

JLARC Workplan

2022



COMMISSION DRAFT

Joint Legislative Audit and Review Commission

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1 JLARC Workplan

The Joint Legislative Audit and Review Commission (JLARC) is the oversight agency of the Virginia General Assembly. The legislature established JLARC in 1973 to review and evaluate the operations and performance of state agencies and programs. Since its establishment, JLARC's responsibilities have been expanded to include oversight and fiscal analysis in several areas of Virginia government.

JLARC uses a structured but flexible process for planning agency work. This workplan, which is prepared annually and submitted to the Commission for review and approval, represents a staff proposal for a feasible work schedule. The workplan may be revised to reflect changes in organizational priorities and needs. The sections that follow cover JLARC's major work functions: Studies, Ongoing Evaluation and Oversight, Fiscal Analysis, and Support.

Proposed Commission meeting schedule 2022

May 2	JLARC Workplan JLARC Impacts: Legislative Actions on Report Recommendations APA workplan and report on 2021 work
June 13	Science and technology incentives Virginia Housing JMU Management Agreement
July 5	VRS Virginia529
August	<i>No meeting</i>
September 19	Individual income tax progressivity VITA
October 17	Gaming regulation Prepaid529 surplus funds (or November) State spending Unimplemented JLARC recommendations
November 7	Higher education financial aid and dual enrollment COVID-19 impact on K–12 education
December 12	Community Services Boards SOQ funding formula review: status update Economic development incentives VRS Cardinal State Spending: K–12 Standards of Quality

2 Studies

Major research studies are the agency's primary work. JLARC's topic selection subcommittee recommends research topics, which are then approved by the full Commission. JLARC also receives studies through joint resolutions passed by the General Assembly.

Studies follow project-specific workplans, which are developed by study teams and reviewed by JLARC's project review team—director, associate directors, methodologist, and publications staff—to ensure that high-quality work can be completed in the time allotted. The project review team examines each project at every major stage of the research process. JLARC staff are assigned to study teams on a full-time basis for the duration of the project.

Studies to be completed in 2022 are summarized below. Study resolutions are included in the appendix.

Virginia Housing

Mandate: Commission resolution

Scheduled publication: June 2022

JLARC's December 2021 report, *Affordable Housing in Virginia*, found that there is a statewide shortage of at least 200,000 affordable rental units for extremely and very low-income households and that 29 percent of Virginians cannot afford their housing costs. State assistance is needed to support development of additional affordable rental units, but the annual cost to develop 20,000 units per year could be as much as \$1.6 billion, and providing direct cash assistance to extremely or very low income households could cost as much as \$5 billion annually.

Virginia Housing is an independent authority created by the General Assembly to address the state's affordable housing needs, and it has discretionary funds in its REACH program to incentivize affordable housing development. Virginia Housing's effectiveness in financing affordable housing is critical to addressing the state's current and future unmet housing needs.

This study is a companion to JLARC's broader study, *Affordable Housing in Virginia*. It will evaluate the operations and governance of Virginia Housing, which have traditionally been less visible to the General Assembly. The study will also evaluate how effectively Virginia Housing is managing its REACH program to stimulate new affordable housing development in the state.

Progressivity of Virginia’s individual income tax

Mandate: HJ 567 (2021 session)

Scheduled publication: September 2022

Virginia’s individual income tax is its primary revenue source, and about 4 million Virginians file an individual income tax return each year. Individual income tax revenue typically accounts for about 70 percent of general fund revenue.

The JLARC study team has been reviewing academic research to develop a definition of tax progressivity and comparing Virginia’s individual income tax to that definition. The team is also comparing Virginia’s individual income tax to other state income taxes. The team will identify changes the state could consider to make the income tax more progressive. The study team has been coordinating with the Virginia Department of Taxation to model the impact of potential changes on state revenue and progressivity.

Because tax policy is largely a policy decision made by the General Assembly, the report will identify policy options—not recommendations—to make the state’s income tax more progressive.

Regulation of gaming in Virginia

Mandate: Commission resolution

Scheduled publication: October 2022

Virginia has gradually expanded the types of gambling that are permitted in the state. (The Code of Virginia refers to legalized gambling as “gaming.”) Virginia now has six forms of legal gaming: lottery, charitable gaming, fantasy contests, pari-mutuel wagering on horse racing, sports wagering, and casino gaming. State law requires that a portion of the proceeds from each form of gaming benefit specific public purposes. For example, 100 percent of lottery proceeds go to K–12 public education, and 10 percent of charitable gaming sales are used for charitable organizations’ operations. In FY21, legal gaming activities generated at least \$8.9 billion in sales and wagering and \$900 million in proceeds for various designated public purposes identified in state law.

Three state agencies regulate gaming in Virginia: Lottery, the Virginia Department of Agriculture and Consumer Services, and the Racing Commission. Virginia’s gaming oversight—and the number of agencies involved—could increase soon if “skill games” are permitted to operate in Virginia and if “video gaming terminals” or virtual sports betting are introduced.

The study will assess the advantages and disadvantages of consolidating state regulation of gaming into a single state entity. The research team will evaluate the responsibilities, staffing, and funding of the state agencies that are currently responsible for gaming oversight to identify duplicative roles and responsibilities. The team will also evaluate the effectiveness of each agency’s efforts to oversee gaming and evaluate

whether consolidation would improve gaming oversight, specifically through more effective and efficient licensing, inspection, and enforcement. The team will also determine if there are approaches or structures used in other states that could be considered in Virginia. Ultimately, the team will consider how any changes to state gaming oversight and the agencies involved would affect state government's ability to effectively and efficiently oversee gaming in the best interests of Virginia's citizens and ensure that gaming fulfills the public purposes identified in state law.

Prepaid529 surplus funds

Mandate: Commission motion

Scheduled publication: October or November 2022

Virginia529 operates two defined benefit college savings programs: Legacy Prepaid529, which was closed to new participants in 2019, and a new defined benefit program—Tuition Track Portfolio (TTP), which began selling contracts in February 2021. As of June 30, 2021, Prepaid529 (in combination with the new TTP program) had an actuarial surplus of \$1.62 billion and a funded status of 193.5 percent. The funded status of the Prepaid529 fund has steadily increased since 2010, when it was 90 percent funded following the Great Recession.

Prepaid529's actuarial surplus potentially represents a significant opportunity to provide additional resources for higher education access and affordability in Virginia. Based on the fund's assets in FY21, a substantial amount of funds may be available to support the state's access and affordability goals while still maintaining a reasonable funded status.

The study will assess several key issues to determine whether surplus funds can be removed from the Prepaid529 fund for other purposes, and if so, how much funding could be removed to support higher education access and affordability. In particular, the study will review whether any statutory or legal restrictions limit the use of Prepaid529 surplus funds for purposes other than paying out Prepaid529 contracts. The study will assess the amount of Prepaid529 surplus funds that could be removed, while maintaining reasonable assurance that the Prepaid529 program remains actuarially sound. The study will also review options for higher education access and affordability initiatives, including the SOAR Virginia program, which could be supported with Prepaid529 surplus funds, and consider how funding decisions could be made.

Higher education financial aid and dual enrollment funding

Mandate: Commission resolution

Scheduled publication: November 2022

In-state undergraduate financial aid awards at Virginia's 15 public four-year higher education institutions totaled approximately \$1.4 billion in the 2020–21 academic year. The state appropriated \$185 million (13 percent) of this aid. State requirements for grant funds and student eligibility are outlined in state regulations, the Code of Virginia, and the Appropriation Act. However, individual institutions have substantial discretion in how they award funds to students, potentially creating significant variability in financial aid awarding practices. For example, some institutions issue many small grants to a large number of students, while others issue fewer, larger, awards. In the 2019–20 academic year, per-student state financial aid grants ranged from an average of \$2,810 at George Mason University (with 9,982 students receiving awards) to \$14,269 at the University of Virginia (with 477 students receiving awards).

Over the past decade Norfolk State University and Virginia State University—Virginia's two historically Black public universities—have received more state financial aid funding per student on average (\$2,127) than Virginia's other public four-year institutions (\$941). However, students at these institutions still have larger unmet financial needs and lower graduation rates than students at the other institutions. Norfolk State and Virginia State students are also more likely to graduate with student debt than students at other institutions.

The research team will evaluate the adequacy and equity of state financial aid funding across institutions, review institutions' student aid award policies and criteria, and evaluate how effective institutions have been at enabling students to afford higher education. The research team also will consider the disproportionate impacts rising higher education costs have on Virginia State and Norfolk State universities and their students.

In addition to reviewing student financial aid, the study mandate directs JLARC staff to determine the costs of providing dual enrollment programs to Virginia high school students. Dual enrollment programs provide high school students the opportunity to enroll in college-level courses and earn college credit that can be applied toward their two- or four-year college degree requirements. Nearly 42,000 students took a dual enrollment course during the 2021–22 school year, an increase of 55 percent over the past decade.

Students pay varying tuition rates for dual enrollment courses because these courses are funded differently across the state. State funding for school divisions and community colleges is used to pay for some dual enrollment costs, but the amount of this state funding has not been documented. The research team will collect data from community colleges and school divisions to calculate the cost of operating dual enrollment programs. The research team will also determine how much state funding is used by school

divisions and community colleges to fund their dual enrollment programs. The team will develop options the General Assembly could consider for developing a more transparent and uniform approach to funding dual enrollment that maintains affordability for students and covers colleges' and school divisions' dual enrollment costs.

Impact of COVID-19 on K–12 students, staff, and operations

Mandate: SJ 308 (2021 session)

Scheduled publication: November 2022

The COVID-19 pandemic has been extremely disruptive to K–12 school operations, students, and staff. Public schools were closed in March 2020 for the remainder of the 2019–20 school year. The following year public schools used a mix of virtual, hybrid, and in-person instructional models, but most divisions had returned to in-person instruction by fall 2021. These unprecedented disruptions were challenging for students and school staff. Students received less instructional time and were taught virtually rather than in-person, raising concerns about academic achievement gaps and the mental health and well-being of certain students. Teachers were asked to provide virtual instruction, which most had not been trained to provide, leading to concerns about workforce morale, recruiting, and retention.

The study team plans to review several topics related to the pandemic's disruptions on K–12 education in Virginia and potential strategies to address problems identified. The team will collect data on student enrollment to understand how many students left public school to attend private school or be homeschooled and analyze how the enrollment changes may affect division funding needs. The team will also identify the disruptions and barriers students faced during the pandemic, and how these disruptions affected students' academic achievement and mental health and well-being. The team will identify the pandemic's impact on teacher and staff working conditions, work morale, and school divisions' ability to recruit and retain enough qualified staff. The team will review how school divisions are addressing the pandemic's negative impact on students and school staff. The team will also review existing research about effective strategies to help close academic achievement gaps, support students whose emotional well-being suffered during the pandemic, and address staff recruiting and retention challenges. Finally, the team will examine ways Virginia's K–12 public schools can be better prepared for future disruptions to in-person instruction.

Community Services Boards System

Mandate: Commission resolution

Scheduled publication: December 2022

Community Services Boards (CSBs) were established to serve as the single point of entry to Virginia's publicly funded behavioral health and developmental services. There are 40 CSBs in Virginia, and most serve multiple jurisdictions. State law requires every locality to establish or join a CSB. CSBs provide mental health, substance use disorder, and developmental disability services, generally serving low-income and uninsured Virginians. CSBs may provide services directly or contract with private providers to provide services. The Department of Behavioral Health and Developmental Services oversees CSBs through performance contracts, which specify requirements for CSBs to receive state and federal funds.

In FY21, CSBs served about 208,600 people, the majority of whom are covered by Medicaid. Many CSB consumers are uninsured. In FY21, CSBs received about \$1.4 billion, mostly from Medicaid funds, non-Medicaid state funds, and local government funds. Several recent major initiatives have introduced new state requirements for CSB services and expanded the availability of Medicaid funding for community behavioral health services.

The research team will determine whether the services that CSBs are required to provide reflect Virginia's greatest behavioral health needs; evaluate whether the populations served by CSBs are appropriate; evaluate whether funding for CSBs is sufficient and whether they are staffed appropriately; and determine whether CSBs are providing (or arranging for) behavioral health services in a timely, efficient, and effective manner. The research team will also evaluate the existing structure of the CSB system and determine how it could be improved to ensure that community-based behavioral health services are available and as effective as they can be for Virginians who need them.

K-12 Standards of Quality funding formula

Mandate: SJ 294 (2021 session)

Scheduled publication: 2023

The state uses its Standards of Quality (SOQ) funding formula to allocate state funds to Virginia's 132 school divisions. The formula considers many factors, including school division staffing needs based on the number of students, the salary and benefits cost of employing those staff, and the relative ability of each school division to contribute local funds to education. The SOQ formula allocated about \$6.6 billion in state funds to school divisions in FY21, representing the vast majority of all state funding to school divisions. Localities are required to spend a minimum amount of their own funds on education, but nearly all localities spend substantially more than the minimum required. In FY21, the average division spent 72 percent more than required. Some divisions

spend substantially more; in FY21, 31 divisions spent over 100 percent more than the minimum required.

JLARC last reviewed the SOQ formula about 20 years ago. Since then, K–12 student needs and operations have evolved, and the state has changed how the funding formula is calculated or applied. The study team will review three key parts of state funding: (1) the standards of quality that determine how many staff a division needs, (2) the SOQ funding formula itself and key formula inputs, and (3) how local ability to pay and student needs are addressed through state funding. The team will compare the current staffing standards to actual staffing types and levels in divisions, and to what may be best or recommended practice. The team will review the rationale for the SOQ funding formula inputs, variables, and steps, including the calculation of prevailing salaries and the cost of competing adjustment. The team will review the other major state funding categories for K–12 education, such as the at-risk add-on. The team will also determine the suitability of the local composite index to measure local ability to pay by understanding the rationale for the formula inputs and comparing the index to other measures of local ability to pay used in Virginia and other states.

After thoroughly reviewing the standards, funding formula, and local ability to pay, the team will identify ways the state could consider changing the standards and SOQ funding formula. It will estimate the impact of those changes on the amount of state funding available and the amount each division would receive. The team will also use quantitative methods to estimate how using different funding estimation and allocation methods would affect Virginia’s state education funding. Other states use different approaches (such as estimating the cost to teach students of varying levels of need, rather than estimating the number of staff). The team will compare the results of these different approaches to the SOQ formula and evaluate the feasibility and advisability of using a different funding method.

3 Ongoing Evaluation & Oversight

JLARC provides ongoing evaluation and oversight for the General Assembly. The General Assembly has directed JLARC to evaluate and oversee the following topics. Two JLARC staff members are permanently assigned to evaluation and oversight. Other staff members are assigned as needed.

Economic development incentives

The Appropriation Act directs JLARC to review and evaluate economic development initiatives and policies on an ongoing basis. The Commission approves the incentives to evaluate each year. JLARC contracts with the University of Virginia's Weldon Cooper Center for Public Service to perform evaluations. Evaluations analyze

- economic development incentives, such as grants and tax preferences;
- success by businesses in meeting goals in return for incentives;
- the economic benefits of incentives; and
- effectiveness of incentives in influencing business activity. JLARC staff will present two reports in 2022:

Evaluation of science and technology incentives

Scheduled briefing: June 2022

Annual economic development incentives report

Scheduled briefing: December 2022

Virginia Retirement System

The Virginia Retirement System Oversight Act (Chapter 10 of Title 30 of the Code of Virginia) authorizes oversight of the Virginia Retirement System (VRS). Under this authority, JLARC evaluates

- the structure and governance of the retirement system;
- the structure of the investment portfolio;
- investment practices, policies, and performance;
- the actuarial policy and the actuarial soundness of the trust funds; and
- the administration and management of the retirement system.

JLARC staff conduct independent research and attend meetings of the VRS Board of Trustees and committees to observe agency and board operations. JLARC staff will present an oversight briefing and report and will provide an actuarial audit of VRS in 2022. Staff will also prepare an update to the biennial legislator guide for 2023.

VRS Oversight Update
Scheduled briefing: July 2022

Independent actuarial audit of VRS
(prepared by actuarial firm under contract with JLARC)
Scheduled briefing: July 2022

VRS Oversight Report
Scheduled briefing: December 2022

Legislator's Guide to VRS
Scheduled publication: February 2023

Virginia529

The Virginia College Savings Plan Oversight Act (Chapter 51 of Title 30 of the Code of Virginia) authorizes oversight of the Virginia College Savings Plan (Virginia529). Under this authority, JLARC evaluates

- the structure and governance of Virginia529;
- the structure of investment portfolios;
- investment practices, policies, and performance;
- the actuarial policy and the actuarial soundness of the prepaid tuition program; and
- the administration and management of the plan.

JLARC staff conduct independent research and attend meetings of the Virginia529 Board of Directors and committees to observe agency and board operations. JLARC staff will present the following reports in 2022 and will prepare an update to the biennial legislator guide for 2023.

Biennial Virginia529 oversight report
Scheduled briefing: July 2022

Review of Prepaid529 surplus funds
Scheduled briefing: October or November 2022

Legislator's Guide to Virginia529
Scheduled publication: February 2023

Virginia Information Technologies Agency

The Appropriation Act directs JLARC to review and evaluate the Virginia Information Technologies Agency (VITA) on an ongoing basis. Under this authority, JLARC evaluates

- the state's IT infrastructure outsourcing contracts;
- VITA's planning and oversight responsibilities; and
- VITA's procurement services and oversight of state agency procurement activities.

JLARC staff conduct independent analysis and attend IT advisory and agency relational meetings to observe VITA's operations. JLARC staff will present the following briefing in 2022:

Update on VITA
Scheduled briefing: September 2022

Cardinal

The Appropriation Act directs JLARC to review and evaluate Cardinal, the Commonwealth's enterprise resource planning system, on an ongoing basis. Under this authority, JLARC evaluates:

- procurements and contracts related to Cardinal;
- the development, implementation, performance, and costs of Cardinal;
- the viability of the technologies used in Cardinal;
- the system of governance for Cardinal; and
- the security of information contained in Cardinal.

JLARC staff conduct independent analysis and attend meetings of the Cardinal Human Capital Management Project Steering Committee to assist with their oversight of Cardinal. JLARC staff will present the following briefing in 2022:

Update on the status of Cardinal Human Capital Management Project
Scheduled briefing: December 2022 (estimated)

Other evaluation support provided for the General Assembly

JLARC provides additional evaluation and support services for the General Assembly as directed by the Code of Virginia or the Appropriation Act. JLARC staff

- provide reviews of proposed criminal justice legislation to determine the potential impact on racial and ethnic disparities in the Commonwealth;
- review the compliance of higher education institutions with their management agreements;
- conduct assessments of bills that would mandate insurance coverage of specific health-care benefits; and
- provide other evaluation support to the General Assembly as requested.

Several JLARC staff members work part time on other evaluation and support. Activities and reports for this year include:

Racial and ethnic impact statements for proposed criminal justice legislation
Upon request of the House Courts of Justice Committee or Senate Judiciary Committee chairs

Review of James Madison University's higher education management agreement
Scheduled briefing: June 2022

Reviews of proposed mandated health insurance benefits
Upon request of the Health Insurance Reform Commission

4 Fiscal Analysis

JLARC provides fiscal analysis services to the General Assembly. Under this function, JLARC staff

- provide an independent assessment of the fiscal impact of proposed legislation and executive orders;
- report on state spending and how Virginia compares nationwide;
- monitor and provide technical support for major forecasts related to the state budget; and
- provide other fiscal analysis support to the General Assembly as requested.

Several JLARC staff members work part time on fiscal analysis. Activities and reports for this year include:

Second opinion fiscal impact reviews of proposed legislation

Upon request of a committee chair

Fiscal impact reviews of executive orders issued by the governor

Upon request of a committee chair

Annual state spending report

Scheduled briefing: October 2022

Annual state spending on the K–12 Standards of Quality

Scheduled briefing: December 2022

Annual Virginia compared with the other states publication

Scheduled publication: January 2023

Monitoring of major expenditure forecasts

Ongoing and periodic

Review of internal service funds

Upon request of JLARC, House Appropriations Committee or Senate Finance & Appropriations Committee chairs

Debt Capacity Advisory Committee

Participation by JLARC director

5 Support Functions

Several functions support the research and oversight work of JLARC staff: research methods, publications, business and administrative support, and staff training and development.

Research methods

JLARC's chief methodologist supports teams in developing and evaluating state programs and agencies. The chief methodologist

- supports the conceptualization, design, and implementation of research methods and techniques to improve the accuracy and validity of findings;
- advises study teams on data collection, approaches to analysis, and statistical methods;
- leads complex or critical analyses for teams;
- reviews work products for methodological soundness and accuracy of interpretation;
- develops and implements training to enhance staff capabilities;
- provides technical assistance for the fiscal analysis function; and
- serves as a member of the project review team.

Publications

JLARC's two-person publications team supports the study teams and advances communication of JLARC's work to the legislature and to the public. The publications team

- participates in project review during the development of reports and briefing materials;
- edits reports and other documents for clarity, logic, usage, and style;
- contributes to the design of graphics;
- handles design and layout of JLARC documents and publications;
- maintains staff resources for writing and graphics; and
- oversees output and distribution of JLARC publications online and in print.

The JLARC publications team maintains the JLARC website, making sure that public information is current and accurate.

Business operations and administrative support

JLARC's business operations are carried out by a two-person team. The business manager oversees daily operations of the function, which include

- executing the agency's annual budget and ensuring effective internal financial controls;
- providing human resources, payroll, and benefits services to agency staff;
- managing the agency's fixed assets inventory;
- managing agency records and archives;
- arranging travel for site visits;
- conducting administrative preparation and follow-up for Commission meetings;
- coordinating staff recruitment efforts;
- and providing administrative support to study teams as needed.

Staff training and development

Staff training activities ensure that staff have the skills and knowledge necessary to perform their work, improve their individual performance, and contribute to the organization's overall performance. JLARC offers several opportunities to help staff meet their training needs and to address organization-wide training needs.

In 2022, training may include:

- in-house training for staff on selected topics, to be led by external experts and trainers or experienced and skilled JLARC staff members;
- professional development opportunities offered by the National Legislative Program Evaluation Society at its annual conference; and
- webinars relevant to the work of the agency, available through the National Conference of State Legislatures and other professional organizations.

Appendix: Study resolutions

Study Resolution

Review of the Commonwealth's Housing Needs

Authorized by the Commission on November 16, 2020

WHEREAS, access to affordable housing is a critical factor in Virginians' physical and behavioral health and their ability to achieve and maintain economic stability; and

WHEREAS, affordable housing is becoming more difficult for many individuals and families to acquire throughout all regions (suburban, urban, and rural) of the Commonwealth; and

WHEREAS, the high cost burden of housing, especially for lower-wage earners or those with special needs, is contributing to housing instability and homelessness; and

WHEREAS, between January and June of 2020 approximately 54,000 evictions were filed, more than 19,000 of those resulted in an eviction, and analysis by Virginia Commonwealth University estimated that up to 262,000 additional households are at risk of eviction; and

WHEREAS, multiple state and local agencies are involved in the provision of housing services and monitoring housing affordability and availability in Virginia; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission (JLARC) that staff be directed to review the Commonwealth's housing needs and the role of state and local governments in addressing them.

In conducting the study, staff shall (i) analyze rent burden across the Commonwealth and compare the demand for affordable housing statewide to its supply; (ii) identify the impacts of a lack of housing options and high rent burden on Virginians, especially those discriminated against based on their race and ethnicity or disadvantaged by their education, income, age, or physical or behavioral health needs; (iii) identify factors that limit the supply of housing, including zoning requirements; (iv) evaluate the importance of housing availability to state and local revenues and economic growth; (v) evaluate the effectiveness of state and local programs to address housing needs, especially for low- and moderate-income Virginians, Virginians who struggle with mental health conditions and substance abuse, Virginians who live in multi-family households, and elderly Virginians; and (vi) evaluate the adequacy of coordination between the various state and local agencies that have a role in housing policies and services.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Department of Housing and Community Development, the Virginia Housing Development Authority, the Department of Behavioral Health and Developmental Services, the Department of Aging and Rehabilitative Services, and the Department of Social Services, shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be

interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

2021 SPECIAL SESSION I

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HOUSE JOINT RESOLUTION NO. 567

Directing the Joint Legislative Audit and Review Commission to study increasing the progressivity of Virginia's individual income tax system. Report.

Agreed to by the House of Delegates, January 26, 2021

Agreed to by the Senate, February 16, 2021

WHEREAS, the individual income tax should be based on the fundamental principles of fairness and progressivity; and

WHEREAS, the Virginia individual income tax made up 69 percent of the general fund revenues for fiscal years 2020 through 2022, and changes to it can have major budgetary impacts; and

WHEREAS, Virginia does not collect any tax from taxpayers whose Virginia adjusted gross income is less than \$11,950 for an individual and \$23,900 for joint filers, and these zero tax bracket amounts have not changed since 2012; and

WHEREAS, after subtracting personal exemptions, deductions, and credits, the taxable income that remains above the zero tax bracket threshold is taxed at rates of two percent of the amount that is \$3,000 or less; three percent of the amount in excess of \$3,000 but no more than \$5,000; five percent of the amount in excess of \$5,000 but no more than \$17,000; and 5.75 percent of any taxable income over \$17,000, and these dollar thresholds and rates have not changed since 1990; and

WHEREAS, Virginia provides personal exemptions to reduce the taxable income for state income tax purposes, including those for dependent children and for seniors and blind taxpayers, while other states have moved away from income tax exemptions to avoid choosing who among a wide variety of taxpayers deserves such a tax break; and

WHEREAS, the standard deduction primarily results in alleviating tax liabilities of low-income and moderate-income individuals who do not have the necessary income to make expenditures on items that could be deducted; and

WHEREAS, as the federal standard deduction has grown to be much greater than Virginia's, a number of middle-income taxpayers must pay more in Virginia taxes to achieve the lowest combined federal and state tax total bill because Virginia is one of 13 jurisdictions that does not allow taxpayers to claim the standard deduction on their state returns if they itemize deductions on their federal returns; and

WHEREAS, a tax credit is a dollar-for-dollar subtraction from the taxes owed by a taxpayer, notwithstanding the income tax bracket in which the taxpayer falls, while a deduction reduces the amount of income on which taxes are calculated, which results in a higher dollar benefit the higher the tax rate; and

WHEREAS, many businesses, such as pass-through entities, S corporations, limited liability companies, partnerships, and sole proprietorships, are subject to the Virginia individual income tax, rather than the Virginia corporate tax, and almost all of the more than 25 individual income tax credits available to taxpayers focus on economic incentives, rather than progressivity; and

WHEREAS, only three tax credits for research and development, agricultural best management practices, and motion picture production are refundable tax credits; however, for most businesses, the value of a nonrefundable tax credit is not lost because almost all business tax credits may be carried over to future tax years; and

WHEREAS, Virginia's earned income tax credit is a principal element of progressivity and it is not refundable, which results in the lowest-income families not receiving the same dollar benefit as other qualifying taxpayers; and

WHEREAS, graduated rates assume that the higher the income, the more taxpayers can pay in taxes without undercutting basic living expenses; however, in Virginia, determination of the dollar amounts to which graduated rates apply is complicated by the fact that Virginia has the second-highest cost of living spread in the nation and basic living expenses differ greatly in different areas of the Commonwealth; and

WHEREAS, basic living expenses and the consumer price index are largely driven by the housing index, and the lower the income, the less flexibility there is to reduce housing costs; and

WHEREAS, for all income levels, since the 1940s, the cost of housing has increased more than any other category of household spending and nationally now approaches twice the amount spent on either food or transportation; nevertheless, since tax year 2018, federal tax deductions are severely reduced for local real estate taxes which, in Virginia, are the major source for funding local government services; and

WHEREAS, 16 other states and the federal government adjust tax bracket dollar amounts, zero tax

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thresholds, the standard deduction, and personal exemptions annually for inflation to counter their income tax structure from becoming incrementally more regressive; and

WHEREAS, numerous legislative proposals are made annually to change Virginia's income tax structure and modify its application; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study increasing the progressivity of Virginia's individual income tax system. In conducting its study, the Joint Legislative Audit and Review Commission (JLARC) shall evaluate the fiscal impact of amendments to tax brackets, tax rates, credits, deductions, and exemptions, as well as any other factors it deems relevant to making Virginia's individual income tax system more progressive and fair in response to economic dynamics. JLARC shall recommend whether the General Assembly should amend the Code of Virginia or administrative regulations of the Department of Taxation and shall make any other appropriate recommendations.

Technical assistance shall be provided to JLARC by the Department of Taxation. JLARC shall consult with staff of the House Committee on Finance, the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, and any other stakeholders deemed appropriate. All agencies of the Commonwealth shall provide assistance to JLARC for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2022, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2023 Regular Session of the General Assembly. The executive summary shall state whether JLARC intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Study Resolution

Oversight and Administration of Gaming in the Commonwealth

Authorized by the Commission on January 10, 2022

WHEREAS, the forms of legal gaming in Virginia have expanded in recent years and include lottery, charitable gaming, pari-mutuel wagering on horse racing, casino gaming, online gaming, and sports betting; and

WHEREAS, these forms of gaming are administered and overseen by three different executive branch agencies: the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services, and the Horse Racing Commission; and

WHEREAS, all forms of gaming require some similar administrative and oversight activities, such as licensing of gaming entities and inspections of facilities, equipment, and finances; and

WHEREAS, any form of gaming has the potential to be a source of illegal or unethical activities, such as fraud and self-dealing and therefore requires effective regulation and enforcement; and

WHEREAS, there may be opportunities to reduce duplication of administrative functions across the three agencies and better leverage each agency's resources to improve oversight and enforcement of gaming activities to deter illegal or unethical activities and hold gaming entities responsible for such activities; and

WHEREAS, several states combine oversight of multiple types of gaming into a single agency; and

WHEREAS, a 2019 report of the Joint Legislative Audit and Review Commission (JLARC) proposed the option of evaluating the roles, responsibilities, and performance of all Virginia gaming oversight agencies after additional forms of gaming have been implemented to determine whether consolidation of gaming oversight responsibilities is warranted; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to assess the advantages and disadvantages of consolidating the administration and oversight of Virginia's gaming activities into a single executive branch agency. In conducting the study, staff shall (i) evaluate the roles and responsibilities of each agency and the staffing and financial resources dedicated to them; (ii) identify potentially duplicative roles and responsibilities that could more efficiently and effectively be carried out under one agency; (iii) evaluate the effectiveness of each agency's enforcement policies and activities; (iv) compare and contrast the regulatory requirements used by each agency to carry out its roles and responsibilities, including licensing and inspection requirements; (v) consider how, if at all, consolidation could affect the various missions of the agencies that regulate gaming; and (vi) examine other states' approaches to administering and supervising legal gaming.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Virginia Lottery, Horse Racing Commission, Virginia Department of Agriculture and Consumer Services, the Virginia State Police, and the Office of the Attorney General shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

Study Resolution

Virginia's higher education student financial aid award policies and processes

Authorized by the Commission on January 10, 2022

WHEREAS, state funding for student financial aid has increased in recent years, totaling more than \$200 million across Virginia's 15 public four year institutions in FY 22, and the state allocated \$60 million in FY 21 and \$73.5 million in FY 22 to maintain affordable access during the COVID-19 pandemic; and

WHEREAS, student debt levels are in part determined by a student's ability to pay (e.g. household income and savings) and the cost of attendance, and students who need to assume debt to attend school have access to a variety of federal, state, and private loan and grant programs; and

WHEREAS, Virginia has numerous student financial assistance programs, and state funding for student aid at Virginia's public four year institutions ranged from 11 percent to 41 percent of total, non-loan aid (federal, state, institutional, and private or local aid); and

WHEREAS, state financial aid funding is allocated to institutions based on a formula, then each institution uses a variety of policies, criteria, and processes to make individual financial aid award decisions among students; and

WHEREAS, the average state financial aid award was \$2,336 per student but ranged from \$1,746 to \$3,904 per student at each institution, and each institution allocated these awards to varying degrees based on student ability to pay, other demographic factors, and other considerations; and

WHEREAS, 40 percent of recent graduates from Virginia's public four year higher education institutions had no student financial aid debt at graduation, yet 20 percent had \$10,000 to \$25,000 in debt and 25 percent had \$25,000 to \$50,000 in debt; and

WHEREAS, the State Council for Higher Education in Virginia's strategic plan sets a goal to lower student costs and it will be releasing a review of funding, efficiency, and effectiveness in mid-2022; and

WHEREAS, JLARC has not reviewed financial aid at Virginia's 15 public four year institutions since 2014; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to review student financial aid at Virginia's 15 public four year institutions. In conducting its study, staff shall (i) assess student cost, enrollment, and graduation trends before and during the pandemic; (ii) assess the adequacy and equity of state financial aid funding across institutions given varying student ability to pay and demographics; (iii) identify, compare, and evaluate student aid award policies, criteria, and processes at each of Virginia's 15 public four year institutions; (iv) evaluate how, if at all, HBCUs and their students are being affected differently by rising higher education costs and student debt; (v)

determine costs to provide dual enrollment courses and how well institutions share data about students who complete dual enrollment courses or transfer across institutions; and (vi) evaluate the effectiveness of state student financial aid at lowering student costs considering funding levels, student demographics, and graduation rates at each institution.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the State Council for Higher Education in Virginia and all public higher education institutions and local school divisions, shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

Motion adopted by JLARC at the July 6, 2021 meeting:

In light of the Virginia529 Prepaid529 program's actuarially funded ratio of 157 percent and its surplus of \$1.1 billion, which is projected to be \$3.8 billion by the end of FY44, JLARC staff are directed to review the extent to which Prepaid529 surplus funds can be used to support higher education access and affordability in Virginia. The review shall include, but not be limited to:

- (1) whether the Prepaid529 program and the new Tuition Track Portfolio program should be combined for actuarial purposes;
- (2) the actuarial implications of using a portion of Prepaid529 surplus funds to support access and affordability, including an appropriate funded ratio to provide reasonable assurance that the Prepaid529 program and Tuition Track Portfolio will remain actuarially sound;
- (3) legal or statutory restrictions on the use of Prepaid529 surplus funds;
- (4) the amounts of net operating fee revenue historically allocated to the Prepaid529 program, and their subsequent investment earnings;
- (5) options for using additional Prepaid529 surplus funds to support higher education access and affordability in Virginia; and
- (6) other relevant topics identified during the course of the review.

2022-2024 Appropriations Act (pending)

Item 497 #2h

"As part of its ongoing review of access and affordability of higher education in Virginia, the Joint Legislative Audit and Review Commission (JLARC) is hereby directed to review (i) evidence of the effectiveness of the SOAR Virginia program and other Virginia College Savings Plan access and affordability efforts involving financial aid-related grants and scholarships, (ii) whether the net operating revenue of Virginia College Savings Plan can best support higher education access and affordability through SOAR or other state access and affordability programs, and (iii) alternative processes for determining how best to allocate the net operating revenue received by the Virginia College Savings Plan for higher education access and affordability."

2021 SPECIAL SESSION I

ENROLLED

SENATE JOINT RESOLUTION NO. 308

Directing the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees. Report.

Agreed to by the Senate, January 27, 2021

Agreed to by the House of Delegates, February 24, 2021

WHEREAS, the COVID-19 pandemic has proven to be one of the most disruptive forces ever exerted on Virginia's public schools. State guidance has given local school divisions wide latitude in deciding to what extent school programs should be delivered virtually, as opposed to in person, under revised protocols to protect health and safety; and

WHEREAS, strong and inclusive public education systems are essential to the short-term and long-term recovery of society, and there is an opportunity to leapfrog toward powered-up schools; and

WHEREAS, public education systems in the United States were not built to deal with extended shutdowns like those imposed as a result of the COVID-19 pandemic. Teachers, administrators, and parents have worked hard to keep learning alive, but these efforts are not likely to provide the quality of education that is delivered in the classroom; and

WHEREAS, the COVID-19 pandemic has exposed the many inadequacies and inequities in public education systems, such as lack of access to the broadband and computers needed for online education, lack of supportive environments needed to focus on learning, and the misalignment between resources and needs; and

WHEREAS, the extended period of restrictions on face-to-face instruction in the Commonwealth has exacerbated previously existing differences in student learning experiences, levels of support, and access to resources. NWEA, a nonprofit organization that develops and offers student assessments, estimates that students could return to school in the fall, either in person or virtually, (i) with roughly 70 percent of the learning gains in reading relative to a typical school year and (ii) with less than 50 percent of the learning gains in mathematics relative to a typical school year and, at some grade levels, nearly a full year behind in mathematics relative to what educators would observe in normal conditions; and

WHEREAS, researchers predict that the top one-third of students will make gains in reading during the extended reading period of restrictions on face-to-face instruction, possibly because they are likely to continue reading with their families while such restrictions are in place, thus widening the achievement gap; and

WHEREAS, one national survey shows that one-third of teacher respondents report that the pandemic has made them more likely to exit the profession or opt for early retirement, results that are concerning. Of such subset of teacher respondents, 45 percent are over the age of 50, 44 percent have over 20 years of experience as educators, and 42 percent live in the American South; and

WHEREAS, government funding for public education often fluctuates in response to external shocks, as governments prioritize other investments. The slowdown of economic growth associated with the spread of COVID-19 may affect the availability of public funding for education, as tax revenues decline and emergency funds are funneled into supporting increased health care expenditures for those in poverty; and

WHEREAS, in response to the COVID-19 pandemic, many students have opted for home school and private school alternatives during the 2020-2021 school year, a trend that has had an adverse impact on the calculation of the number of students in average daily membership for the purpose of public education funding; and

WHEREAS, as public educators have an unwavering commitment to ensuring that Virginia's public education system is one that provides equitable educational opportunities to all students and to meeting the needs of all Virginia learners, especially those disproportionately impacted by restrictions on face-to-face instruction or learning loss; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study the impact of COVID-19 on Virginia's public schools, students, and school employees.

In conducting its study, the Joint Legislative Audit and Review Commission shall:

1. Examine and determine reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations;

2. Determine the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of

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local school boards to fully staff their needs, employment levels, and local budgets;

3. Determine the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels;

4. Determine the impact of implementing COVID-19 health and safety measures in public schools;

5. Evaluate public schools' level of emergency preparedness to face another pandemic or statewide crisis and make recommendations to help guide planning for such events; and

6. Examine programs that can address learning loss and identify barriers to implementing those programs, including resource gaps.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Education and each local school board. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings by November 30, 2022, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2023 Regular Session of the General Assembly. The executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Study Resolution

Effectiveness of Virginia's Community Services Boards

Authorized by the Commission on December 13, 2021

WHEREAS, Community Services Boards (CSBs) are Virginia's safety net providers for community-based behavioral health, substance use disorder, and developmental disability services for adults and children, funded through a combination of federal funds, state general funds, and local funds; and

WHEREAS, Virginia's 40 CSBs are administered locally and overseen by the Department of Behavioral Health and Developmental Services (DBHDS); and

WHEREAS, CSB services and funding have recently undergone numerous changes as part of the STEP-VA initiative, Medicaid behavioral health enhancement, and Medicaid expansion; and

WHEREAS, CSBs provide key services to help manage the state mental health hospital population, including discharge planning and behavioral health crisis services; and

WHEREAS, effective community-based behavioral healthcare systems can reduce the reliance on more acute and costly services, such as inpatient hospitalization; and

WHEREAS, previous JLARC reports have noted a need for DBHDS to align its funding model for CSBs with community needs and improve data gathered from CSBs; and

WHEREAS, JLARC has not comprehensively reviewed Virginia's public community-based behavioral health, substance use disorder, and developmental disability service system; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to review the efficiency and effectiveness of the structure and service delivery of Virginia's community services boards. In conducting its study, staff shall (i) determine what services CSBs are required to provide for adults and children and whether these requirements reflect Virginia's greatest mental and behavioral health priorities; (ii) evaluate whether the populations served by CSBs are appropriate; (iii) evaluate whether CSBs are staffed and funded to effectively respond to these requirements and priorities, including their ability to execute discharge plans for individuals in the state's mental health hospitals and provide behavioral health crisis services, (iv) determine the extent to which CSBs are able to either directly provide or facilitate access to behavioral health services in a timely, efficient, and effective manner and identify the reasons for any shortcomings, including challenges related to data and IT systems; (v) assess the outcomes of pilot programs being operated by the CSBs; and (vi) determine whether the existing structure of the CSB system—including the number of CSBs, their service regions, their relationship to their local governments, the private sector, DBHDS, the state's mental health hospitals, and each other—could be improved to strengthen the effectiveness and efficiency of service delivery.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, and all community services boards, shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

2021 SPECIAL SESSION I

ENROLLED

SENATE JOINT RESOLUTION NO. 294

Directing the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality. Report.

Agreed to by the Senate, January 27, 2021
Agreed to by the House of Delegates, February 24, 2021

WHEREAS, under Article VIII, Section 1 of the Constitution of Virginia, ultimate responsibility for public education rests with the General Assembly, which is specifically charged with the duties of establishing a public school system and striving to ensure its quality; and

WHEREAS, the Standards of Quality, prescribed by the Board of Education and revised only by the General Assembly, establish minimum educational goals and requirements; and

WHEREAS, the cost of such Standards of Quality and how that cost is shared between the state and the localities is determined by the General Assembly; and

WHEREAS, the Standards of Quality funding formula has undergone several changes in the past decade and may no longer reflect the actual costs schools face in educating Virginia's children; and

WHEREAS, many school divisions in the Commonwealth exceed the minimum educational goals and requirements of the Standards of Quality; and

WHEREAS, the General Assembly must take into account the actual cost of education in the Commonwealth in order to ensure a high-quality education program and a fair balance of costs between the state and the localities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) estimate the cost of implementing the Standards of Quality based on the actual expense of education prevailing in the Commonwealth; (ii) determine if the Standards of Quality accurately reflect actual standards of practice within each school division; (iii) analyze changes in the Standards of Quality funding formula since 2009 and the impact of such changes on its accuracy in reflecting such costs; (iv) recommend changes to the Standards of Quality funding formula to ensure that state support is neither inadequate nor excessive; and (v) consider any other funding issues and make any other recommendations it deems relevant.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Education. All agencies of the Commonwealth shall provide assistance to the Joint Legislative Audit and Review Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by November 30, 2022, and for the second year by November 30, 2023, and the Director shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the Joint Legislative Audit and Review Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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