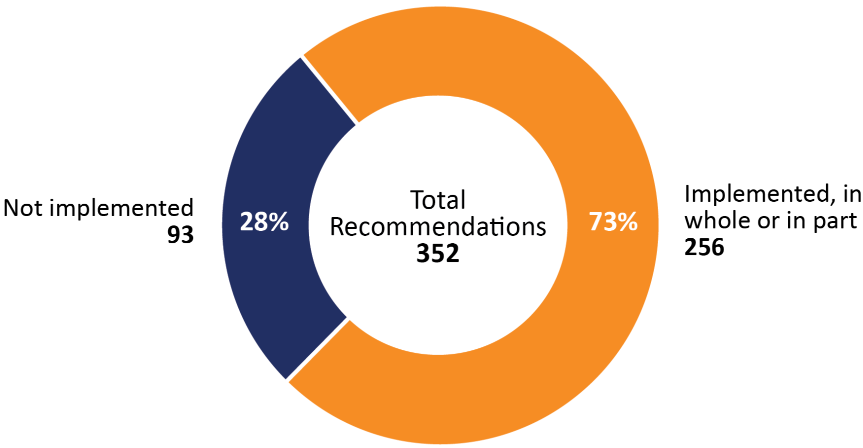
JLARC Impacts

Actions Taken on Report Recommendations

2015-2018

JLARC
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION

JLARC Performance: Recommendations



Reports published 2015-2018

Report No. 517

http://jlarc.virginia.gov

JLARC
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION

May 13, 2019

Members of the Virginia General Assembly

Dear Members:

In JLARC's biennial JLARC Impacts: Actions Taken on Report Recommendations, JLARC staff report on agency performance, recap actions taken on key recommendations, and highlight recommendations that are still outstanding. In recent years, JLARC studies have had impact on a broad range of public policy areas in Virginia, including services provided to children, the community college system, elections, compensation of state employees, and economic development.

I would like to express my gratitude for your support of JLARC's vital work for the Commonwealth of Virginia. By taking action on a wide range of JLARC recommendations, the General Assembly has expressed its commitment to efficiency and effectiveness in state government.

Cordially,

Hal E. Greer

Hal E. Greer
Director

Contents

JLARC Mission, Goals, and Performance

Mission

JLARC provides the Virginia General Assembly with objective and rigorous oversight of state agencies and programs.

Goals

JLARC's goals are grounded in the state statutes that established its authority:

- Provide the General Assembly with objective, non-partisan analysis and evaluation for use in legislative decision making.
- Assess state agencies and programs for efficiency and effectiveness.
- Offer timely, actionable recommendations and options for improvement.
- Cultivate an exemplary work environment that sustains high levels of productivity and employee satisfaction.

Performance

JLARC reports on its own performance to the General Assembly every two years. In 2017 and 2018, JLARC staff presented and published 95 research products: reports, briefings, fiscal impact reviews, and policy memos.

JLARC recommendations are intended to improve the efficiency and effectiveness of state government. When implemented, the recommendations can result in substantial savings to the state. Since JLARC was established in 1975, the Commission's work has saved an estimated cumulative $1.3 billion (adjusted for inflation to 2018 dollars).

JLARC uses three performance measures to track its own agency performance: recommendations, legislation introduced, and savings.

Recommendations implemented through legislative or administrative action

Recommendations made 2015-2018 .... **352**

Recommendations implemented, in whole or in part **256**

Percentage implemented **73**

Legislation introduced in 2018 and 2019 in response to JLARC recommendations

Bills **52**

Budget amendments **53**

Savings attributable to implementation of recommendations

Estimated savings FY17–FY18 .... **$30.3 million**

Estimated FY17-FY18 savings are due to reforms to Virginia's Medicaid program. Local departments of social services offices have reduced the number of Medicaid recipients with overdue renewals, and the Department of Medical Assistance Services (DMAS) has adopted stricter enforcement of managed care organization (MCO) contract provisions.

Additional reforms to Virginia's Medicaid managed care programs will produce future savings. At the direction of the General Assembly, DMAS implemented a more stringent cap on MCO profits. DMAS is also implementing reforms in how it sets MCO rates, with reductions for inefficient emergency room use and other preventable services starting in FY19.

Recommendations are tracked for reports published over the prior four calendar years. The status of all recommendations made during these four years is reflected in the performance measures. Only actions taken since the 2017 JLARC Impacts (formerly called the Report to the General Assembly) are included in the following pages.

Improving Virginia’s Foster Care System

Report issued in 2018

In 2018 JLARC reported on the performance of Virginia’s foster care system, which serves over 5,000 children and their families. The Virginia Department of Social Services (VDSS) is responsible for supervising the delivery of foster care services by the state’s 120 local departments of social services.

JLARC found

JLARC found that local departments were not consistently following some state and federal requirements to ensure the health and safety of children in foster care. JLARC staff also found that children in foster care in Virginia were being placed in congregate care more often than necessary and that VDSS had no plan, funding, or staff to recruit foster parents, despite well-known shortages.

JLARC staff found that children in foster care were substantially more likely to age out and less likely to be reunited with their birth parents than in other states, and the median length of stay in foster care appears to be prolonged in some Virginia localities. JLARC staff also found that local departments were not consistently searching for and prioritizing relatives as foster care placement options for children. Additionally, the JLARC study team determined that about 15 percent of foster care caseworkers carried high caseloads, and these caseworkers were managing the cases of about one-third of children in foster care. High caseloads were associated with inadequate casework, including lower rates of required physical and dental exams, fewer in-home visits, and fewer contacts between children and their birth parents.

JLARC staff found that VDSS had been aware of these general problems but had not developed a reliable way to identify problems or to assert its legal authority to intervene when local departments were unable or unwilling to ensure the safety or well-being of children.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Foster care system reform
SB 1339 (2019) – Senator Reeves
(co-patroned by all other Senate members)

This bill implemented 21 of the report's 34 recommendations including: creating a Director of Foster Care Health and Safety at VDSS; requiring local departments to conduct ongoing searches for relatives of children who enter foster care; allowing judges to require birth parents to disclose contact information of relatives if their children enter foster care; requiring VDSS to implement systematic processes and mechanisms to reduce the number of children in congregate care; requiring VDSS to develop a statewide strategic plan to recruit foster parents; establishing limits on foster care caseloads; authorizing VDSS staff to provide temporary staff support for agencies with high caseloads; requiring VDSS to improve its case review process; expanding and clarifying the authorities and responsibilities of VDSS to intervene when local departments are unable or unwilling to ensure the safety or well-being of children in foster care; and adding statewide and regional staff to improve VDSS's capacity to oversee local foster care services and to intervene when necessary.

The legislature also required VDSS to develop an online dashboard of local foster care services to be available to local boards of social services and required VDSS to develop a confidential mechanism for the agency to receive complaints from citizens regarding the health, safety, or well-being of children in foster care.

Better identification of relatives of children in foster care
HB 2622 (2019) – Delegate Austin

The General Assembly passed legislation permitting a court to order parents or guardians of children removed from a home to provide the names and contact information for all relatives or other individuals with a legitimate interest in caring for the child to the local department of social services.

Alternative foster care placements for children in congregate care
Appropriation Act (2019 Session)

Language in the Appropriation Act requires VDSS to review all cases of children in congregate care without a clinical need to be in congregate care and help local departments find appropriate family-based settings. The language requires VDSS to certify completion of the reviews by June 30, 2020 and notify the General Assembly.

New position at VDSS to oversee Virginia's foster family recruitment efforts
Appropriation Act (2019 Session)

Language in the Appropriation Act establishes a position to support Virginia Fosters, the state's new program to improve the recruitment and retention of foster families.

New positions in the VDSS central office, regional offices, and local departments of social services for foster care services
Appropriation Act (2019 Session)

The Appropriation Act includes $2.8 million to add 18 positions for improving the foster care system pursuant to SB 1339, implementing several report recommendations. The funding establishes a Director of Foster Care Health and Safety; adds 10 additional regional foster care staff at VDSS; funds a regional project manager; provides funds for a compliance dashboard and a complaint hotline; funds a minimum caseload standard of 15 cases per worker; and adds five positions for monitoring foster care services.

ACTION TAKEN BY STATE AGENCIES

Reducing the time children spend in foster care in Virginia
VDSS

VDSS has included in its guidance to foster care workers a requirement that caseworkers visit with birth parents more consistently to facilitate reunification and has begun to identify and direct more attention to children who have been in foster care for more than 36 months to minimize unnecessarily lengthy stays in foster care.

Foster care caseloads at local departments of social services
VDSS

VDSS has begun to develop plans to ensure local departments with caseworkers who have high caseloads are able to reduce those caseloads and has taken steps to monitor foster care staffing problems on an ongoing basis.

ACTION NEEDED

Facilitate eligibility for kin to serve as licensed foster parents

► The General Assembly may wish to create a state-funded Kinship Guardianship Assistance program that waives certain requirements for children's kin to be able to serve as licensed foster parents to increase the number of available foster families and improve the likelihood of children being placed in permanent homes (Recommendation 15).

Evaluate how to expedite "termination of parental rights" when doing so is in a child's best interests

► The General Assembly may wish to direct the Supreme Court of Virginia to evaluate the feasibility, costs, and effectiveness of options to expedite the appeals process for termination of parental rights cases (Recommendation 18).

Establish a standard ratio of supervisors to caseworkers for foster care cases

► The General Assembly may wish to direct VDSS to review the feasibility and costs of establishing a standard number of foster care caseworkers that a single local department of social services staff member can supervise to address high caseloads and improve caseworker retention (Recommendation 27).

Operations and Performance of the Virginia Community College System

Report issued in 2017

In 2017 JLARC reported on the operations and performance of the Virginia Community College System (VCCS).

JLARC found

Only 39 percent of Virginia's community college students earned a degree or other credential, a rate consistent nationally. Community college students disproportionately face factors that challenge their ability to succeed, and JLARC recommended expanding academic advising resources to increase rates of degree attainment.

JLARC also found that the state's dual enrollment program was not consistently saving time and money for students pursuing bachelor's degrees and that four-year institutions were sometimes reluctant to accept those credits. JLARC found that community colleges do not consistently ensure the quality of dual enrollment courses and that transferability of dual enrollment courses is often unclear.

JLARC reported that transfer agreements between the state's community colleges and four-year institutions are intended to save students time and money while earning their bachelor's degrees, but they are not regularly updated or easily accessible. Students who transferred from community colleges to four-year institutions accumulated more credits than non-transfer students while completing their degrees.

While VCCS is currently an affordable option to pursue higher education, and the majority of students do not incur debt to finance their education, VCCS tuition and fees as a percent of per capita disposable income have grown rapidly. JLARC also found that while VCCS has a relatively efficient structure compared to community college systems in other states, it has no formal process for periodically reviewing whether the number of its colleges and campuses is appropriate.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Quality and transparency of dual enrollment courses
HB 3 (2018) – Delegate Landes
HB 919 (2018) – Delegate Jones
SB 631 (2018) – Senator Dunnavant

The General Assembly enacted legislation requiring the State Board for Community Colleges to develop a plan to achieve and maintain higher standards regarding quality, consistency, and oversight for dual enrollment courses. Legislation requires all school divisions and community colleges to provide clear and specific information on whether and how credits from each dual enrollment course can be applied to a post-high school degree. The legislation requires VCCS to include a description of each dual enrollment course and the institutions and programs that accept the course for credit in a statewide online resource.

Standardizing and clarifying transfer agreements
HB 3 (2018) – Delegate Landes
HB 919 (2018) – Delegate Jones
SB 631 (2018) – Senator Dunnavant

The General Assembly enacted legislation requiring each public four-year higher education institution to develop transfer "pathway maps" that will define the courses community college students should complete prior to transferring to a four-year college or university. The legislation also requires VCCS to maintain a public online portal of all transfer agreements and other transfer-related resources and requires public four-year higher education institutions to update their transfer agreements immediately after program modifications.

The legislation requires the State Council of Higher Education for Virginia to evaluate annually the effectiveness of community college transfers to baccalaureate institutions. The report will include analysis of completion rates, average time to degree, credit accumulation, and post-transfer student academic performance.

Strategy to improve academic advising
Appropriation Act (2018 Session)

The General Assembly included language in the Appropriation Act directing VCCS to develop a strategy to improve students' advancement through their academic programs and their rate of credential or degree attainment. The language required VCCS to develop a plan to ensure each community college can provide proactive, customized, and mandatory advising for students at risk of not completing a credential or degree or transferring to a four-year higher education institution. The language also required VCCS to describe the resources that would be necessary to equip each college to provide such advising.

Assisting teachers with the cost of becoming dual enrollment faculty
Appropriation Act (2019 Session)

The General Assembly appropriated $250,000 for tuition scholarships for public high school teachers pursuing required credentials to teach dual enrollment courses. The Act requires the Department of Education to report annually to the General Assembly on the use of the tuition scholarships.

Prioritizing workforce training funds for occupations with an insufficient workforce
HB 1920 (2019) – Delegate Stolle

The General Assembly enacted legislation to prioritize funds from the New Economy Workforce Credential Grant Program for workforce training programs in high-demand industries currently experiencing a workforce shortage.

ACTION TAKEN BY STATE AGENCIES

Improving student success
VCCS

VCCS has developed a system-wide policy to identify at-risk community college students who should receive proactive, customized advising services.

VCCS has established a policy requiring new students who may be at risk for not completing a credential or degree, based on information collected about them, to attend orientation before enrolling in courses and to complete a student development course during their first semester.

Quality and transparency of dual enrollment courses
VCCS

VCSS now uses nationally recommended practices to oversee the state's dual enrollment programs, requires community colleges and school divisions to clearly disclose the transferability of dual enrollment courses, and has developed a database describing all dual enrollment courses and their transferability to the state's community colleges and four-year baccalaureate institutions.

Evaluation of proposed tuition and fee increases

VCCS staff now present more relevant and detailed information to the State Board for Community Colleges when it evaluates proposed tuition and fees increases.

Policy to assess the number and locations of community colleges
State Board for Community Colleges

The State Board for Community Colleges has adopted a formal policy and criteria to periodically assess the need to close or consolidate community colleges or campuses.

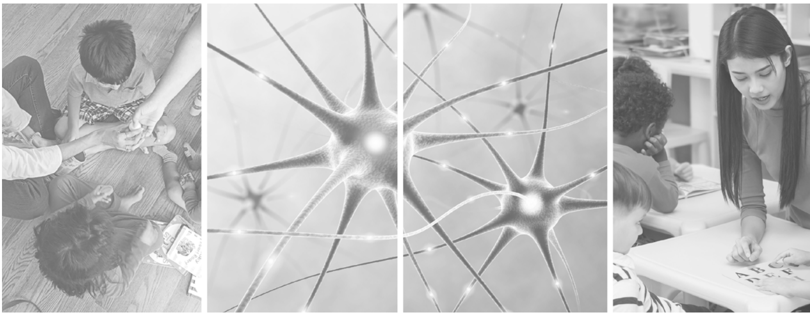
ACTION NEEDED

Develop proposal to assess remediation needs prior to high school graduation

► VCCS and the Virginia Department of Education should develop a proposal for administering the Virginia Placement Test, or a comparable assessment, to high school students in order to identify students who need academic remediation and begin remediation activities prior to students' enrollment in college (Recommendation 2).

Expand resources for academic advising services at community colleges

► The report observed that the state could increase funding for non-faculty advisers across the system and recommended that VCCS develop a proposal to enhance the colleges' advising capacity. The General Assembly appropriated $5.5 million in the 2019 Session to VCCS for general operating support but did not earmark any funding to expand community colleges' academic advising capacity (Recommendation 4).



Improving Virginia's Early Childhood Development Programs

Report issued in 2017

High quality, early childhood programs can play a vital role in ensuring children develop skills and behaviors that set a strong foundation for later years. Virginia has 13 "core" early childhood development programs, which include seven voluntary home visiting programs, the Virginia Preschool Initiative (VPI), the Child Care Subsidy Program, and two Individuals with Disabilities Education Act programs.

JLARC found

About one-third of a sample of children in Virginia were entering school without the full range of skills needed for kindergarten, according to a test developed by the University of Virginia. Research shows these social, self-regulation, literacy, and math skills are essential to student success.

JLARC reported that VPI, the state's largest early childhood development program, improved literacy but that the state had few meaningful assurances of program quality or its effect on kindergarten readiness. For example, the state had little information about the effectiveness of interactions between VPI teachers and children—an essential aspect of high-quality preschool education. The state also lacked requirements for professional development that VPI teachers need to be effective pre-K teachers.

JLARC found that Virginia's seven voluntary home visiting programs were some of the state's most effective early childhood education programs, demonstrating effective performance with strong quality assurance mechanisms. However, these programs lacked sufficient funding and authority to be fully effective. For example, pregnant or parenting women in many Virginia localities with high rates of neonatal abstinence syndrome did not have access to a visiting program specifically designed to reduce substance abuse. Each case of neonatal abstinence syndrome results in 23 days, on average, of hospitalization costing nearly $100,000 per case.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Kindergarten readiness
Appropriation Act (2018 Session)

The General Assembly used budget language to require all 132 of the state's school divisions to test whether kindergarten students had the full range of skills needed. The General Assembly also appropriated funding for teacher training on how to use these test results to better tailor instructional practices to help children improve their skills.

The General Assembly took several actions to improve VPI program quality. For example, through budget language, the General Assembly directed the Virginia Department of Education to develop a plan to ensure that all VPI programs are of high quality. The General Assembly also appropriated funding to ensure that all VPI classroom programs have the quality of their teacher-child interactions assessed at least once every two years using the CLASS observational instrument. The General Assembly directed the University of Virginia, with input from the Department of Education, to establish a statewide minimum threshold for the quality of teacher-child interactions.

Classrooms below the threshold will receive technical assistance from UVA. The General Assembly also appropriated funding for specialists to provide customized professional development to VPI teachers.

Stronger administrative support for effective home visiting programs
Appropriation Act (2018 Session)

Through budget language, the General Assembly authorized Early Impact Virginia to conduct a variety of key activities to support home visiting programs. These include systematically tracking key outcomes, conducting statewide needs assessments, and supporting continuous improvement through better training and coordination. The General Assembly appropriated funds to hire staff to conduct these activities.

ACTION NEEDED

Improve and expand home visiting programs that address substance abuse

► Transform the program to support pregnant and parenting women experiencing substance abuse (Project LINK) and make it more widely available (Recommendation 3).

Assess children more consistently for early intervention services eligibility

► Develop and implement a plan to provide better training to assessors, assess scoring validity regularly, and improve assessment as needed (Recommendation 16).

Operations and Performance of Virginia's Department of Elections

Report issued in 2018

The Virginia Department of Elections (ELECT) is responsible for supervising the local administration of elections in Virginia. ELECT's supervision should include effective oversight, guidance, and training of local registrar operations. ELECT also maintains the state's list of 5.5 million registered voters and administers the state's major IT system used by local registrars (VERIS).

JLARC found

Virginia has a fairly robust process to maintain its voter registration list, but there are some notable deficiencies. For example, ELECT had not proactively ensured that local registrars always assigned voters to the correct district, nor had it devoted sufficient staffing to maintaining the state's voter registration list.

JLARC also reported that VERIS, the state's IT system used to maintain the voter registration list, had not been fully functional or reliable for local registrars. Furthermore, ELECT's recent decision to rebuild rather than replace VERIS was not based on a comprehensive assessment.

JLARC reported that ELECT had not always provided local election officials with fully accurate, timely, or relevant training and guidance. In addition, training was not fully accessible to all registrar staff because it was usually only available by attending an annual conference in person.

JLARC also found that ELECT had been susceptible to undue political influence and lacked sufficient continuity in leadership, with the three top leadership positions usually changing with each administration. ELECT's three appointed positions exceeds the number of such positions in most other agencies.

ELECT conducts some oversight of local operations, but it is not sufficient to verify election integrity or ensure uniformity across localities. ELECT's oversight does not focus on the most substantial risks to election integrity and uniformity.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Accurate voter assignments and better voter registration list maintenance
HB 2760 (2019) – Delegate Sickles
SB 1018 (2019) – Senator Chase
Appropriation Act (2019)

The General Assembly enacted legislation requiring ELECT to review whether local registrars have assigned voters to the correct district and notify the registrar of any corrections needed. Further, ELECT will be required to create a GIS map on a locality's behalf if it lacks access to GIS software. This will improve the accuracy of voter assignments and boundary maps for local registrars still using manual processes such as paper maps or physically driving around the locality.

The General Assembly also appropriated funds for ELECT to hire two additional staff to better maintain the state's voter list. Historically, ELECT has devoted fewer than one staff member to overseeing the complex process of maintaining an accurate voter registration list.

More useful training and guidance for local election staff
Appropriation Act (2019 Session)

The General Assembly appropriated funds for ELECT to hire two additional staff to improve local election official training and guidance. These additional staff should help to alleviate issues with guidance not always being timely or correct. The new staff also will be better able to ensure the state provides relevant training to local staff and that training is more readily accessible in a variety of formats, including online.

Fully functional, reliable, and secure state IT system
Appropriation Act (2019 Session)
HB 2178, 2787 (2019) Delegates Sickles, Rush

The General Assembly used budget language to require ELECT to submit a report with IT system requirements and a draft request for proposals to replace VERIS. The General Assembly directs ELECT to work with VITA and third-party vendors to determine whether to continue to rebuild VERIS or replace the system entirely. This will ensure a more comprehensive assessment of the long-term costs and benefits of rebuilding or replacing VERIS than the department conducted several years ago. ELECT is prohibited from spending additional funds to rebuild VERIS until going through this more comprehensive process.

The General Assembly enacted legislation requiring the State Board of Elections to set security standards localities must meet to access VERIS. Each local electoral board will be required to develop a plan to ensure its system that interfaces with VERIS meets those standards. When a locality's system cannot meet the state standards, it potentially places the entire state system at risk. Consequently, the board will be allowed to limit local access to VERIS if needed.

The General Assembly also appropriated federal funds to continue ensuring VERIS is as secure as possible. Election systems will likely continue to be high-value targets for hackers and foreign nations with malicious intent.

ACTION TAKEN BY STATE AGENCIES

Better guidance for local elections officials

ELECT is updating the General Registrar / Electoral Board Handbook to include guidance to help local registrar staff verify information about voters and decide whether to add a voter to or remove a voter from the registration list.

ELECT is also updating all of its forms and guidance and developing a schedule for regularly updating guidance over time.

ACTION NEEDED

Continued focus on non-politicized, effective, and efficient departmental operations

► Create a director of operations position subject to the Virginia Personnel Act. The position should ensure continuity and manage day-to-day operations, such as compliance with state and federal election laws and business, administrative, and financial policies (Recommendation 19).

► Eliminate the appointed positions of Chief Deputy Commissioner and Confidential Policy Advisor (Recommendation 20). The General Assembly passed HB 1620 and SB 1455, which would have eliminated both appointed positions by subjecting all ELECT staff other than the Commissioner to the Virginia Personnel Act, but the governor vetoed both bills.

Identify and address risks to election integrity

► Plan and implement state oversight activities to identify and address major risks to election integrity and uniformity (Recommendation 14).

Total Compensation for State Employees

Report issued in 2017

In 2017 JLARC reported on the total compensation for state employees, including cash compensation and benefits.

JLARC found

JLARC found that state employee compensation is competitive with other public and private sector employers in Virginia. This is primarily because of the state's relatively generous health insurance benefits, which help make up for state salaries that are about 10 percent below market value. Agency leaders cited an inability to pay competitive salaries as the primary reason for recruitment difficulty, in addition to lack of career advancement opportunities. Salaries for some jobs are far below market value. Agencies had the largest recruitment and retention challenges for health-care, health and safety inspection, public safety, and information technology jobs. JLARC found that while investments in employee salaries are costly, they are foundational to state government's ability to operate effectively and carry out programs and services supported by public funds. JLARC concluded a more strategic approach to funding state employee salaries would help ensure that salaries are competitive and would prioritize increases for employees in jobs with the most significant workforce challenges.

ACTION TAKEN BY THE GENERAL ASSEMBLY

A strategic approach to evaluating state employee salaries
HB 2055 (2019) – Delegate Carr
Appropriation Act (2019 Session)

The General Assembly passed legislation requiring the Department of Human Resource Management (DHRM) to annually compare state employee salaries to similar positions at other employers. Language in the Appropriation Act requires DHRM to convene a workgroup to develop a methodology to determine the amount of funding that should be appropriated for state employee salary increases each year and how to distribute that funding to address agencies' most significant workforce challenges. HB 2055 also requires DHRM to submit a report to the governor and the chairmen of the House Appropriations and Senate Finance committees before the biennial budget development process begins on occupations in the state workforce that should receive salary increases, the amount of the increases, and their associated costs.

ACTION TAKEN BY STATE AGENCIES

Enhancements to state employee career ladders
DHRM

DHRM has begun to implement the report's recommendation to work directly with agencies on enhancing existing or developing new career ladder programs for state employees.

ACTION NEEDED

Analyze effectiveness of salary increases at addressing workforce challenges

► The report recommended that the General Assembly consider requiring DHRM to evaluate the effect of salary increases on agencies' ability to recruit and retain employees, particularly for the occupations in the state workforce that had been identified as experiencing recruitment and retention challenges in years preceding salary increases (Recommendation 6).

Operations and Performance of the Department of Professional and Occupational Regulation

Report issued in 2018

In 2018 JLARC reported on the operations and performance of the Department of Professional and Occupational Regulation (DPOR). DPOR is charged with protecting the health, safety, and welfare of the public by licensing qualified individuals and businesses and enforcing standards of professional conduct for a wide variety of professions and occupations.

JLARC found

DPOR licensing requirements generally are appropriate and are not overly burdensome to applicants, but the regulation of 11 individual occupations by DPOR may not be warranted because they do not meet statutory criteria for regulation. In addition, while DPOR issues licenses in a timely manner, its IT systems are inefficient and difficult to use, preventing the agency from providing user-friendly online services. In addition, JLARC reported that statutory requirements intended to prevent DPOR boards from accumulating excess balances have not been effective.

JLARC also found that DPOR could improve the fairness and consistency of disciplinary decisions. The agency does not investigate all potential violations even when aware of violations and has insufficient authority to deter individuals and businesses from practicing without a license. Staff also found DPOR's management structure leads to insufficient focus on core functions.

ACTION TAKEN BY THE GENERAL ASSEMBLY

DPOR balances and excess funds
SB 1751 (2019) – Senator Ruff
HB 1939 (2019) – Delegates Webert, Freitas, and Keam

The General Assembly passed legislation requiring DPOR to take the following actions when unspent and unencumbered revenue exceeds the greater of $100,000 or 20 percent of regulatory board expenses: (i) distribute excess revenue to current regulants and (ii) reduce fees charged to regulants so that fees are sufficient but not excessive to cover expenses.

Detering the unlicensed practice of an occupation
SB 1751 (2019) – Senator Ruff

The General Assembly passed legislation permitting the DPOR director to issue a notice to any person unlawfully engaging in the unlicensed practice of an occupation to cease and desist such activity.

Evaluation of proposed expansions to occupational regulation
HB 2028 (2019) – Delegate Campbell

The General Assembly passed legislation requiring the Board for Professional and Occupational Regulation (BPOR) to evaluate any legislation to increase or begin regulation of an occupation. BPOR is to conduct its evaluation according to 10 statutory criteria to determine the proper degree of regulation, if any. Examples of these criteria include whether the occupation involves a hazard to public health, safety, or welfare; opinions on the need for regulation; the number of states that regulate the profession; and demand for the service provided by the occupation.

Agency staffing, organization, and IT system improvements
Appropriation Act (2019 Session)

The General Assembly included language in the Appropriation Act requiring DPOR to conduct a comprehensive assessment of its staffing needs and organizational structure and to report the results to the Department of Planning and Budget and the chairmen of the House Appropriations and Senate Finance committees. The language also directs DPOR to develop a plan to replace or upgrade its IT system, including its licensing system. The General Assembly directed DPOR to apply its existing fund balances to the future costs of agency restructuring and the replacement or upgrade of its IT systems.

ACTION TAKEN BY STATE AGENCIES

Internal operations and regulatory enforcement
DPOR

DPOR has begun implementing several recommendations to improve its organizational structure, staffing, fee calculations, and investigation and disciplinary procedures.

ACTION NEEDED

Consider deregulating some occupations

► The report recommended that the General Assembly consider deregulating certain occupations that do not meet the statutory criteria the General Asssembly has established for regulation (Recommendations 1 and 4).

Spending on Inmate Health Care

Report issued in 2018

The Virginia Department of Corrections cares for about 30,000 inmates at its 41 facilities. Correctional systems, including Virginia's, are required to provide "reasonably adequate" health care to inmates. If a court finds a system is not providing adequate care, the court will often begin directing the level and type of health care provided. When this happens, spending almost always rises substantially.

JLARC found

Many states, including Virginia, benefit from partnerships with university health systems. The medical expertise and credibility of a university can improve confidence in a state's ability to provide adequate care. Five other states have used extensive partnerships with university health systems.

The Virginia Department of Corrections pays more than other public purchasers do for physician and hospital services. Virginia could have spent $9 million less annually if it had used rates based on Medicare instead of its negotiated rates.

Virginia corrections spent more than $31 million on prescription drugs in FY17. The majority of this spending was through a private vendor. Vendors' negotiated prices tend to be higher than the prices available through the federal 340B drug purchasing program.

Virginia has one of the nation's most restrictive release policies for inmates with terminal diagnoses or complex long-term medical conditions. Inmates with complex long-term medical conditions accounted for only two percent of all inmates, but nearly 20 percent of all spending on offsite care and prescription drugs.

Staffing challenges, especially at facilities where health care is contracted to private vendors, make Virginia's correctional system legally and financially vulnerable. For example, nine of 12 contract facilities lost their health administrative leadership staff during FY17. Similarly, key front-line staff, such as registered nurses and licensed practical nurses, left contract facilities at twice the rate they left facilities where care is provided directly by Virginia corrections.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Partnership with university health system to improve care
Appropriation Act (2019 Session)

The General Assembly used budget language to require the Virginia Department of Corrections to convene a workgroup and develop a plan to partner with a university health system to provide comprehensive health care for at least one state correctional facility.

Lower prices on prescription drugs
Appropriation Act (2019 Session)

The General Assembly used budget language directing the UVA and VCU health systems to collaborate with the Virginia Department of Corrections to develop a plan to ensure that inmates with long-term or expensive prescription drug needs receive treatment from an entity covered under the federal 340B drug purchasing program.

ACTION NEEDED

Reduce correctional health care spending

► Design a pilot program to test using lower rates, based on Medicare, for certain services (Recommendation 1).

► Lengthen the life expectancy requirement for terminally ill inmates to be considered for medical clemency (Recommendation 4).

Reduce legal and financial risk by stabilizing healthcare staffing

► Modify contracts to incentivize retaining health administrators and key front-line staff at contract facilities (Recommendation 6).

► Evaluate whether contract modifications have stabilized staffing and improved care (Recommendation 7).

Prepaid529 Investment Management

Report issued in 2017

In 2017 JLARC evaluated the investment management structure for Prepaid529, Virginia529's prepaid college tuition program. Prepaid529's investment management structure had not changed since the fund was established in 1997, even though the fund had grown dramatically and added more complex investments. Prepaid529 is a public fund, so the state has a financial interest in fund performance, accountability, and transparency.

JLARC found

A third-party review of investment benchmarks would help determine if existing benchmarks are appropriate indicators of performance or if there is a need to reconsider investment decisions and practices. JLARC recommended that adding an Investment Director position to Virginia529 would promote accountability for fund performance and improve fund management and governance. In addition, JLARC developed additional recommendations to improve the governance for Prepaid529 and provide more information related to investment performance. JLARC determined responsibility to manage Prepaid529 investments should not be transferred to the Virginia Retirement System or the Department of Treasury because fiduciary and governance concerns, as well as other challenges, outweigh the benefits.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Benchmarks to measure investment performance
Appropriation Act (2018 Session)

Through budget language, the General Assembly directed JLARC to undertake a third-party review of Prepaid529's investment benchmarks. The review assessed whether the existing benchmarks were appropriate indicators of the Prepaid529 fund performance, and where supported, recommended alternative measures. The review also provided recommendations for Virginia529's overall approach to benchmarking.

Clarify responsibilities and reporting of new Investment Director position
Appropriation Act (2018 Session)

Through budget language, the General Assembly clarified that the newly created Investment Director position should assist the CEO and board in directing, managing, and administering Virginia529's assets, including Prepaid529. The General Assembly further clarified that the Investment Director should serve at the pleasure of the Virginia529 board.

ACTION TAKEN BY STATE AGENCIES

Creation of an Investment Director position
Virginia529

Virginia529 created an Investment Director position to strengthen Virginia529's investment management structure. The Investment Director has responsibility for investment management across all programs at Virginia529, including Prepaid529. The size and complexity of Prepaid529 justify an Investment Director position, and such a position promotes accountability for fund management and performance.

Strengthening governance and transparency
Virginia529

To promote independence and objectivity in managing Prepaid529 investments, the Virginia529 board removed the Chief Financial Officer (CFO) from the Investment Advisory Committee. The CFO has administrative responsibilities related to contract pricing and funded status, which could compromise the position's ability to make independent investment decisions.

To increase transparency and provide additional information on fund performance, Virginia529 began formally requiring performance attribution analysis at the total fund and asset class level.

Workforce and Small Business Incentives: Economic Development Incentives Evaluation

Report issued in 2018

In 2018, JLARC evaluated Virginia's workforce and small business incentives as part of an ongoing series evaluating the effectiveness of the state's economic development incentives. At the time of the evaluation, Virginia provided nine incentives to promote workforce improvements and small business development.

JLARC found

Virginia's workforce and small business grant and loan programs are estimated to have moderate to high economic benefits. JLARC found Virginia spent $52.4 million on these incentives between FY10 and FY17. Most of that spending (89 percent) was through the Virginia Jobs Investment Program (VJIP), which JLARC determined had a moderate economic impact per $1 million in spending by the state. The report suggested that several changes to the grant programs could better target awards and increase their economic benefit. The report also recommended changes to the grant programs to improve their administration, including strengthening grant recapture provisions and the ability to evaluate them. Two tax credits—the Worker Retraining Tax Credit and Telework Expenses Tax Credit—could be eliminated because they are not achieving their goals and are estimated to have a negligible economic benefit.

ACTION TAKEN BY THE GENERAL ASSEMBLY

Elimination of two ineffective tax credits
HB 2065 (2019) – Delegate Carr
HB 2539 (2019) – Delegate Byron

The General Assembly advanced expiration of the Telework Expanses Tax Credit from 2022 to 2019.

The General Assembly advanced expiration of the Worker Retraining Tax Credit from 2022 to 2019 and replaced it with a new Worker Training Investment Tax Credit. The new tax credit includes requirements and provisions that may address some of the limitations of the previous tax credit noted by JLARC.

Recapture grant awards if businesses relocate out of state or close because of criminal activity
HB 2347 (2019) – Delegate Herring

The General Assembly enacted legislation requiring investors who receive grants through the Small Business Investment Grant program to refund the money if the small business in which the investment was made moves out of state or closes as a result of a criminal conviction.

ACTION TAKEN BY STATE AGENCIES

Verify performance data reported by businesses receiving funds through VJIP
Virginia Economic Development Partnership (VEDP)

VEDP implemented new policies and procedures to verify job creation and capital investment levels reported by VJIP grant recipients. VEDP now utilizes employment data from the Virginia Employment Commission and revenue data from the local commissioners of the revenue to independently verify job creation and capital investment levels.

Require performance information from businesses that benefit from Small Business Investment Grants
Virginia Small Business Financing Authority (VSBFA)

VSBFA added a statement to the Small Business Investment Grant application requiring businesses that benefit from the grant to provide information on the number of jobs created, the average wage for new hires, and any capital investments made. The application also now collects the industry code of the business.

ACTION NEEDED

Improve the processes for awarding and measuring the performance of VJIP grants

► VEDP should implement a formal point-based scoring system for approving VJIP grants. VEDP should also establish additional performance measures for projects receiving a VJIP training grant, such as receipt of training credentials and total wage increases for trained employees (Recommendations 2 and 3).

Improve the process for awarding Small Business Investment Grant funds

► The General Assembly may wish to consider directing VSBFA to develop and use a scoring system to determine which investors receive Small Business Investment Grant awards and the minimum reimbursement rate for each award (Recommendation 6).

Development and Management of State Agency Contracts

Report issued in 2016

In 2016 JLARC reviewed the development and management of state contracts. State entities spent more than $6 billion in state contracts in FY15, mostly for goods and services related to transportation, construction, and information technology. The JLARC study was prompted by problems with several high-profile contracts.

JLARC found

Several high-risk state agency contracts fell short of original expectations, and many contract performance problems could be prevented through more robust contracting processes. JLARC found that agencies did not sufficiently manage contract-related risks and that many of the state's highest-value contracts lacked provisions necessary to enforce contract requirements. JLARC also found that high-risk contracts were administered by inexperienced state agency staff, agency staff were not monitoring contract performance or enforcing contract provisions effectively or consistently, and comprehensive information on contract performance was lacking.

ACTION TAKEN BY THE GENERAL ASSEMBLY

High-risk contracts
HB 1668 (2019) – Delegates Carr, Peace, and Jones

The General Assembly enacted legislation establishing criteria for identifying contracts that are of especially high financial or operational risk. The legislation requires that high-risk contracts be reviewed prior to finalization by subject matter experts at the Department of General Services (DGS), the Virginia Information Technologies Agency (VITA), and the Office of the Attorney General to ensure the legality, appropriateness, and effectiveness of terms and conditions. The legislation requires DGS and VITA to develop guidelines for agencies to use when staffing the administration of high-risk contracts to ensure that such contracts are administered by sufficiently trained and experienced personnel. The legislation also requires that all state public bodies submit information on the performance of high-risk contracts to the state's central electronic procurement system.

ACTION TAKEN BY STATE AGENCIES

Legal review of standard contract provisions
Office of the Attorney General

The Office of the Attorney General (OAG) conducted a comprehensive legal review of all standard contract provisions that have been developed or recommended for agencies' use.

ACTION NEEDED

Evaluate effectiveness of strategy to enhance use of small businesses

► The report recommended that the General Assembly consider directing DGS and the Department of Small Business and Supplier Diversity to collect data on awards made by state agencies through the RFP process to determine whether the requirement that small businesses' proposals be scored more favorably should be modified (Recommendation 4).

Film Economic Development Incentives

Report issued in 2017

In 2017, JLARC evaluated Virginia's film incentives as part of an ongoing series evaluating the effectiveness of the state's economic development incentives. Virginia provides three incentives to promote the expansion of the film industry in the state—a grant, a tax credit, and a sales tax exemption.

JLARC found

The film tax credit and grant have positive economic benefits (an additional 580 jobs and $51 million in Virginia GDP per year, on average), but these benefits are estimated to be smaller than that of other economic development programs. While the tax credit and grant have influenced most productions that received incentives to film in the state, film industry growth has been very small in Virginia. JLARC found that elements of film tax credit and grant should be combined to provide a more effective incentive. In addition, JLARC found the film tax exemption provides a negligible benefit to the Virginia economy, but it addresses imperfections in the sales and use tax system.

ACTION TAKEN BY STATE AGENCIES

Identifying grant projects with the highest economic impact
Virginia Film Office (VFO)

The VFO developed a formal, quantitative scoring system to evaluate grant applications and help ensure grants are awarded to the projects with the greatest economic impact potential. The scoring system considers grant funds available, proposed spending on the project, potential for local workforce and infrastructure development, and added value from increased tourism, including how Virginia's history is depicted.

ACTION NEEDED

Incorporate key features of the tax credit into the grant program and repeal the tax credit

► The General Assembly may wish to consider repealing the film tax credit, and incorporating its strongest features, such as having explicit guidelines and reimbursement rates, into the grant program to create a more effective and transparent program (Recommendation 1).

Ongoing Evaluation and Oversight

JLARC provides ongoing legislative evaluation and oversight of the state's economic development incentives, the Virginia Retirement System (VRS), the Virginia Information Technologies Agency (VITA), and the Virginia College Savings Plan (Virginia529). Ongoing evaluation and oversight help to ensure proper stewardship of the state's resources and taxpayer dollars.

Economic development incentives

JLARC is responsible for ongoing evaluation of the state's economic development incentives. Areas of evaluation include spending on incentives, business activity generated by incentives, economic benefits of incentives, and the effectiveness of incentives. JLARC contracts with the University of Virginia's Weldon Cooper Center for Public Service to assist with the evaluations.

JLARC issued an in-depth report of the state's film incentives (see page 40) in 2017 and an in-depth report on the state's workforce and small business incentives (see page 34) in 2018. JLARC also issued reports on overall spending and business activity for Virginia's economic development incentives in 2017 and 2018. The 2018 report provided for the first time estimates of the collective impact of Virginia's economic development incentives.

Virginia Retirement System

JLARC regularly reports on the performance of VRS investments, the administration of benefits, changes in policy or personnel, and legislation affecting the system.

In 2018, JLARC conducted an independent actuarial audit of VRS with the assistance of GRS Consulting. The audit validated the funded status and actuarial assumptions for all VRS plans. The audit included several recommendations, including that VRS continue to review the investment return assumption (currently seven percent) and give due consideration to both short-term and long-term investment horizons. In response, VRS has incorporated a more explicit consideration of both short-term and long-term horizons in discussions of the investment return assumption.

JLARC has conducted numerous reviews of VRS's compensation policy for investment staff in recent years. In 2018, the VRS board adopted a change to the incentive award portion of the compensation policy following a review by VRS's compensation consultant. The change was consistent with findings and options previously developed by JLARC staff. VRS undertook the consultant review, in part, in response to JLARC members' ongoing interest in the compensation of VRS investment professionals.

In 2017 and 2018, JLARC staff reported on the voluntary contribution participation rate for hybrid plan members. JLARC found that voluntary contribution rates may be too low to ensure adequate retirement savings for hybrid plan members but that increases to voluntary contribution rates would increase state costs.

Virginia Information Technologies Agency

JLARC is responsible for ongoing review and evaluation of VITA. Areas of review include VITA's infrastructure outsourcing contracts; adequacy of VITA's planning and oversight, including IT projects, security, and agency procurement; and cost effectiveness and adequacy of VITA's procurement services.

In 2017 and 2018, JLARC staff provided the Commission with updates on the status of VITA's IT infrastructure transition from a single-vendor model to a multisource model. Updates covered the transition's adherence to schedule, anticipated and unanticipated budget costs, and challenges.

Virginia College Savings Plan

JLARC staff periodically report on the structure and governance of Virginia529, including the structure of the investment portfolios, investment practices and performance, actuarial policy, and administration and management.

In 2017, JLARC issued an in-depth report on the management of the Prepaid529 tuition program's investments. (See page 31). JLARC also conducted an independent actuarial audit of Prepaid529 with the assistance of GRS Consulting. The audit confirmed the actuarial soundness of Prepaid529, which had a funded status of 138 percent as of June 30, 2017.

In 2017 and 2018, JLARC reviewed the pricing reserve for the Prepaid529 program. The pricing reserve is added to the price of Prepaid529 contracts to protect the fund against risk. In light of Prepaid529's high funded status and actuarial soundness, JLARC staff recommended that Virginia529 establish a guideline to adjust the pricing reserve based on the program's funded status to better balance program affordability and risk. The 2019 General Assembly enacted legislation (SB 1368, Senator Norment and HB 1611, Delegate Landes) that caps the pricing reserve at five percent if the funded status exceeds 105 percent. If the funded status drops below 105 percent, the pricing reserve can be increased to a maximum of 10 percent.

In 2018, JLARC reviewed a proposed change to the payout model for the Prepaid529 program. Legislation to change to a Weighted Average Tuition (WAT) model was proposed in the 2018 session but carried over to the 2019 session. In the meantime, JLARC was directed by the 2018 Appropriation Act to review the proposed WAT model. JLARC found that if Virginia529 were to maintain a prepaid college tuition program, the WAT payout model would be an improvement over the current payout model, which was based on the institution the student was attending. The 2019 General Assembly enacted legislation (HB 1972, Delegate Robinson and SB 1315, Senator Hanger), replacing the legacy Prepaid529 payout model with a WAT payout model.

In 2018, JLARC reviewed Prepaid529's investment benchmarks with the assistance of Callan, LLC. The assessment recommended changes to the overall benchmarking approach for Prepaid529 investments and to several specific investment benchmarks. These changes have been adopted by Virginia529.

Fiscal Analysis Services

JLARC staff provide several fiscal analysis services to the General Assembly, many of which are required by statute.

Fiscal impact reviews

JLARC was asked to review the fiscal impact statements for 26 bills during the 2017 and 2018 sessions (13 bills each session). This marks the third-highest number of fiscal impact reviews that JLARC has conducted in a session since it began providing the service in 2000. The reviewed bills addressed public safety, health and human services, general government, and revenue. JLARC staff concurred with the fiscal impact statements for 35 percent of the bills reviewed. For the remaining bills, JLARC staff estimated a different fiscal impact or found there would be no fiscal impact.

Spending and benchmarking reports

JLARC staff issue annual reports on total state spending and on state spending for the K-12 Standards of Quality. Staff also produce an annual publication comparing Virginia to other states on taxes, demographics, state budget, and other indicators. These publications are popular sources of information for the General Assembly and the public, and are frequently referenced in the media.

Internal service funds

In 2017 and 2018, JLARC staff produced annual reviews of internal service funds, which commented on the financial status of the funds.

JLARC Reports

Joint Legislative Audit and Review Commission (JLARC) research is directed by resolution of the General Assembly or by the Commission.

JLARC's full-time staff conduct research; develop recommendations for improving operations, services, and programs; and report their findings and recommendations in a public briefing before the Commission. Reports are available in print and on the JLARC website, jlarc.virginia.gov.

Forthcoming in 2019 and 2020

Implementation of STEP-VA and Community Service Board funding allocations

Data center and manufacturing incentives

Office of the State Inspector General

Medicaid expansion

Virginia Information Technologies Agency

Office of the Attorney General

Gaming in the Commonwealth

Workers’ compensation

Department of Game and Inland Fisheries

Virginia Employment Commission

Department of Small Business and Supplier Diversity

K-12 special education

Children Services Act

Department of Education central office

Virginia’s court system

Child Protective Services

Recent reports

Improving Virginia’s foster care system

Spending on inmate health care

Proposed change to payout model of Virginia’s Prepaid529 program

Operations and performance of the Department of Professional and Occupational Regulation

Operations and performance of Virginia’s Department of Elections

Evaluation of workforce and small business incentives

Land application of biosolids and industrial residuals

Operations and performance of the Virginia Community College System

Prepaid529 investment management

Total compensation for state employees

Improving Virginia’s early childhood development programs

Evaluation of film incentives

Periodic updates

Virginia Compared to the Other States (annual)

State spending (annual)

State spending on the K-12 Standards of Quality (annual)

Oversight: Virginia Retirement System (semi-annual)

Oversight: Virginia529 (biennial)

Oversight: Virginia Information Technologies Agency (periodic)

Oversight: Cardinal (periodic)

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