporates security requirements of applicable statutes and regulations, such as the Family Educational Rights and

Privacy Act, Health Insurance Portability and Accountability Act, and Government Data Dissemination and Protection Act. Professional organizations, such as the national EDUCAUSE Association and the Virginia Alliance for Secure Computing and Networking, serve as resources for additional effective security practices. Additional information on the referenced organizations is provided at the end of this section.

The ISO/IEC 27002 security standard is highly regarded worldwide for its comprehensive scope. Because its implementation is driven by levels of security risk within organizations, the standard is applicable to organizations of all kinds. VITA security standard, which references the ISO/IEC standard, covers similar topics, but is quite prescriptive in its implementation and more suitable for central government agency operations.

EDUCAUSE Association – *EDUCAUSE is a nonprofit association dedicated to the advancement of higher education through the effective use of information technology. Members include representatives from institutions of higher education, higher education technology companies, and other related organizations.*

International Organization for Standards (ISO) – *The world's largest developer of standards, the organization is made up of representatives from governmental and private sector standard bodies, e.g. the American National Standards Institute.*

International Electrotechnical Commission (IEC) – *The IEC is a global organization that develops and publishes standards addressing electrical, electronic and related technologies. Membership comes from government, the private sector, consumer groups, professional associations, and others.*

Virginia Alliance for Secure Computing and Networking (VA SCAN) – *VA SCAN was formed to help strengthen information technology security programs within Virginia. The Alliance was organized and is operated by security practitioners and researchers from several Virginia higher education institutions, including the University of Virginia.*

Procurement

The University of Virginia and Virginia Tech negotiated Memoranda of Understanding with DGS which outline commitments on the part of the institutions to interface our procurement systems with eVA. As part of the MOU we agreed to attempt to process 95 percent of our non-exempt transactions through eVA. At the time we did not know if this would be possible, but we agreed to use our best efforts. As noted in the report it is unlikely that we can achieve this target since one-time and foreign vendors refuse to accept eVA terms and conditions and other vendors will only do business with the University via the credit card. In the spring of 2008 the covered institutions worked with the Secretary of Finance to redefine the performance measures included in the management agreement. As part of that negotiation the Director of the Department of General Services agreed to an 80 percent target for the number of transactions processed through eVA. The covered institutions recommend that the target in the MOU be changed to agree with the latest decision by the Director of DGS.

Goal 2: Affordability

The report makes the statement that affordability and related indebtedness at UVa may be more of an issue for students in the $40,000-to-$80,000 income group than for those under

$40,000. The statement by itself is essentially true and the major reason that one of the components of AccessUVa is the loan cap, a feature specifically designed to address the middle income group. The report seems to make a judgment that graduating with $20,000 in debt implies that UVa is less affordable. What we know is that the loan cap has the effect of making students more aware of their borrowing and that the loan cap allows families to predict the cost of education for the four years they are at UVa. In addition, not all middle income students on financial aid hit the loan cap.

In the December issue of Kiplinger's Personal Finance, the University of Virginia ranks as the third best value in public colleges. Despite an annual total cost for in-state students of just over $18,000 AccessUVa provides enough need-based financial aid to bring the average cost of in-state attendance to under $5,000. In addition as part of the AccessUVa program, the University has enhanced its financial literacy program, which has been identified as a best-in-class program as evidenced by receipt of the 2008 National Student Loan Program's Benjamin Franklin award for outstanding financial literacy programs.

Possible effects on Virginia Retirement System

The report expresses concern from the director of the Virginia Retirement System (VRS) that more staff employees will be given the option of choosing a defined contribution retirement plan under the University's new human resource system and therefore, fewer employees will be contributing to VRS. Of the 4,957 classified positions at UVa, there are 586 employees with less than 5 years of service (not vested) who could be eligible to switch retirement plans. Of those, 320 are under age 40 and considered the targeted population most likely to even consider the optional retirement plan.

It is important to emphasize that the only way these 320 employees would be eligible to switch is if they first choose to enroll in the new University Staff Plan. However, the vast majority of employees are NOT expected to switch to University staff. And, of those who do switch, the vast majority is expected to keep their defined benefit plan with VRS.

Data at the half way point of the open enrollment process bear this out. Thirteen employees have elected to enroll in the new University Staff Plan. Of those thirteen, 3 have been eligible to switch retirement plans and none have done so. We are meeting with individuals at the VRS on November 6th to discuss any potential implications for the state retirement system.

Two options to improve oversight and effectiveness of management agreements

The University would like to caution the Commonwealth about establishing additional layers of oversight onto a process designed to remove redundancies between institutions and central state agencies and to improve the effectiveness and operational efficiency of institutions of higher education generally. We understand the difficulty of the transition from the administration with which we negotiated the management agreement to the one that would have to oversee the initial years of implementation. The Restructuring Act and the accompanying management agreements represent a significant departure from the manner in which business has been done in the past. All parties need to work together to ensure that the spirit and legal intent of both pieces of legislation are met.

It is the University's strong opinion and desire that after an initial period, operation under the authority of the management agreement should be the routine way of doing business and that extra effort and oversight should not be required. The management agreement provides for any number of reports to and post-audits by central state agencies, in addition to the annual performance measures. If particular issues arise from either central state agencies or on the part of institutions we should be able to sit down and work things out to both parties' satisfaction.

Appendix – Building Code Official citations

COV Section 23-38.109D states (area of interest is bolded):

D. A covered institution shall have the authority to designate its own building official who shall be a full-time employee and who is hereby authorized to determine the suitability for occupancy of, and to issue certifications for building occupancy for, all capital projects undertaken at that institution, and who, prior to issuing any such certification, shall ensure that the Virginia Uniform Statewide Building Code (§ 36-97 et seq.) requirements are met for that capital project and that such project has been inspected by the State Fire Marshal or his designee. When serving as the building official, such individual shall report directly and exclusively to the Board of Visitors of the institution and shall be subject to review by the appropriate personnel in the Department of General Services. The designated official shall be certified by the Department of Housing and Community Development to perform this function. **The individual employed or contracted to serve in such capacity shall have adequate resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 for such purpose, and who shall review plans, specifications, and documents for compliance with codes and standards and perform required inspections of the work in progress and the completed project.** No individual licensed professional architect or engineer hired or contracted to perform these functions shall also perform other code-related design, construction, facilities-related project management or facilities management functions for the institution on the same project.

The Management Agreement (Exhibit M, Section VIII states (areas of interest bolded) :

VIII. DESIGN REVIEWS AND CODE APPROVALS.
The Board of Visitors shall review the design of all Major Capital Projects and shall provide final Major Capital Project authorization based on the size, scope and cost estimate provided with the design. Unless stipulated by the Board of Visitors at the design review, no further design reviews shall be required. For all capital projects other than Major Capital Projects, the President, acting through the Executive Vice President and Chief Operating Officer, shall adopt procedures for design review and project authorization based on the size, scope and cost estimate provided with the design. It shall be the University's policy that all capital projects shall be designed and constructed in accordance with applicable Virginia Uniform Statewide Building Code (VUSBC) standards and the applicable accessibility code.
The President, acting through the Executive Vice President and Chief Operating Officer, shall designate a Building Official responsible for building code compliance by either (i) hiring an individual to be the University Building Official, or (ii) continuing to use the services of the Department of General Services, Division of Engineering and Buildings, to perform the Building Official function. If option (i) is selected, the individual hired as the University Building Official shall be a full-time employee, a registered professional architect or engineer, and certified by the Department of Housing and Community Development to perform this Building Official function. The University Building Official shall issue building permits for each capital project required by the VUSBC to have a building permit, and shall determine the suitability for occupancy of, and shall issue certifications for building occupancy for, all capital projects requiring such certification. Prior to issuing any such certification, this individual shall ensure that the VUSBC and accessibility requirements are met for that capital

project and that such capital project has been inspected by the State Fire Marshal or his designee. When serving as the University Building Official, such individual shall organizationally report directly and exclusively to the Board of Visitors. ***If the University hires its own University Building Official, it shall fulfill the code review requirement by maintaining a review unit supported by resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 of the Code of Virginia, for such purpose and who shall review plans, specifications and documents for compliance with building codes and standards and perform required inspections of work in progress and the completed capital project.*** *No individual licensed professional architect or engineer hired or contracted with to perform these functions shall also perform other building code-related design, construction, facilities-related project management or facilities management functions for the University on the same capital project.*

<u>Virginia Construction Code (Part I of the Virginia Uniform Statewide Building Code) Section 105.2 Technical assistants:</u>

105.2 Technical assistants. The building official, subject to any limitations imposed by the locality, shall be permitted to utilize technical assistants to assist the building official in the enforcement of the USBC. DHCD shall be notified by the building official within 60 days of the employment of, contracting with or termination of all technical assistants.

NOV 06 2008

COMMONWEALTH *of* VIRGINIA

Sara Redding Wilson
Director

Department of Human Resource Management

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October 31, 2008

Philip A. Leone, Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building, Capitol Square
Richmond, Virginia 23219

Dear Mr. ~~Leone~~ Phil:

Thank you for the opportunity to comment on the Exposure Draft of your report, "Two-Year Review of Initial Higher Education Management Agreements," dated October 23, 2008. The JLARC review provides a good summary of how the restructuring and management agreements with higher education institutions work and where they stand today. The issues and options presented going forward are on target.

In the area of human resource management, I have some concern that universities with management agreements may make policy decisions that will increase costs, diminish employees' welfare, or have a negative effect on the institutions' ability to staff their positions effectively. However, all state agencies operate with a significant degree of autonomy in managing their human resources. Recruitment and selection, classification and compensation, and time and attendance are examples of programs where state agencies operate within a broad state policy framework. Therefore, the risks associated with increased autonomy are limited.

The report discusses an interest by the Tier III universities to move toward salary increases based more on performance. It should be noted that DHRM has worked with other agencies to develop programs tying salary increases to performance over the last twenty-eight years. The compensation policies currently in effect provides for such increases. However, there has been a reluctance to provide funding to implement performance-based increases. The universities should give consideration to the reasons for this reluctance before adopting pay for performance programs. Once they have been adopted, the success of the programs may provide valuable input as to the desirability of implementing them for all agencies and employees.

My greatest concern going forward is in this agency's ability to provide human resource management information to state decision-makers. Comprehensive, complete, and timely information is critical and agencies' having autonomous human resource systems creates challenges in this regard. The current Tier III universities have been willing to work with us to provide necessary information but compromises have been necessary. This is an area that will require careful monitoring as the number of Tier III institutions expands. We share VITA's concern that higher education institutions are not included in statewide efforts such as the enterprise application program. At a minimum, the colleges and universities, with common programs and goals, should coordinate with one another to improve efficiency and the exchange of information, while reducing their costs.

I understand the goals of the institutions of higher education to improve effectiveness and efficiency and to reduce costs in the areas if information technology and purchasing. Of course, there is a need for adequate systems, both human and automated, to provide central services to all state agencies, and having some agencies not participate may result in an increased cost to other agencies that do use the centralized services. On the other hand, if savings and efficiencies can be demonstrated in these areas by decentralized universities, future consideration should be given to a certification process whereby other agencies could also benefit from increased autonomy.

Please let me know if you have any questions about these remarks or if you need further assistance with this review.

Sincerely,

Sara

Sara Redding Wilson

COMMONWEALTH of VIRGINIA

Department of General Services

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November 6, 2008

Mr. Philip A. Leone, Director
Joint Legislative Audit and Review Commission
General Assembly Building, Suite 1100
Richmond, VA 23219

Dear Mr. Leone:

The Department of General Services (DGS) is submitting our comments and suggestions for JLARC review in response to your October 23, 2008 letter. These comments are in reference to the draft report: *Two-Year Review of Initial Higher Education Management Agreements*.

In clarification of the information provided by the University Building Officials, we offer the following:

At the close of the day of review at the two Universities, verbal debriefs addressing major issues were conducted.

At UVA, the discussion centered on accessibility issues and means of egress.

At William & Mary, the primary topics discussed included means of egress, accessibility and sprinkler issues in the Undergraduate Admissions Office, the lack of separation between the new Integrated Science Center and the old building currently under construction and accessibility and egress issues in general in the Integrated Science Center.

The building officials were provided an opportunity to comment on the first draft of the DGS report.

In the response to our initial write up of the hazardous exhaust duct, W&M responded concerning the issue with the hazardous exhaust "Both the CCRT and the CCBO approved this modification before it was constructed". No technical response was

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provided as part of their response. DGS reviewed a copy of the Determination and Findings for Code/Design Issues, which described the process used and the determination of appropriateness of the installation. The issue at hand is not strictly the use of plastic duct but of the entire assembly as installed. The fire rated duct wrap used in the installation is not UL approved for use with plastic duct. If there is a fire in the duct the fire will melt the duct, the wrap will collapse and the fire could spread or the breach in the duct will release hazardous compounds into the occupied space. If the duct were installed in a properly rated independent shaft there would be no issue.

The primary issues identified at the CWM Mason School of Business were related to occupant load and egress. Even though plans are complete and the building is under construction, the occupant loads for respective floors are not consistent with the cited design occupant load.

As an example, the tiered classrooms and shell space future classrooms, on the second floor, due to the size, projected occupant load (80) and use, must have 2 independent exits.

The design currently has both exits from the space leading to a single point of exit from the building. One exit takes people through several occupied offices. This is not allowed by VUSBC. The ICC commentary states "Access to two independent exits is required to accommodate the occupants to prevent loss of life in an emergency."

The scope of the review itself is consistent with the intent of the legislation. The language in 23-38.109 D states "A covered institution shall have the authority to designate its own building official who shall be a full-time employee and who is hereby authorized to determine the suitability for occupancy of, and to issue certifications for building occupancy for, all capital projects undertaken at that institution, and who, prior to issuing any such certification, shall ensure that the Virginia Uniform Statewide Building Code (§ 36-97 et seq) requirements are met for that capital project and that such project has been inspected by the State Fire Marshal or his designee. <u>When serving as the building official, such individual shall report directly and exclusively to the Board of Visitors of the institution and shall be subject to review by the appropriate personnel in the Department of General Services</u>."

DGS has had this code section reviewed by the Office of the Attorney General and the advice of our counsel is that due to the construction of the paragraph that all functions of the building official's office are subject to review. There is no limitation that the review be only the credentials of the building official and their staff. This Code section is part of the Management Agreements and was approved by the Boards of Visitors of the universities, the Secretaries of Administration and Finance and the General Assembly.

DGS is simply performing the task as required by Code of Virginia. This clarification was pointed out to the University building officials via e-mail on September 9, 2008.

The statement that "the State Fire Marshal approved the plans" is not an accurate statement. The fire marshal's duty on state projects, as defined in an MOU with CWM, is to perform periodic inspections, provide technical advice and to help the building official determine compliance with plans and specifications but is not responsible for review or approval of plans. In the case of the hazardous exhaust duct, the fire marshal's representative should have primarily been ensuring that it was constructed in accordance with plans approved by the university building official.

The MOUs between UVA, CWM and the State Fire Marshal do not allow or require the State Fire Marshal to approve the plans. Conversations with the State Fire Marshal confirm this.

I hope this information is helpful, if I can be of further assistance please do not hesitate to call.

Sincerely,

Richard F. Sliwoski, P. E.

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November 6, 2008

Mr. Philip A. Leone
Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
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Richmond, Virginia 23219

Dear Mr. Leone:

I write to thank you for the opportunity to review and provide comment on the exposure draft of the Commission's "Two-Year Review of Initial Higher Education Management Agreements". We find the study to be comprehensive and a good overall assessment of the current status of not only management agreements entered into by the original Level 3 institutions (University of Virginia, Virginia Tech, and the College of William and Mary) but also higher education restructuring in Virginia.

As a work in progress, institutions of higher education, with significant oversight from their Boards of Visitors, continue to work on their respective campuses to establish and maintain policies and procedures supporting the transfer of various authorities from central agencies to the institutions. At the same time, we continue to work closely with administrative and legislative staff in refining academic and administrative performance measures and recognizing the impact of moving from processes that emphasize pre-approval to processes reflecting a post-audit philosophy.

The report includes two options to improve the oversight and effectiveness of the management agreements—establish a restructuring oversight committee or expand the leadership role of the State Council of Higher Education. Currently the management agreements require institutional reporting on a variety of performance measures, development of six year academic and financial plans, and provide the flexibility for a variety of audit activities. We believe that as these planning and reporting activities become standardized, the Commonwealth will have a better understanding of institution-specific goals and objectives, as well as those of higher education overall. As a result, operating in a restructured environment will then be seen as reflecting normal business practice without the need for additional oversight.

Once again, thank you for the opportunity to provide comment and for your efforts in bringing forth a better understanding of higher education restructuring and the management agreement process.

Sincerely,

Samuel E. Jones

cc: W. Taylor Reveley, III

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