

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

**The Secretarial System  
in Virginia State  
Government**

**House Document No. 41**

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## Preface

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Item 14G of the 1996 Appropriation Act directed JLARC to complete a follow-up review of its 1984 assessment of Virginia's secretarial system. The review was to focus on the structure and staffing of the current secretarial system, as well as the role of secretaries in internal agency management.

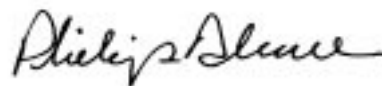
The secretarial system, which was created in 1972, has been largely successful in achieving its objective of enhancing the governor's ability to manage State government. The governors of Virginia reported being satisfied with the system and adamantly recommended its continuation. While some minor statutory modification may be desirable, the basic structure, staffing, and functions of the secretarial system should be preserved intact.

In terms of secretarial involvement in internal agency management, the *Code of Virginia* does require secretaries to "hold agency heads accountable for their administrative, fiscal, and program actions." Different secretaries have responded to this oversight responsibility in different ways and some have become overly involved in the internal operations of agencies. Recent restrictions on secretarial involvement in agency hiring practices have clarified that "gray area" and should result in greater compliance with statutory intent.

This follow-up review makes several specific recommendations which represent adjustments to a generally effective system:

- The governor's "cabinet" should be explicitly recognized in statute and its members made subject to General Assembly confirmation.
- Recent Appropriation Act language restricting secretarial involvement in agency hiring decisions should be added to the *Code of Virginia*.
- A statute which institutionalizes some components of gubernatorial transition planning should be adopted.

On behalf of the Commission and its staff, I would like to thank Governors A. Linwood Holton, Jr., Mills E. Godwin, Jr., Charles S. Robb, Gerald L. Baliles, L. Douglas Wilder, and George F. Allen for their extraordinary cooperation and participation in this project. I would also like to thank both current and former secretaries for their participation in this review.

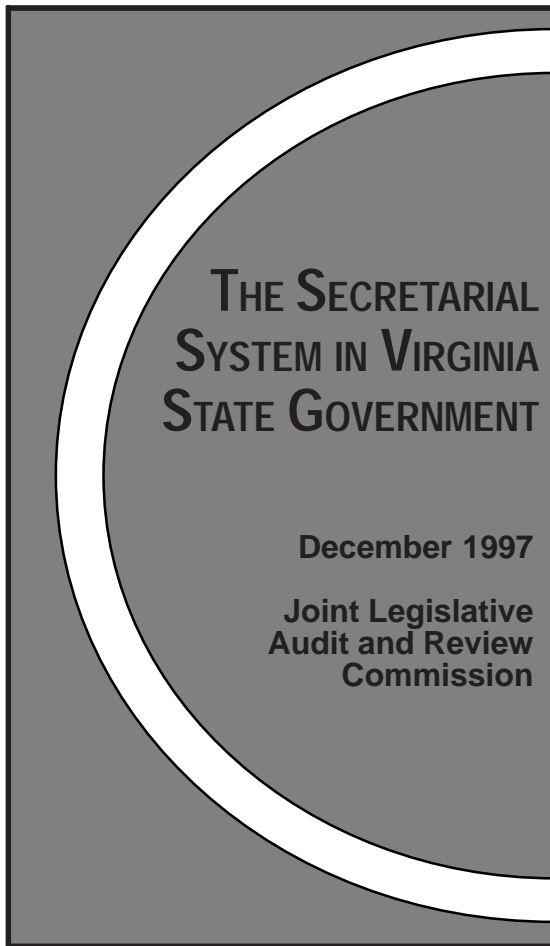


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December 23, 1997



# JLARC Report Summary



**T**he secretarial system, created in 1972, has been largely successful in its primary function – enabling the governors of Virginia to better manage and direct State government. All of Virginia’s living governors indicated during this review that the secretarial system was not only useful, but indispensable. Without exception, the governors were strong supporters of the structure of the system, the secretaries who served under them, and the powers and duties afforded those secretaries. The system has proven sufficiently flexible to serve governors of different parties, political philosophies and management styles. Overall, it has proven to be a successful vehicle

for implementing the electoral mandate of a one-term governor. While some minor statutory modification may be desirable, the basic structure and functions of the secretarial system should be preserved intact.

The system serves a balance of administrative/managerial and policy-oriented functions. Under the current system, the governors of Virginia have been able to penetrate the bureaucracy to effect changes consistent with their policy agendas. As Virginia has become more of a two-party state, however, the ability of the governors to project themselves through the secretaries has contributed to higher levels of turnover among agency heads. Under the most recent gubernatorial administration, 76 percent of agency heads were replaced during the first year of the new governor’s term. High turnover of agency heads could, in time, prove to negate some of the advantages of the secretarial system. Efforts to increase the responsiveness and accountability of agency heads to the governor could result in top agency leadership so transient that they lack the managerial/technical capacity and institutional knowledge to effectively implement gubernatorial policies and directives.

## **JLARC Review**

The 1996 Appropriation Act directed JLARC to “conduct a follow-up study of its 1984 assessment of the secretarial system in the Commonwealth.” The review was to focus on the structure and staffing of the current secretarial system, as well as the role of secretaries in internal agency management. This report fulfills the study mandate.

Study findings are based on a variety of research methods, including extensive interviews with the governors of Virginia,

interviews with all current and many past secretaries and chiefs of staff, legislators, executive and legislative staff, and others knowledgeable of the secretarial system. Extensive videotaped interviews were made of five of the six living governors of Virginia. Reviews of relevant statutes and literature were made to trace the evolution of the secretarial system and to determine the current powers and duties of the secretariats.

This report is organized into five chapters. Chapter I discusses the history and evolution of the secretarial system in Virginia. Chapter II summarizes interviews of the governors of Virginia regarding their experiences with the secretarial system. The current powers and duties of the secretaries are addressed in Chapter III. Operations of the secretariats and implications of the system for executive branch management are discussed in Chapter IV. Chapter V presents follow-up information on the major recommendations of the 1984 JLARC report on the secretarial system.

### **The Governors of Virginia Strongly Support the Secretarial System**

All of the governors of Virginia view the secretarial system as an indispensable tool for governing a large, modern state. They expressed their support for the system in the strongest of terms, generally responding “absolutely” or “unquestionably” or with similarly strong language when asked if the system should be preserved. As one governor stated:

I can't imagine how a governor could exercise policy initiatives and have any sense of oversight and control with an institution as big as State government has become without some tool that looks very much like a cabinet.

The size and scope of Virginia State government was the reason most often cited

by the governors for the necessity of a cabinet type system. The first governor to use the system said that “if you don't have a cabinet, you have too many people reporting to the governor and that doesn't work.” A more recent governor remarked that:

The operational span of control of a governor is limited. When you look at the size of State government, when you understand the complexities of hundreds of agencies and institutions of government, it is impossible in today's modern times for a governor to have daily contact, control, understanding, and direction over so many different agencies of government.

One of the principal reasons for the success of the system has been its flexibility. Regardless of their party, philosophy, or management style, the governors indicated that the secretarial system was sufficiently flexible to enable them to achieve their objectives. As one governor stated, “we tried to refine it a little bit. I suspect every incoming governor makes some attempt to refine it to suit his or her own style, their management style, the way they like to do business.” Another remarked that the system was “a flexible enough form that I could shape it to my needs. I think every governor should be free to do that.”

The governors had somewhat differing perspectives on what characteristics defined a good secretary (see exhibit on next page). Qualities such as integrity, loyalty, and competence emerged frequently. The governors disagreed somewhat on the importance of governmental experience, some finding it important; others indifferent to it.

The governors were largely in agreement with the idea that secretaries should not get involved in the internal operations of agencies. There was general agreement that the proper role was one of oversight,

## What Makes an Effective Secretary: Some Gubernatorial Perspectives

**Governor Holton.** Enthusiasm, ability, imagination. “Party affiliation...that’s not critical with me.... My approach was if I give you good government, you won’t have any trouble electing another Republican governor.”

**Governor Godwin.** The caliber of the individual. “I had [the official] with me both times. We haven’t had anyone like him in State government since. [He] knew everything about the State. He was an unusual individual as far a State government goes.... I wouldn’t trade [him] for an entire cabinet.”

**Governor Robb.** “The most effective secretaries were those with good political instincts, the skill to build relationships with the General Assembly, the media and the public while being open with the governor. Conversely, the least effective either lacked these skills or possessed agendas of their own that dilute their ability to achieve administration goals.”

**Governor Baliles.** “The members of my cabinet knew government. They were familiar with the problems. They understood legislative procedures. They appreciated the nuances, the intricacies of legislative proposals. They knew how to make the legislative process work for everyone. They brought with them the experience and knowledge of the daily oversight of State agencies....”

**Governor Wilder.** Financial experience was most important. “I hate to keep talking about money, but money, unfortunately cuts so heavily into the operation of the government.” Also, good management skills, “with a focus on public service over political ambition.”

**Governor Allen.** “You want people who share your goals, and principles, and ideas. They’ve got to be loyal and you’ve got to be able to trust them. If you can’t trust someone it doesn’t matter how good they are. You’re just not going to have confidence to put them in the huddle with you.... They’re advisors; they’re managers; they’re confidants; they’re friends – part of a family.”

Note: The comments excerpted here are not the governors’ total responses. They have been selected to represent an essential component of the individual governor’s perspective and to present a flavor for the range of opinions held.

not micro-management. Several suggested that it would be a waste of the secretaries’ time to attempt to manage agency operations. Another governor noted that such intervention “would be resented by the agency heads themselves.” At the same time, several governors acknowledged that there could sometimes be a fine line between active oversight and involvement in

agency operations. Even in the area of secretarial involvement in agency hiring decisions, some governors expressed a belief that there might be rare occasions where secretarial intervention might be desirable. (Such intervention is now prohibited by law.) Others said that such intervention was to be expected from time to time. As one governor noted:

It's just part of human nature that somebody has a friend or somebody has a particular objective that can only, in their judgment, be accomplished by a certain person with a certain ideological background, whatever the case may be. You do get into a gray area.

The governors were also in general agreement that secretarial offices were adequately staffed and that adequate time (barely) existed for transition between administrations.

### **Current Secretarial Authority Generally Appears to Be Appropriate**

The basis of secretarial authority is the authority of the governor. As noted in §2.1-51.10 of the *Code of Virginia*, "Each secretary shall be considered an extension of the Governor in the management, coordination, and cohesive direction of the Executive Department...." The powers and duties of the governor's secretaries are delineated in the *Code* and in executive orders. There are four general areas of secretarial authority that are spelled out in statute:

- resolving interagency conflicts and disputes,
- delineating a "comprehensive program budget" for their functional areas,
- ensuring agency head accountability, and
- guiding the "development of goals, objectives, policies and plans" needed to ensure efficient and effective government.

This statutory authority applies to all of the secretaries except the secretary of education. The secretary of education's author-

ity is more proscribed, apparently to preserve the relative autonomy that Virginia's Board of Education and institutions of higher education have traditionally enjoyed. More specific duties and powers for the secretaries have generally been detailed in executive orders issued by the governors.

Throughout the existence of the secretarial system, the General Assembly has also placed restrictions on the secretaries in an effort to define the limits of their authority. Some of these limitations emanate from limitations on the governor's authority and by extension on the authority of the secretaries. Other limitations explicitly apply to the secretarial system. Restrictions have generally addressed secretarial office alignment, staffing and funding, and the appropriateness of intervention into agency operations and hiring.

The balance between authority granted and restrictions on that authority appears to be appropriate. While no major changes to the system are necessary at this time, the following recommendations represent adjustments to a system that has successfully assisted Virginia's last seven governors in managing the State bureaucracy. Among the recommendations is one to statutorily recognize the existence of the governor's "cabinet."

**Recommendation.** *The General Assembly may wish to consider amending Title 2.1 of the Code of Virginia to:*

- *authorize a governor's cabinet;*
- *clarify language regarding the confirmation process to ensure that the governor's appointees must be "confirmed by a majority of the members of each house of the General Assembly," that deputy secretaries are appointed by the governor and must therefore be confirmed by the General Assembly, and that more exten-*



sive background investigations including criminal records checks be completed on secretarial nominees; and

- include language similar to the 1996 Appropriation Act provision which reads, “The Governor’s Secretaries shall exercise no authority with respect to the selection of applicants for classified positions. The Secretary and the Office of the Secretary shall not review or approve employment offers for classified positions prior to an employment offer being extended.”

**Recommendation.** The General Assembly may wish to consider including Appropriation Act language which establishes an overall staffing level for the secretariats and provides governors with the authority to allocate positions among the secretariats as they see fit.

### **Operations of the Secretariats and Implications for Executive Branch Management**

Each gubernatorial cabinet has tended to operate somewhat differently, based on the management/leadership style of the governor, and the characteristics of the secretaries. Secretaries tend to have both policy and management roles. Policy roles tend to consist of efforts to communicate the governor’s agenda to the agency heads and the bureaucracy, by acting as a representative of the governor. Management roles consist of the efforts of the secretaries to implement the governor’s agenda within the bureaucracy by providing oversight of their agencies and coordinating secretarial activities. These roles are discussed extensively in Chapter IV of this report.

Secretaries generally felt that they had adequate authority to successfully accomplish these roles, but also felt somewhat

constrained by the one four-year term limitation and the inertia of the large State bureaucracy.

*One individual, who served at high levels in multiple administrations, spoke of the need “to change the bureaucracy” and administer government. The governor needs the authority to make changes in agency management to achieve an agenda within a four-year term. That is the purpose of elections, he said. However, “Virginia still falls well short of the mark in giving the governor the tools for the necessary penetration of the governor’s office into the bureaucracy.”*

The desirable amount of political penetration into the bureaucracy remains an issue of considerable controversy, and has been the subject of three major legislative initiatives since the Robb administration. The principal issue is how to achieve a workable balance between responsiveness to the electoral mandate of the State’s top elected official and the desire to have a professional workforce, capable of efficiently performing complex and demanding tasks ranging from bridge and road maintenance to upholding the State’s fiduciary responsibilities.

The great majority of the governors and secretaries interviewed regarded their administrations as having been successful in achieving a balance between changing policy and managing effectively. They praised the system for its flexibility in accommodating differently-oriented governors, administrations, and secretaries. Many of the secretaries seemed in agreement with one who stated “there is no one good or bad scheme.” Much depends on the style of the governor, his agenda, and his interest in changing government.

*One former chief of staff noted that the governor cannot seek to achieve breakthroughs in every area. He knows there will be “two or three legacy areas.” The governor needs some secretaries who are simply “good administrators with integrity” that realize that they won’t be “a pathfinder or model maker in that area.” If you put a strong advocate in a low priority area you will have trouble.*

Governors interviewed by JLARC staff made it clear that they expected their secretaries to oversee – not manage – agencies under their direction. One governor noted that he wanted his secretaries “to leave most of the management function, except for simple oversight, to the managers, to the department and agency heads.” Secretaries also indicated that they generally avoided “micromanaging” their agencies. Further, secretaries have indicated that they simply don’t have the time to do their own jobs and try to micromanage agencies. Despite the claims of the governors and secretaries, there were some complaints of inappropriate secretarial intervention in agency operations. Overall, the governors and secretaries generally indicated that the secretarial system has been an effective tool in appropriately expanding the governors’ ability to direct and manage State government.

### **Agency Head Turnover Has Increased**

An unintended effect of extending the governor’s control over the bureaucracy has been the increasing turnover of agency heads within the secretariats. As Virginia has become more of a two-party state, turnover has accelerated. The rate of turnover of senior agency and department head personnel for the first year of a gubernatorial administration has increased substantially

since the secretarial system was instituted in 1972. The rate of change among these positions had already increased from 15 percent in 1950 to 22 percent in 1974 (the initial year of the first full administration serving under the secretarial system). It has since increased to 76 percent in 1994 (see table on next page).

The rate of turnover has been greatest when the governorship has changed parties. When a Democratic governor succeeded three Republicans in 1982, he replaced 35 percent of agency heads his first year in office. When a Republican succeeded three Democratic governors in 1994, he replaced 76 percent of agency heads his first year in office. As a consequence of increased turnover, the tenure of those holding agency leadership positions has diminished.

The specific consequences of executive branch turnover are not fully known. Positive effects could include (1) the fuller implementation of the electorate’s will by better empowering the Commonwealth’s highest elected official to carry out his electoral mandate, (2) an infusion of new ideas and perspectives, and (3) the replacement of ineffective administrators. Negative effects could include the loss of top talent, the politicization of the professional cadre to ever lower levels, a loss of institutional memory and technical expertise, and the discouragement of talented subordinates in the professional ranks from accepting appointment to leadership positions. These effects – both positive and negative – will likely affect the role played by secretaries in Virginia State government. If turnover continues to be high, the influence of the secretaries on agency management could become greater.

### **Gubernatorial Transitions**

Turnover of secretaries and agency heads can affect the success of gubernatorial transitions. Gubernatorial transitions have occurred with varying degrees of suc-

Table

Rate of Turnover in Agency Heads Appointed by the Governor 1950 - 1994				
Year	Administration	No. of Appointees*	No. Replaced	Percent Change
1994	Allen	66	50	76%
1990	Wilder	72	24	33
1986	Baliles	61	19	31
1982	Robb	62	22	35
1978	Dalton	54	13	24
1974	Godwin	49	11	22
1970	Holton	50	16	32
1966	Godwin	40	3	8
1962	Harrison	37	3	8
1958	Almond	31	4	13
1954	Stanley	33	3	9
1950	Battle	33	5	15

\*Note: The number of appointees do not include new or reorganized positions.

cess. While the intention to cooperate with the succeeding administration is generally good, there can be impediments. As one former chief of staff stated:

*The outgoing governor always wants State government to do well. The new incumbent clearly wants to be in the best position possible. Regarding an incoming and outgoing governor, he said "the two men tried. But the staffs had a hard time communicating. It really wasn't pleasant. [The governors] tried to get outside the bitterness of their staffs." A standard orientation could focus on the non-controversial parts of State government, he said.*

State government is a huge business. Even when party control changes, turnover of key services and functions of government would be expected to occur more smoothly

with a cooperative transition process. One way to ensure that incoming administrations receive essential information on critical issues of administration and management would be to require in statute the preparation of key transition materials. These could be supplemented at will by both the outgoing and incoming administrations, but the requirements would represent the accumulated "wisdom" of prior administrations regarding essential transition information.

**Recommendation.** *The General Assembly may wish to enact a statute which requires the preparation of transition materials and training by outgoing gubernatorial administrations. The parent agency for coordinating or preparing such materials and training should be a central staff agency, such as the Department of Planning and Budget. However, statute should allow the governor to designate a transition director of his choice.*

Overall, the secretarial system has proven to be a successful, flexible means of enabling governors to better implement the policy objectives for which they were elected. While some problems exist, particularly regarding the very high turnover at

the agency head level, the system should be retained with only minor refinements.

***Recommendation.*** *The secretarial system should be retained, largely in its present form.*

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## I. Introduction

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Virginia's secretarial system was put into place in 1972 after years of studies and recommendations regarding how to reorganize State government. A key objective in developing the secretarial system was to enhance effective management of the executive branch by reducing the scores of agency heads reporting directly to the governor. The governor's secretaries – currently eight in all – serve as an extension of the governor's office. They provide oversight to 78 governmental units, assisting the governor in both the policy and management functions of the executive branch.

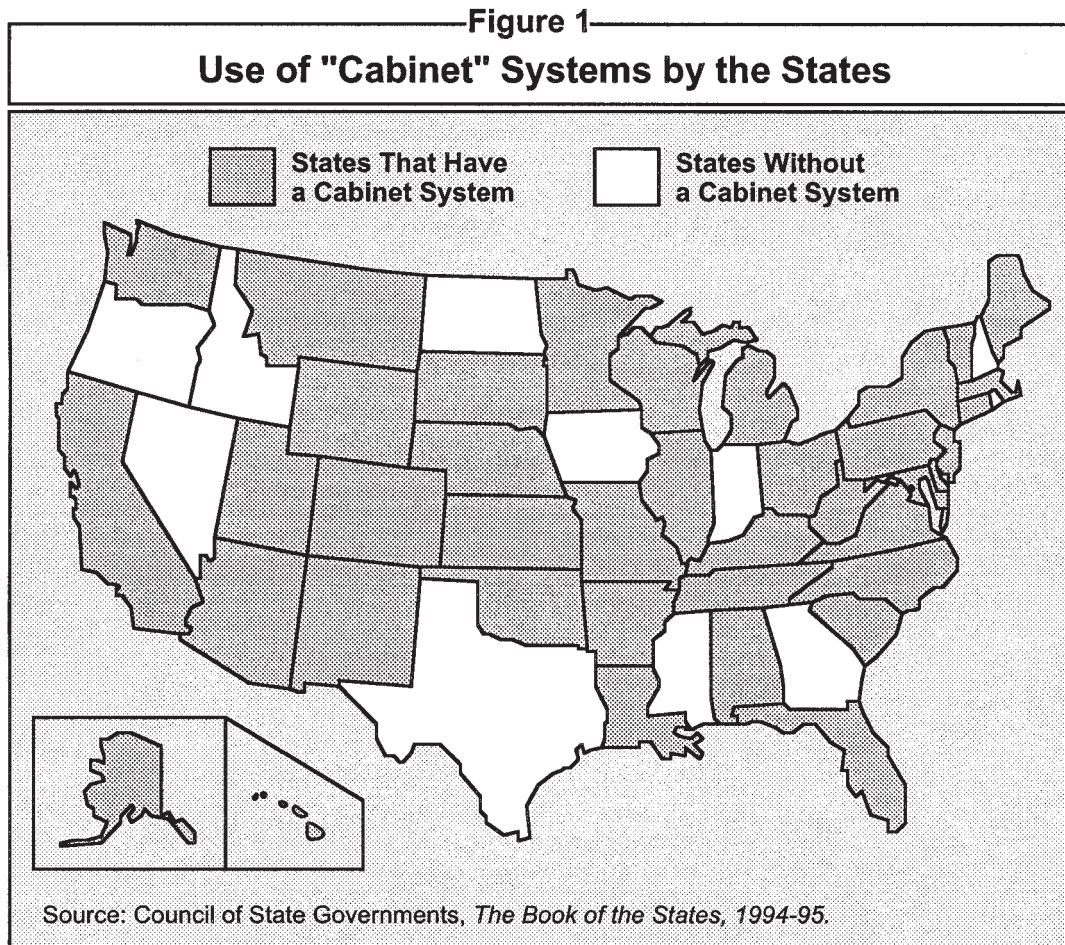
Each secretary oversees agencies in a functional area of State government and acts to coordinate agency activities by communicating the policies and directives of the governor, by resolving interagency disputes, and by preparing a comprehensive budget. Secretaries also provide policy leadership, solve problems, develop legislative proposals, and perform public relations/information functions. The secretaries are appointed by the governor and confirmed by the General Assembly. They are often referred to collectively as the governor's "cabinet."

Virginia was not alone in its efforts to reorganize government at the state level. By 1972, when Virginia established its secretarial system, 36 other states had undertaken some type of reorganization. According to the *Book of the States 1994-95*, 39 states including Virginia had some type of cabinet system (Figure 1). Within these 39 states are a wide variety of arrangements. Some cabinet members are elected; most are appointed. The number of cabinet members (including the governors) ranges from six to 30. Although the authorization for most cabinets is based in statute, some state cabinets are constitutionally-based or established by executive order. The authority exercised by the various cabinets defies categorization. What can be said with certainty is that Virginia joined the mainstream of states when it streamlined the governor's span of control by establishing the secretarial system.

This chapter provides information on the evolution of Virginia's secretarial system from its creation in 1972 to the present. Information is provided on reorganization efforts leading to the creation of the system, the evolution of secretarial powers and duties, the changing alignment of secretarial areas, and the expanded role of the governor's chief of staff. The chapter also provides information on JLARC's review of the secretarial system and the overall organization of the report.

### VIRGINIA'S REORGANIZATION EFFORTS WHICH LED TO THE CREATION OF ITS SECRETARIAL SYSTEM

Prior to the creation of the secretarial system in 1972, the reorganization of State government had been studied periodically for decades. These periodic efforts were usually spurred by perceptions that Virginia's government was becoming overly fragmented and unwieldy. In particular, it was thought that too many agencies re-



ported directly to the governor. This placed a heavy workload on the governor and made it difficult to manage the government effectively. Although each reorganization study had different recommendations, the need to centralize organization and authority and increase the governor's management capacity were common themes.

The first major proposal for a reorganization of State government in this century came between 1926 and 1928 from Governor Harry F. Byrd. Governor Byrd proposed a number of reforms that he said were needed to make the governor "the real head of the executive branch." Byrd proposed that a short ballot be adopted, that the governor be given the authority to appoint department heads, and that many existing agencies be either abolished or merged into approximately ten departments. He also suggested that he would meet with the heads of these departments periodically as a "cabinet." Subsequently, Virginians approved constitutional amendments in 1928 to adopt the short ballot and effect structural reforms. The General Assembly abolished more than 30 agencies and consolidated the remaining units into 12 large agencies. Byrd's reforms significantly strengthened the governor's management powers but they did not result in the creation of a cabinet.



The Byrd reforms offered only a temporary solution, however, as the number of State agencies again steadily increased. By the 1940s, the number of agencies had returned to the level of the pre-reform years. The Commission on Reorganization of State Government (also known as the Burch Commission after its chairman, Thomas G. Burch) was formed to examine this problem. The Burch Commission recommended the consolidation of about 70 agencies into 14 departments. The heads of these departments as well as the directors of budget and personnel would form the governor's cabinet and meet regularly to advise the governor. However, the General Assembly did not enact most of the reforms recommended by the Burch Commission, choosing instead to abolish or merge agencies on a more limited basis. Again, no cabinet was created.

During the 1960s, State government again expanded rapidly, with over 40 new agencies created. State expenditures tripled, and the number of State employees grew five times faster than the State population. The need for a reexamination of the government's organization was thought to be as pressing as ever.

In 1966, the Commission for Economy in Governmental Expenditures, composed of members of the General Assembly, reported on "the administrative difficulties faced daily by the Executive Branch," particularly in the areas of "basic planning and administration." The Commission recommended the creation of a commissioner of administration to provide better management and oversight of the State's budget, personnel, and planning functions. The General Assembly subsequently created the position in 1968 to oversee central staff agencies such as the Division of the Budget and the Division of Personnel.

In 1970, Governor Linwood Holton formed the Governor's Management Study. The Governor's Management Study was composed of Virginia business leaders who comprehensively reviewed the organization of State government. Echoing earlier conclusions, the study's 1970 report criticized Virginia's government organization as "massive and unwieldy." The executive branch had more than 150 "departments, agencies, and institutions," with about 75 of these reporting directly to the governor. In addition, the workload of the recently created Commissioner of Administration was found to be "intolerable." The Governor's Management Study concluded that this cumbersome arrangement made it very difficult for the governor to manage effectively and stated that "control is needed *now and badly* [emphasis in the original]."

The Governor's Management Study looked to the practices of the private sector for a solution:

It is the considered opinion of the Management Study that the logical and necessary solution to the proper executive harnessing of the state's resources and administrative processes lies in substantial duplication of the structure used today in many large business organizations.

The study proposed the creation of five "deputy governor" positions similar to the "executive head of a large operating division of a corporation" in many businesses. Each

deputy governor would oversee a different functional area of government, such as education or human affairs. In addition, a commissioner of administration and budget would oversee support operations such as budgeting and personnel. The governor would delegate his executive duties to the deputy governors “to such extent as he might see fit.” The deputy governors “would be involved constantly with the operations and heads of departments and agencies under their responsibility” but “would have limited involvement with detail, this area being the responsibility of the units under their authority.” Together, the deputy governors would serve as the governor’s “executive team.”

The General Assembly adopted the proposals of the Governor’s Management Study with some modifications and created six new executive positions in 1972. The new positions — titled “secretary” rather than “deputy governor” — administered the areas of administration, finance, education, human affairs, commerce and resources, and transportation and public safety. The secretaries were to be appointed by the governor, subject to confirmation by the General Assembly. The legislation assigned State agencies to the various secretaries, but also gave the governor the authority to reassign agencies by executive order.

The powers and duties of the new secretaries were relatively imprecise. Secretaries were simply “to exercise such powers and duties as may be delegated...by the Governor” in order to execute the governor’s “management functions.” The only other specific item required agencies to forward reports to the governor through the appropriate secretary.

## EVOLUTION OF VIRGINIA’S SECRETARIAL SYSTEM

The General Assembly and the governors have made significant changes to the secretarial system since its creation in 1972. The powers and duties of the secretaries have been clarified and expanded to give them a stronger managerial role. Furthermore, there have been numerous changes both in the number of secretarial areas and in the individual agencies assigned to each secretary. In addition, the position of chief of staff has been created and has assumed substantial duties in the cabinet.

### Evolution of Secretarial Powers and Duties

The original legislation creating the secretarial system stated that the secretaries would exercise only those powers and duties that the governor saw fit to delegate. Governor Holton delegated powers and duties to the secretaries in 1972 with Executive Order 21. Secretaries were authorized to:

- employ personnel and contract for consulting services as funds allowed;
- request temporary assistance from agency personnel with the approval of the agency head;

- coordinate programs within each secretarial office and promote the inter-office exchange of information and action to ensure consistent State government activity;
- prepare proposals for legislative action, including programs to be considered for reduction, combination, or elimination;
- request copies of agency budget submissions from the Division of the Budget; and
- establish procedures to make direct and expeditious decisions on behalf of the Governor that recognized agency heads' ultimate responsibility to the governor.

Despite these steps, many observers felt that the secretaries had little actual authority. To address these and other concerns, the General Assembly in 1973 created the Commission on State Governmental Management, also known as the Hopkins Commission after its chairman, Senator William B. Hopkins. The Commission reported in 1974 that the secretaries were "hampered by the lack of clear definition of their powers and duties." Greater secretarial involvement was especially needed in the budgeting process, which the Commission said "may be the weakest area in the functioning of the Cabinet system." In addition, secretaries viewed themselves "as a committee having collective responsibility" and did not devote sufficient time to their individual areas. The Commission concluded that "the Secretaries have not provided the management and supervisory assistance contemplated by the Governor's Management Study and made possible by the 1972 legislation" and proposed a set of executive orders that would clarify and strengthen the secretaries' powers and duties.

Governor Mills Godwin adopted many of the recommendations of the Hopkins Commission with executive orders issued in 1974. The secretaries were given substantial budgetary responsibilities. With some exceptions, the secretaries were given the authority to review and approve budget proposals from their assigned agencies and to recommend a comprehensive budget for their functional area. The secretary of administration was given special authority "to direct and control the budget procedure" and submit a recommended executive budget to the governor. Secretaries were also authorized to hold agency heads accountable for their "administrative, fiscal, and program performance," develop policies to promote long-term planning and coordination, and coordinate the "policies, programs, and activities" of their assigned agencies.

The General Assembly incorporated some of these powers and duties in new legislation passed in 1976. The Assembly added sections outlining the powers and duties of each individual secretary. With the exception of the secretary of education, the new powers and duties of the secretaries were almost identical:

- Secretaries were subject to the direction and supervision of the governor.

- Agencies assigned to a secretary had to act in accordance with the “general policy” established by the governor or the secretary acting on his behalf.
- Secretaries were empowered to resolve “administrative, jurisdictional or policy conflicts” between agencies or officers in their area.
- Secretaries were authorized to direct the formulation of a comprehensive budget for their functional area.
- Agencies had to forward reports to the governor through their supervising secretary.

In contrast with the other secretaries, the General Assembly passed substantially different language for the secretary of education. Like the other secretaries, the secretary of education was subject to the governor’s direction and supervision and allowed to resolve administrative, jurisdictional, and policy conflicts. However, agencies in the education area were not required to follow the general policies of the governor and/or the secretary. Furthermore, the secretary of education was not given the authority to direct the preparation of a comprehensive education budget. Instead, the secretary was directed to prepare a comprehensive budget for “cultural affairs” and “alternative policies, plans and budgets” for education. The secretary of education’s authority was apparently limited in order to preserve the relative autonomy that Virginia’s Board of Education and institutions of higher education have traditionally enjoyed.

In 1983 JLARC examined the secretarial system as part of a comprehensive review of the organization of the State’s executive branch. The study noted that the changes made to the secretarial system by the 1974 executive orders and 1976 legislation had strengthened the manager-coordinator orientation of the system. The study found this orientation appropriate for the Commonwealth’s needs but suggested further clarification concerning the power of secretaries to hold agency heads accountable. Governors Godwin, Dalton, and Robb all had issued executive orders authorizing their secretaries to hold agency heads accountable for their “administrative, fiscal and program actions,” but the report found that the *Constitution of Virginia* and existing statute were vague on this point. The report recommended that the General Assembly make such authority explicit for all secretaries (except the secretary of education) calling it a “critical management component.”

Following the JLARC report, the General Assembly further modified the powers and duties of the secretaries during its 1984 session. The powers and duties of the secretary of education were unchanged, however. The newly amended powers and duties of the other secretaries were virtually identical and have not been substantially modified since. The 1984 legislation codified a number of powers and duties that the governors had given to the secretaries by executive order since 1974. These included the authority to hold agency heads accountable for their “administrative, fiscal and program actions,” sign documents on the governor’s behalf, and employ needed personnel and consulting services. In addition, agencies were also directed to provide assis-

tance to their respective secretaries as required, and the secretaries' authority to resolve interagency conflicts was broadened to include "program" and "operational" conflicts.

The powers and duties that the governor currently delegates to the secretaries by executive order are similar to those found in statute. In many cases, the executive order simply repeats statutory passages verbatim. Additional secretarial powers and duties assigned by executive order that are not found in statute include:

- making recommendations to the governor's policy office and the governor on major policy issues,
- coordinating communications with the federal government and governments of other states in matters related to agency programs and activities, and
- serving as liaison with nonstate agencies, interstate compacts, and other nonstate organizations.

Despite the efforts that have been made to clarify and define the powers and duties of the secretaries, areas of disagreement remain. In 1996, JLARC issued an interim report on the Department of Environmental Quality (DEQ). The report identified a number of activities that suggested that the secretary of natural resources was substantially involved in DEQ personnel decisions. These activities included the hiring of some wage employees for senior DEQ positions at the secretary's instruction and the secretary's requirement that she approve all DEQ employment offers above grade 13. The report concluded that the secretary of natural resources was "taking on some of the aspects of a chief executive for DEQ," a position at odds with the role that the secretaries have traditionally played as manager-coordinators and with the statutory authority of agency heads to hire agency personnel. The secretary defended her actions as consistent with her responsibility to hold agency heads accountable for their administrative actions.

### **Evolution of the Alignment of Secretarial Areas**

The General Assembly has made substantial changes to the structure of the secretarial system since 1972. The number of secretarial positions, originally six, has ranged from a low of five to the current eight positions (Figure 2). In addition, numerous agencies have been created, renamed, abolished, and merged in the intervening years.

As noted above, the secretarial system originally included six secretarial positions – administration, finance, education, human affairs, commerce and resources, and transportation and public safety. Changes at the secretariat level have involved the merger and separation of closely related secretariats. The original administration and finance secretariats were merged in 1975, only to be separated again in 1984. While in existence, the secretary of administration and finance was assisted by an

**Figure 2**  
**Structure of the Secretarial System**  
**by Fiscal Year**

1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
Administration		Administration		Administration and Finance		Administration and Finance		Administration and Finance		Administration		Administration		Administration		Administration		Administration		Administration		Administration		Administration	
Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance		Finance	
Human Affairs		Human Affairs		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources		Human Resources	
Transportation and Public Safety		Transportation and Public Safety		Transportation		Transportation		Transportation		Transportation		Transportation and Public Safety		Transportation and Public Safety		Transportation and Public Safety		Transportation and Public Safety		Transportation and Public Safety		Transportation and Public Safety		Transportation and Public Safety	
Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education		Education	
Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources		Commerce and Resources	
Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development		Economic Development	
Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources		Natural Resources	
Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade		Commerce and Trade	

Note: Changes in structure occurred on July 1 of the year indicated. Thus, the first merger of administration and finance occurred on July 1, 1975. They were then separated on July 1, 1984

Source: *Acts of Assembly*, various years.

assistant secretary for financial policy, who functioned as a *de facto* cabinet member. The commerce and resources area was divided into economic development and natural resources secretariats in 1986. The transportation and public safety secretariat has also seen numerous changes. The Assembly divided it in 1976 into a separate transportation secretariat and public safety secretariat, rejoined them in 1984, and finally separated the two areas a second time in 1990.

The General Assembly has also changed the names of two of the secretariats. The original human affairs area was renamed human resources in 1976 and health and human resources in 1988. The economic development secretariat that evolved from the original commerce and resources position was renamed commerce and trade in 1993.

The adoption of the secretarial system has not resulted in a substantial reduction in the number of executive branch agencies (Figure 3). The number of agencies assigned by statute has ranged from a low of 62 in FY 1973 to a high of 93 in FY 1976. After increasing substantially in FY 1976 following the passage of extensive reorganization legislation, the number of agencies gradually declined over the next decade, reaching 72 by FY 1987. The number of agencies then increased to 80 by FY 1989. In FY 1997 there were 78 agencies assigned to the secretaries. It should be noted, however, that the count of executive branch agencies can vary, depending on the technical definition of agency used.

The number of agencies assigned to each secretary varies substantially. For instance, only five agencies are currently assigned to the secretary of transportation but 15 agencies are assigned to the secretary of commerce and trade. The current secretarial assignment of each of the 78 executive branch agencies is shown in Exhibit 1.

### **The Expanded Role of the Chief of Staff**

Even before a chief of staff position was designated by executive order, governors typically delegated key administrative functions to a trusted assistant. Prior to the chief of staff, substantial authority was vested in the commissioner of administration. Beginning in the 1970s, the governor designated a chief of staff by executive order. These orders gave the chief of staff powers to act on the governors' behalf. In the Dalton administration, the chief of staff principally managed the governor's office and attended to political duties. The secretary of finance and administration served as the "first among equals" for governmental activities. In the Robb administration, the chief of staff's role was expanded to assume responsibility both for the operation of the governor's office and broader governmental activities. From that time on, the chief of staff has functioned as a kind of deputy governor.

"The fundamental change [in the evolution of the cabinet system in Virginia] has been the consolidation of political and administrative powers in the chief of staff."

Figure 3  
Number of Statutorily Assigned Agencies  
by Secretarial Area and Fiscal Year

Fiscal Year	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97		
<i>Administration &amp; Finance</i>																											
Administration	7	7	7	27	18	13	14	14	15	15	15	15	11	8	8	8	10	10	10	10	10	10	11	10	11	11	
Finance	8	8	8	8	8	8	8	8	8	8	8	8	4	5	5	5	5	5	5	5	5	5	5	5	5	5	
Health & Human Resources	8	8	10	13	12	12	12	12	12	12	10	10	15	17	17	19	18	19	19	15	15	15	15	16	16	14	
<i>Transportation &amp; Public Safety</i>																											
Transportation	8	8	8	8	4	4	5	5	5	5	5	5	11	12	11	11	12	15	4	4	5	4	4	4	5		
Public Safety	8	8	8	8	8	8	11	11	11	11	9	9	11	11	11	11	11	11	11	11	11	11	11	11	11		
Education	9	9	9	13	15	14	14	13	13	13	13	13	15	10	10	10	10	10	10	10	9	9	9	9	9		
<i>Commerce &amp; Resources</i>																											
Commerce and Trade	22	22	23	32	31	31	30	29	29	29	30	30	24	22	13	13	15	16	16	15	15	15	15	16	15		
Natural Resources	22	22	23	32	31	31	30	29	29	29	30	30	24	22	8	8	10	11	11	11	11	12	8	8	8		
<b>SECRETARIAL SYSTEM TOTAL:</b>	<b>62</b>	<b>62</b>	<b>65</b>	<b>93</b>	<b>88</b>	<b>82</b>	<b>86</b>	<b>84</b>	<b>85</b>	<b>85</b>	<b>82</b>	<b>82</b>	<b>80</b>	<b>74</b>	<b>72</b>	<b>74</b>	<b>80</b>	<b>86</b>	<b>86</b>	<b>81</b>	<b>82</b>	<b>78</b>	<b>77</b>	<b>80</b>	<b>78</b>		

Source: Acts of Assembly, various years.



## Exhibit 1

## Current Secretarial Assignment of Executive Branch Agencies

### **Administration - 11 Agencies**

Charitable Gaming Commission  
 Commission on Local Government  
 Compensation Board  
 Department of General Services  
 Department of Information Technology  
 Department of Personnel and Training  
 Department of Employee Relations  
 Counselors  
 State Board of Elections  
 Council on Human Rights  
 Council on Information Management  
 Department of Veterans' Affairs

### **Commerce and Trade - 15 Agencies**

Department of Agriculture and Consumer  
 Services  
 Department of Labor and Industry  
 Department of Mines, Minerals and  
 Energy  
 Virginia Employment Commission  
 Virginia Economic Development  
 Partnership  
 Virginia Housing Development Authority  
 Center for Innovative Technology  
 Department of Professional and  
 Occupational Regulation  
 Department of Housing and Community  
 Development  
 Milk Commission  
 Department of Minority Business  
 Enterprise  
 Department of Forestry  
 Virginia Racing Commission  
 Department of Business Assistance  
 Virginia Resources Authority

### **Education - 9 Agencies**

Department of Education  
 State Council of Higher Education  
 Virginia Student Assistance Authorities  
 Virginia Museum of Fine Arts  
 The Science Museum of Virginia  
 Frontier Culture Museum of Virginia  
 The Library of Virginia  
 Jamestown-Yorktown Foundation  
 Gunston Hall

### **Finance - 5 Agencies**

Department of Accounts  
 Department of Planning and Budget  
 Department of Taxation  
 Department of the Treasury  
 Department of the State Internal Auditor

### **Health & Human Resources - 14 Agencies**

Department for Rights of Virginians with  
 Disabilities  
 Virginia Board for People with Disabilities  
 Department for the Aging  
 State Department of Health  
 Department of Health Professions  
 Department of Medical Assistance Services  
 Department of Rehabilitative Services  
 Department of Social Services  
 Governor's Employment and Training Department  
 Department for the Visually Handicapped  
 Department for the Deaf and Hard-of-Hearing  
 Department of Mental Health, Mental  
 Retardation and Substance Abuse Services  
 Council on the Status of Women  
 Council on Indians

### **Public Safety - 11 Agencies**

Commonwealth's Attorney's Services Council  
 Department of Alcoholic Beverage Control  
 Department of Correctional Education  
 Department of Corrections  
 Department of Criminal Justice Services  
 Department of Emergency Services  
 Department of Fire Programs  
 Department of Juvenile Justice  
 Department of Military Affairs  
 Department of State Police  
 Virginia Parole Board

### **Transportation - 5 Agencies**

Department of Transportation  
 Department of Aviation  
 Department of Motor Vehicles  
 Department of Rail and Public Transportation  
 Virginia Port Authority

### **Natural Resources - 8 Agencies**

Department of Environmental Quality  
 Department of Game and Inland Fisheries  
 Department of Conservation and Recreation  
 Department of Historic Resources  
 Marine Resources Commission  
 Virginia Museum of Natural History  
 Chesapeake Bay Local Assistance Department  
 Chippokes Plantation Farm Foundation

Source: 1996-97 Report of the Secretary of the  
 Commonwealth.

This remark, made by a prominent official in several administrations, was echoed by other key figures interviewed for this report. It was also recognized by the 1984 JLARC report on the secretarial system, which called for the statutory creation of the chief of staff position, a recommendation that was enacted.

The *Code of Virginia* has little to say about the position of chief of staff except to note that if a governor appoints a chief of staff, that appointment is subject to confirmation by “a majority of the members in each house of the General Assembly.” Guidance regarding the duties to be assumed by the chief of staff is primarily spelled out by the governor in executive orders. Executive Order 3-94 issued by Governor Allen specifically defined the authority and responsibility that was delegated to his chief of staff. Specific delegations include broad language authorizing him to act on the governor’s behalf:

- as the governor’s “deputy.” In the governor’s absence, the chief of staff is to review “major planning, budgetary, personnel policy and legislative matters” and to review “policy differences which may arise among or between my Secretaries.”
- as the deputy planning and budget officer. Except for specified responsibilities retained by the governor, the chief of staff is to direct the budgeting process.
- as the deputy personnel officer. Except for specified responsibilities retained by the governor, the chief of staff is to direct the administration of the Commonwealth’s personnel system.
- as chief liaison officer. The chief of staff is to work with members of the General Assembly.
- as the senior executive assistant. The chief of staff is to direct and supervise the governor’s office and exercise authority over budgetary and personnel matters for that office.

In addition, Executive Order 31-94 provides for the following broad delegation of responsibilities:

In the event that the Secretary to whom powers and duties have been delegated herein is not available, I hereby affirm and delegate to the Chief of Staff such powers and duties during the Secretary’s absence as may be required to carry out the functions delegated to that Secretary. In the event the Chief of Staff will be unavailable, and during his absence, the Chief of Staff may delegate any of the powers and duties conferred upon him under this Executive Order to one or more of the Governor’s Secretaries whom he shall designate in writing.

The chief of staff is one of 11 officials designated to serve within Governor Allen's cabinet. (The eight secretaries, the Secretary of the Commonwealth, and the Counselor to the Governor serve on the current cabinet with the chief of staff.)

## JLARC REVIEW

Item 14G of the 1996 Appropriation Act (Chapter 912) directed the Joint Legislative Audit and Review Commission (JLARC) to conduct a "follow-up study of its 1984 assessment of the secretarial system." This study mandate also directs JLARC to address the issues raised in its 1996 interim report on the Department of Environmental Quality "on the role of cabinet secretaries in internal agency management." A copy of the study mandate appears in Appendix A.

### Study Issues

This review of Virginia's secretarial system has focused on issues mandated by Item 14G of the 1996 Appropriation Act, and includes a follow-up of issues raised in JLARC's 1984 assessment of the secretarial system in the Commonwealth. Specific issues addressed by the study include:

- Is the secretarial system meeting its statutorily established requirements? Specifically, is it helping the governors of Virginia better manage and administer the State?
- Are responsibilities delegated to the secretaries by statute and executive order sufficient and appropriate? Do these responsibilities need to be modified or clarified?
- Do the functional groupings of agencies within secretariats enhance management control and provision of related government services? Do the functional groupings need to change?
- Is the current organization of the secretarial system appropriate and adequate? Does the configuration of the secretariats need to change?
- What is the proper role of the secretaries in internal agency management?
- Are the resources assigned to the secretaries adequately identified and commensurate with their responsibilities and workload?
- Is legislative oversight of the secretarial system sufficient?
- If reform of the secretarial system is desirable, what alternative models of secretarial management are available?

These and other issues were examined during the course of this study and are addressed in chapters II through V.

## **Research Activities**

A variety of research activities were conducted to address the issues associated with this study. Research activities included interviews with all living governors of Virginia, extensive interviews with current and past secretaries, legislators, chiefs of staff, and agency heads, literature and document reviews, and other activities.

***Gubernatorial Interviews.*** Each of the governors of Virginia was interviewed for this report. Five of the six governors participated in extensive, video-taped interviews regarding their use of the secretarial system and their conclusions and opinions regarding it. Governor Godwin discussed a number of these issues in telephone interviews. The video-taped interviews will be available in their entirety through JLARC staff's office following approval and publication of this report. (These tapes will also be provided to the Library of Virginia, and their availability will be subject to the library's policies.) Because the governors are the predominant users of the secretarial system, their evaluations of it – captured through the JLARC interviews – form one of the principal foundations of this review.

***Interviews with Secretaries and Chiefs of Staff.*** All of Virginia's current secretaries were interviewed for this report. In addition, secretaries from each of the administrations to operate under the secretarial system were interviewed. Several of the chiefs of staff from preceding administrations were interviewed, as were other officers of government knowledgeable of the system.

***Literature and Document Reviews.*** Numerous reports and documents were reviewed during the course of this study. Of particular value were the 1970 Governor's Management Study and the Hopkins Commission reports of the early 1970s. Reviews of the *Code of Virginia*, Appropriations Acts, and executive orders were made to ascertain the powers, duties, and restrictions governing the secretaries.

***Other Research Activities.*** A number of other research activities were conducted during the course of this study. Interviews were undertaken with various academic and governmental figures. Legislators who participated in the establishment of the secretarial system were interviewed, as were current members involved in the confirmation process. Turnover of agency heads was calculated using *Reports of the Secretary of the Commonwealth* (described in the technical appendix of this report). Previous JLARC studies were reviewed where they related to the secretarial system. In addition, JLARC staff entered into an agreement with graduate students of the Thomas Jefferson Program in Public Policy of the College of William and Mary to conduct a comparative review of Virginia's secretarial system with similar organizational systems in other states. The paper provided by those students to JLARC is available as a part of the study's documentation.

## REPORT ORGANIZATION

This report is organized into five chapters. This chapter has presented summary information on the background, creation, and evolution of the secretarial system as well as the scope of this review of the system. Chapter II details the perspectives of six different governors regarding the secretarial system. Chapter III presents the current authority for the secretarial system as well as the restrictions that have been imposed in defining the limits of secretarial authority. Chapter IV describes the operations of the secretaries and implications for executive branch management. Chapter V concludes the report with a brief summary updating actions taken on the recommendations made in the 1984 JLARC report on the secretarial system.



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## II. Gubernatorial Perspectives on the Secretarial System

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The governors of Virginia are the chief users and observers of the secretarial system. The executive branch reorganization recommendations of the 1970 Governor's Management Study were intended to "increase the efficiency and economy of state government" as it was run by the State's chief executive, the governor. In evaluating the effects of the subsequent reorganization to a secretarial structure, the opinions of chief executives using the system give a unique perspective on its strengths and weaknesses. To some extent, the secretarial system is effective if the governors who used it judged it to be effective. Governors interviewed by JLARC staff strongly supported the secretarial system and its preservation, emphasizing its necessity as a management tool.

JLARC staff interviewed all of the living governors of Virginia. Staff conducted comprehensive, video-taped interviews with Governors A. Linwood Holton, Jr., Charles S. Robb, Gerald L. Baliles, L. Douglas Wilder, and George F. Allen on the cabinet as a whole and its structure; the selection, confirmation and orientation of secretaries; direction of the activities of secretaries; the powers and duties of secretaries; and their overall satisfaction with the system. Two briefer telephone discussions were held with former governor Mills E. Godwin, Jr. This chapter presents the governors' responses to questions on the effectiveness and importance of the system and their use of it, as well as on gubernatorial expectations of secretarial involvement in agency operations and hiring decisions, and their views on the funding and staffing of secretarial offices.

The governors unanimously agreed that the system should be retained and is vital in helping manage State government. They appreciated the flexibility that allowed them to utilize the secretarial system to best fit their personal management styles for a combination of policy and managerial purposes. Gubernatorial expectations regarding secretarial interaction with agencies and involvement in agency hiring decisions have varied with the chief executive, but all of the governors warned against micromanagement of the agencies by the secretaries. Staffing and funding levels for the secretarial offices were said to be sufficient, but time for cabinet selection and transition was considered barely adequate.

### SHOULD THE SECRETARIAL SYSTEM BE RETAINED?

#### YES

When asked by JLARC staff whether the system should be preserved, all six governors responded emphatically, "Yes." None could really imagine managing modern State government without a cabinet, or something similar to it. Governor Holton, who began his term without the secretariats, said that the alternative of the earlier direct

reporting system was unmanageable. He said, "If you don't have a cabinet, you have too many people reporting to the governor and that doesn't work. Then you get the dilution of State government..." Governor Robb echoed that assessment. He "absolutely" agreed that the system should be preserved:

I think that it would a big mistake, frankly, to eliminate it. Now, it could be modified, but I think it ought to be retained. I can't imagine how a governor could exercise policy initiatives and have any sense of oversight and control with an institution as big as State government has become without some tool that looks very much like a cabinet.

Governor Baliles also stressed that the scope of State government and the responsibilities of the governor today make the secretarial system a necessity.

The operational span of control of a governor is limited. When you look at the size of State government, when you understand the complexities of hundreds of agencies and institutions of government, it is impossible in today's modern times for a governor to have daily contact, control, understanding, and direction over so many different agencies of government.

In Governor Baliles' assessment, the secretarial system facilitates interaction between the governor and the executive branch agencies in an essential manner. Similarly, Governor Wilder stated that "in the absence of a secretarial or cabinet system, I don't know anything that would take its place." He answered that the system should "unquestionably" be preserved. Governor Godwin also expressed support for the cabinet system, but noted that his first term had operated successfully without one. "As government increased," however, "we thought it should be divided among people." It helped, he added, because "it took some of the burden off of us."

Governor Allen was also strong in his support of the secretarial system. It had, he said, helped him accomplish his objectives.

It seems to me a very logical way of doing things. To me, it's a way a business is generally run...If you didn't have this system, what you would do is – in another way – create it.

Each of the governors also stressed a high level of satisfaction with how well the secretarial system functioned, indicating that the system possesses a degree of flexibility which accommodates differing styles of management, as well as differing political philosophies.



## WHY HAS THE SECRETARIAL SYSTEM FUNCTIONED WELL? *FLEXIBILITY*

All former chief executives interviewed found the secretarial system beneficial in running State government and appreciated the flexibility they were allowed in adapting the system to their personal management style. They generally indicated that the system had been effective in almost every way in which they had tried to apply it. Where they were not satisfied, they found the system was flexible enough for them to change it, either formally or informally. As discussed in Chapter I and shown in Exhibit 2, there have been refinements to the secretarial system over time. Thus, every governor did not preside over exactly the same arrangement. It has, however, stabilized in recent years and has not changed structurally since 1993.

Regarding the secretarial system, Governor Robb noted that he “thought it was effective” but admitted that “we tried to refine it a little bit. I suspect every incoming governor makes some attempt to refine it to suit his or her own style, their management style, the way they like to do business.” Governor Baliles concurred, attributing to it “whatever success...[his] administration was able to achieve [which] could not have been accomplished without a cabinet system.” He also appreciated the opportunity to refine and adapt the system to his own management approach.

[T]he use of the cabinet really is a decision of the governor. It involves a matter of style as well as substance.... For me, the cabinet system worked the way I wanted it to work. I had no reason to change it. It was a flexible enough form that I could shape it to my needs. I think every governor should be free to do that.

The value of the system is both in the structure it gives to State government and its ability to be molded to fit the governor’s managerial style and perspective.

Governor Holton strongly supported the Virginia secretarial system as the appropriate means to combine the policy and management roles of the governor.

In Virginia, we have an excellent system where the power of the executive branch resides in the governor and that’s the way it should be. You should give him communication with the professional cadre that comes up with the professional information and recommendations, but the people should have one officer that they can look to for policy changes by the simple device of electing another one. And when you have that power residing in the governor, that’s what the people can do. At the same time, when the people elect a governor, he can carry out what they want done. This cabinet should be designed to help him do that by reaching the people who know how to build roads or know how to enforce the law or run a mental health institution. He doesn’t know those things. But, he can say I don’t want any more

**Exhibit 2****Evolution of the Secretarial System**

<i>Year</i>	<i>Administration</i>	<i>Change</i>
<b>1972</b>	Holton	Secretarial system is created with six secretaries: Administration, Human Affairs, Education, Transportation and Public Safety, Finance, and Commerce and Resources.
<b>1975</b>	Godwin	Secretariats of Administration and Finance combined into the Secretary of Administration and Finance (five secretaries total).
<b>1976</b>	Godwin	Divided Transportation and Public Safety into Secretary of Transportation and Secretary of Public Safety (six secretaries total). Secretary of Human Affairs renamed Secretary of Human Resources.
<b>1984</b>	Robb	Administration and Finance divided into Secretary of Administration and Secretary of Finance; Public Safety and Transportation combined into the Secretary of Transportation and Public Safety (six secretaries total). Chief of Staff position formally created.
<b>1986</b>	Baliles	Secretary of Commerce and Resources divided into the Secretary of Economic Development and the Secretary of Natural Resources (seven secretaries total).
<b>1988</b>	Baliles	Secretary of Human Resources renamed the Secretary of Health and Human Resources.
<b>1990</b>	Wilder	Secretary of Transportation and Public Safety divided into the Secretary of Public Safety and Secretary of Transportation (eight secretaries total).
<b>1993</b>	Wilder	Secretary of Economic Development renamed the Secretary of Commerce and Trade.
<b>1994</b>	Allen	No structural changes.

Source: *Code of Virginia*.

overcrowding in the residences of people who are mentally retarded. Then they figure out how you get it done.

By concentrating the appointment and oversight powers in the governor while giving him the means to track agency activity through the cabinet officers, the secretarial system allows the governor to effectively carry out his policies and agenda. Governor Holton found that it was “clearly” effective in helping him manage the operations of State government.

As the only governor interviewed to serve both with and without the cabinet system within a single term, Governor Holton contrasted the improvement in communications after the secretarial system was implemented to the pre-cabinet days.

The cabinet was to bring information to other members of the cabinet and to the governor, and they were to hear policy directions from the governor to distribute to the bureaucracy. That in itself was something that added substantially to the effectiveness of the bureaucracy because it supplemented the usual sources of information for those agency heads.

Governor Holton recounted a conversation with one of his agency heads, who said he had previously taken direction from what he read in the newspapers regarding the governor. By centralizing and facilitating the flow of information from the governor to top agency personnel, the secretarial system improved the governor’s ability to communicate and then implement his policy agenda.

Under the severe financial constraints of the 1990 recession, Governor Wilder found that the system was “unquestionably” effective and useful. While other governors found the secretarial system useful in implementing an agenda, Governor Wilder was able to use it to respond to an unanticipated, long-lasting financial emergency. With agencies organized into secretariats, it was possible for cabinet members to stress and clarify the need to find cost savings in a way that could not have been achieved without the cohesion of the secretarial system. As Governor Wilder recalled:

We were making the cuts across the board...we weren’t favoring anyone. Once they [the agency heads] saw that, then they dug in and did all they could to help because they felt it was being equitable. It would be hard to get that with a department or agency set-up....

Governor Allen felt part of the success of the secretarial system was its ability to get all of government involved in the accomplishment of several high-priority objectives.

At our very first meetings – before I was Governor – I called them [the secretaries] a ‘competitiveness cabinet.’ We wanted to make sure everyone knew that ‘Virginia’s open for business,’ and there were cer-

tain things that we wanted to do, specific goals, and they *all* were to work together. Economic development wasn't just the responsibility of Commerce and Trade. There were times where Transportation was involved, with rail or road access funds...or Administration, with getting surplus property for the Motorola/Siemens semiconductor facility... Even Historic Resources under Natural Resources got involved in that one. Natural Resources is involved in a lot of economic development also, with prompt permitting and so forth. There are times where Education gets involved in it.

Each governor used his cabinet somewhat differently; each had somewhat different expectations. One of the strengths of the Virginia secretarial system is the flexibility it has afforded governors to adapt it to their priorities, management styles, and personalities.

#### WHAT ARE THE CHARACTERISTICS OF AN EFFECTIVE SECRETARY? *IT DEPENDS*

Each governor was asked which characteristics made some secretaries more or less effective than others. For the most part, the governors felt all of their secretaries were effective. Many cited characteristics such as loyalty, experience, good judgment, integrity, and other virtues (Exhibit 3). Governor Allen's response was typical of the support the governors voiced for their secretaries:

I think they've all been successful in their own ways. They've achieved the goals that they wanted, that were under their responsibility. They're all different. Everyone's different. They have different personalities. I think, though, the one thing that unites them all is that they share the same goals. Everyone's worked well together. I think they've all done well, as best they could, in the areas under their responsibility.

Several of the governors commented that experience at some level of government was crucial. Governor Robb, for example, noted the experience of his cabinet.

They all came in with experience in federal, state or local government. All of them had had experience in federal, state or local government in Virginia except for one person, who'd had experience in a recent presidential administration....

Governor Baliles was even more emphatic about the need for governmental experience, especially experience in Virginia State government, and his cabinet choices had extensive State government experience. Governors Holton and Allen did not feel governmental experience was as essential. Governor Allen said:

## Exhibit 3

## What Makes an Effective Secretary: Some Gubernatorial Perspectives

**Governor Holton.** Enthusiasm, ability, imagination. “Party affiliation...that’s not critical with me.... My approach was if I give you good government, you won’t have any trouble electing another Republican governor.”

**Governor Godwin.** The caliber of the individual. “I had [the official] with me both times. We haven’t had anyone like him in State government since. [He] knew everything about the State. He was an unusual individual as far a State government goes.... I wouldn’t trade [him] for an entire cabinet.”

**Governor Robb.** “The most effective secretaries were those with good political instincts, the skill to build relationships with the General Assembly, the media and the public while being open with the governor. Conversely, the least effective either lacked these skills or possessed agendas of their own that dilute their ability to achieve administration goals.”

**Governor Baliles.** “The members of my cabinet knew government. They were familiar with the problems. They understood legislative procedures. They appreciated the nuances, the intricacies of legislative proposals. They knew how to make the legislative process work for everyone. They brought with them the experience and knowledge of the daily oversight of State agencies....”

**Governor Wilder.** Financial experience was most important. “I hate to keep talking about money, but money, unfortunately cuts so heavily into the operation of the government.” Also, good management skills, “with a focus on public service over political ambition.”

**Governor Allen.** “You want people who share your goals, and principles, and ideas. They’ve got to be loyal and you’ve got to be able to trust them. If you can’t trust someone it doesn’t matter how good they are. You’re just not going to have confidence to put them in the huddle with you.... They’re advisors; they’re managers; they’re confidants; they’re friends – part of a family.”

Note: The comments excerpted here are not the governors’ total responses. They have been selected to represent an essential component of the individual governor’s perspective and to present a flavor for the range of opinions held.

Source: JLARC staff interviews.

As far as Commerce and Trade, I didn’t just want to put in a political hack, or somebody from government.... I wanted somebody from the private sector that understood what are the considerations businesses make when they’re deciding where to locate or how to make an investment. I talked with [the individual] several times and I had seen

him speak. And many of the things he had been trying to do with the Virginia Chamber of Commerce, as far as an actual strategy for economic development for Virginia, were so similar – it wasn't necessarily parallel – it almost coincided. There was a confluence. And I thought rather than try to reinvent it, these people in the Virginia Chamber...were already doing it. Plus he had the good background from the private sector. And I thought that he'd be perfect if he's willing to do it and give up a good job where he was....

Governor Holton went even further in asserting that government experience was not essential, saying:

Prior knowledge [of an area] is not necessary. [The education secretary] is a good example. He didn't have any particular knowledge of the education community but he was a great salesman and his enthusiasm enabled him to carry forward...."

In summary, the secretarial system is sufficiently flexible to allow governors to select individuals who are compatible with their philosophies and style. Unlike some other states, where cabinet officials may be elected or where specific qualifications may be a prerequisite of office, Virginia governors can select secretaries they think will best accomplish the agenda for which they were elected.

While the governors generally were very satisfied with their secretaries, several former governors warned of two possible risks involving secretaries: (1) that the structure could allow a secretary to be "captured" by agency heads and become an advocate for the agency rather than the governor's representative, and (2) that the secretaries would become too partisan. These concerns were not described as inevitable with the current structure of the secretarial system, but were included as issues that future governors might want to consider.

Governor Robb cautioned future chief executives about the possibility of a cabinet member being captured by an agency head "because it is a very natural thing to have happen." While he stated that "it's not a big problem," he allowed that a secretary could end up "being the principal lobbyist for an agency or department and...not have the same degree of objectivity that you'd like them to have with respect to carrying out administration policy." Governor Holton also mentioned that a potential weakness of the secretarial system was that "you might find that maybe a cabinet officer would have been sold a bill of goods or a partial bill of goods by his agency heads." Governor Robb suggested that one means of being attentive to whether secretaries have become agency advocates is to have cabinet meetings "to make sure everybody is focused and to make sure that you haven't had individual cabinet secretaries that have been captured by their agency or department heads."

Governor Baliles expressed concerns about potential problems with the composition or demeanor of the cabinet. He stated that "I do not think it serves the Commonwealth well for cabinet members to outflank the governor, to look for controversy,

to promote bad relations between the federal and the State government.” Governor Baliles described his cabinet as “non-ideological...non-partisan” and stated:

I didn't really care, at that point, for any more political people in my administration. In fact, the cabinet members that I announced before I took office, not one had a major or even minor political role in my campaign. I've always thought that after an election, the best politics is governance and that it is not generally a good idea to bring wholesale – in mass – the campaign operation into government. That generally is not a good idea in my mind because people who develop campaigns, who run campaigns, may know campaigns but have little understanding or appreciation of the complexities of governance.

According to Governor Baliles, “they [secretaries] should be able to work without always being confrontational.” He advocates consensus as “the way most things occur in government.”

#### IS THE CABINET MORE OF A POLICY OR A MANAGEMENT TOOL?

##### *IT IS BOTH*

The secretarial system has always had both managerial and policy components. There is some evidence that it shifts somewhat in its orientation from administration to administration, and even from secretary to secretary. JLARC staff asked each governor the following question:

Did you see the secretarial system to be primarily a managerial entity or primarily a policy entity? (By managerial, we mean *assisting the Governor in the administration of the business of the State*. By policy, we mean *helping the Governor implement his electoral mandate or agenda*.)

Each governor replied that the system contained both managerial and policy components. Their full responses, however, confirmed by interviews with numerous secretaries, seemed to indicate an increasing emphasis on assisting the governor in the implementation of his electoral mandate.

Governor Holton emphasized the role of cabinet members as the heads of “communications departments.” The job of the governor was to set the policy which would be effectively transmitted to the agencies by the secretaries. According to Governor Holton:

My version of the cabinet was that [it] was a policy-making body. It communicated with the governor on a frequent basis, knew the governor's thoughts and approaches and policy inclinations and was then in a position, having that close familiarity with the governor to

communicate that policy...to the agency heads, whom he supervised or with whom he communicated.

Governor Holton emphasized that the creation of the cabinet was not intended “to replace the substantive agency heads.”

Each one of the governmental agencies in Virginia reported to the governor. So you had at least 107 people who theoretically reported to the third floor of the Capitol to one person – who was the governor. That was impossible, of course.

The management role was limited to communication and coordination of agencies with a similar focus and goals. Governor Holton expected agency heads to have the professional knowledge to implement the policies that the cabinet communicated to them.

The secretarial system changed little during Governor Godwin’s second term, in part because Godwin had served a successful term without a cabinet. The evolution of the secretarial system seemed to speed up, however, under Governor Robb, who stressed the “macro” approach he wanted his secretaries to take in overseeing their agencies. He reduced secretarial staff so “they would be, not in a staff micromanagement function, but in an advisory oversight capacity...I wanted them to exercise policy oversight and act in a role that reflected not simply a micromanagement of the agency or departments but an overall role of guidance and oversight and some feedback to me and from me to the department or agency heads.”

For Governor Baliles, the secretaries’ roles of policy official and management official were about equally important. The key to the system’s operation was the supervision, but not initiation, of activity in either role. He noted that his cabinet was:

...involved in policy when the time came to shape the budget and the State of the Commonwealth, because I made the State of the Commonwealth a...listing of priorities for the administration during the next year. So to that extent, they were involved in policy, in the shaping of it. On the other hand, they were also involved in overseeing the implementation of it by the agencies. So they were dealing with the same coin - one side was policy; one was management. But in both cases, they were not the originators of policy and they were not the directors of management.

Secretaries perform the vital function of supervising policy implementation and agency administration, but in both arenas their role is secondary to another officer: the governor in policy formulation and the agency head in directing agency operations.

In the same way that secretaries acted as both policy and management officials, the focus of cabinet meetings in the Baliles administration could be either “a matter of implementation, administration, management of issues” once the legislature



had adjourned, or “more policy, substantively oriented sessions where we started looking at matters that we wanted to pursue in the next budget or the next legislative session” toward the end of the calendar year. Governor Baliles used cabinet meetings to gather ideas, but not as a forum to achieve unanimous agreement within the cabinet on proposals. He described cabinet meetings using the jargon of the airline industry.

You might think of it as hub and spokes. The cabinet was the hub and you had these spokes of informational flows coming in about the legislature, about particular problem areas, issues of concern with the federal government or some constituent matter... I did not find cabinet meetings as useful in terms of developing a common consensus.

Both the cabinet and cabinet meetings served as policy and management tools. The informational role of the cabinet meetings reinforces the secretaries' position as a facilitator rather than a developer of policy goals or management directives.

Governor Wilder found that the primary role of the secretaries shifted as situations varied. He noted that “policy is never fixed in government because you're dealing with what the circumstances require.” Policy must adapt as circumstances change and secretaries “help in that policy but also help you to manage.” He relied on his cabinet members to present alternative plans to enact policies and found that it was often “a matter of policy and management mixed.”

Governor Allen also saw the secretaries as both policy and management officials:

When you're trying to reduce the size and reach of State government and make it more efficient, that ends up being management and policy.... Policy is the abolition of parole. Policy is making sure the world knows “Virginia is open for business”...but you still have to implement those things, and that ends up being management.

As the role of the secretaries is seen to be more focused on implementing policy than simply overseeing governmental operations, the character of the agency heads' responsibilities has also changed. Rather than being the senior professional person, the agency head also serves in a policy-oversight capacity. Similar to the current perceptions of the secretary's role, the agency head is now expected to pass the governor's policy decisions on to those executing State laws and regulations within the agencies.

## TO WHAT EXTENT SHOULD SECRETARIES GET INVOLVED IN THE INTERNAL MANAGEMENT OF AN AGENCY?

### *RARELY*

Based on their interpretations of the proper policy and management roles for cabinet officials, the governors said they set the boundaries for secretarial involvement in the internal operations of agencies. The *Code of Virginia* gives secretaries the power to “hold agency heads accountable for their administrative, fiscal and program actions” (§2.1-51.8:1.B2), without indicating any limits on enforcing that accountability. However, the governors interviewed did assume that there were limits to acceptable secretarial intervention in agency activities, but those limits were left to gubernatorial interpretation. As the system has matured, the boundaries have shifted and governors have allowed varying degrees of participation in agency operations.

Governor Holton does not “remember that there was any overreaching on the part of the cabinet officer to try to run a department. I think that would be a mistake.” He viewed the agency heads as the chief managers of the agencies. An agency head should be a “professionally trained specialist in his field...[and] that means that as far as the internal working of his department is concerned, he’s the boss and he runs it.” The agency head is accountable for following the administration’s policy, however. “He must be careful to carry out the policy directions of the governor which come to him, in our ideal setting, through that cabinet officer.”

Governor Robb used a formal accountability system to hold agency heads responsible to secretaries and in turn hold secretaries responsible to the Governor for the success of their agencies. Both secretaries and agency heads signed yearly executive agreements, “a document that specified the dollars that would be available and the objectives that were to be achieved.” That agreement was reviewed to evaluate the official’s performance for the previous year. Governor Robb found it useful because it “was not just an informal understanding of your general area of responsibility...but here are the 15 or 20 precise functions that you are expected to perform and that you are going to be held accountable for...and that I, in turn, will hold the cabinet secretary” responsible for. The executive agreement “had a degree of accountability that lent itself to more objectivity.” It also clearly defined the administration’s primary goals and what the agency head was expected to accomplish. Despite this formal accountability framework, Governor Robb echoed Governor Holton’s concerns about overreaching into agency operations. Governor Robb stated that “I think you have to be careful that they [secretaries] don’t get too far into management.”

That concern was again seconded by Governor Baliles. “Decisions affecting personnel and programs should not be made by cabinet secretaries reaching down into those agencies.... You don’t need an agency director if the cabinet secretary is going to make all of the decisions.” The secretaries received their authority from the governor but were conscious of the limits of it. Governor Baliles said that the cabinet members were:

...part of the governor's office, they were an extension of the governor. They were not the governor but they clearly spoke for the governor. I never had any question about the adequacy of their authority or ability to act. But my cabinet members were also sensitive to their areas of authority. I don't think I ever had a question raised about their improper use of authority or overreaching.

In describing the strengths of his cabinet, Governor Baliles noted that "they brought with them the experience and knowledge of the daily oversight of State agencies to bring to bear on the problems that we had to resolve, either from an administrative or a legislative point of view." This experience and knowledge created an understanding of the limits of secretarial authority.

Governor Wilder acknowledged the importance of those limits, saying that "sometimes you did have" secretaries micromanaging their agencies and "it would be resented by the agency heads themselves." Limits on the secretaries' authorities were worked out between the governor, the cabinet members, and the agency heads so that each understood their role and responsibilities. This implies that this complex relationship is not the same across or within secretariats.

The creation of the secretarial system established a level of intermediate managers, altering the nature of the agency head position and possibly changing the type of individual interested in serving in that capacity. As a new device, Governor Holton noted the impact of the secretarial system on experienced agency heads, indicating that the "category of professional bureaucrat who had been used to independence, now having what he saw as a superimposed position above him [and he] was a little wary of it." It is possible that that wariness continues today, not with the individuals who accept gubernatorial appointments but with senior professional experts within the bureaucracy. A member of the Dalton cabinet described the effect he has noticed on professional State employees:

What we have allowed to happen is that the operations of government are driven along political lines rather than prudent management. I'm not advocating that you abandon the principles espoused to get you elected but to implement them in such a way as to not harm the operation of State government in the future. When you put in people who are not qualified then you drive off other, experienced employees.

As the former cabinet official indicated, there are concerns that the increased rate of turnover is not stopping with the agency heads. Agency staff may also have been affected by a shift in gubernatorial attitude toward agency head appointments.

In recent years, secretarial involvement in agency operations has been the subject of considerable attention. JLARC's 1996 report on the Department of Environmental Quality reported that:

Virginia's cabinet secretaries, since their inception in the early 1970's, have served as policy coordinators, not chief executives for their agencies. At least in the Natural Resources secretariat, the Secretary is, to some degree, functioning in the role of chief executive officer for DEQ and perhaps other agencies within the secretariat.

The Secretary of Natural Resources strongly disputed this finding at the time. When asked during the course of this study if she became involved in the management of agencies within her secretariat, she responded that "it depends on your definition of managing." She says she now has no involvement whatsoever in agency hiring practices because, "I'm prohibited by law from doing that." Governor Allen was of the opinion that his secretaries did not become involved in micro-managing their agencies.

Well, they have to be involved in the overall management. The purpose of the agencies are to effectuate whatever the goals or objectives or missions are. I haven't heard anybody complaining about the micromanagement or over-management of it [by the secretaries]....

He also allowed that secretarial involvement might be necessary from time to time.

Our agency heads, obviously, are very important in getting [our] message to the employees within their agency. If the cabinet secretary needs to do it, fine. But hopefully your agency heads are doing it....In day-to-day implementation, you have a lot of professionals within every one of these agencies, who...try to implement whatever those goals are.

**IS IT APPROPRIATE FOR A SECRETARY TO BE INVOLVED IN AN AGENCY  
HIRING DECISION?  
*USUALLY NOT***

While secretarial involvement in agency hiring decisions was emphatically restricted by the 1996 Appropriation Act (Section 4-6.05), several governors indicated that some limited involvement had occurred and was appropriate. Of the different aspects of agency operations, hiring was identified by Governor Robb as the "one area where micromanagement is most likely to occur." He stated:

It's just part of human nature that somebody has a friend or somebody has a particular objective that can only, in their judgment, be accomplished by a certain person with a certain ideological background, whatever the case may be. You do get into a gray area. But I've always felt that you should take a macro look at the agency and department with respect to even hiring practices but be very careful about usurping the authority of the agency or department head given the particular guidelines that may be put forward.

While all the governors indicated that over-involvement in agency hiring was inappropriate, three also mentioned that the governor could expect secretaries to enforce broad hiring policies within their agencies, especially to improve the representation of women and minorities in State government.

Governor Robb cautioned that “you have to be careful that they [secretaries] don’t get too far into management.” At the same time, governors could “hold them responsible for at least making certain that initiatives with respect to the demographics of hiring, for instance, are met.” Secretarial oversight should not go beyond asking “do you have a representative cross-section of the community involved in administering a particular agency” or it crosses into the gray area of inappropriate involvement.

Governor Holton described his approach to the recalcitrant minority hiring practices by the State Police in a similar way. His goal of hiring more black State police officers was emphasized at cabinet meetings and through the secretary of transportation and public safety as a firm policy of the Holton administration. At the same time, he says he left the actual selection and hiring as part of the responsibilities of the agency head. He used this example to emphasize that such a division of authority makes it necessary for both officials to be aware of their responsibilities and the boundaries of their control. Governor Holton indicated that it was “fortunate” that most of his cabinet had experience in State government and “respected more...the role of the agency head. They knew they wouldn’t have wanted their turf stepped on and so they didn’t step on the turf of the others.” There is a delicate balance between enforcing the administration’s hiring practice and interfering in agency hiring decisions.

Governor Baliles does not recall any instance where that balance was upset or where secretaries were involved in hiring actions during his administration. “In my own case, I cannot think of many decisions – if any – where cabinet members were involved in the operational decisions of State agencies. Certainly not hiring decisions within the ranks of the agency.” For senior positions such as the deputy director, the secretary should be included “on an information basis.” Governor Baliles emphasized that the role he expected his cabinet to take on agency personnel issues was an oversight role.

In contrast, Governor Wilder allowed cabinet members to be more directly involved in the selection of agency-appointed staff. Classified employees would follow the normal route of advancement through the State system. Ordinarily, hiring would be done by the agency heads because he “didn’t want the executive branch to be accused of micromanaging and getting too close. But there were some times when you’d have to say, what recommends this person?” Governor Wilder indicated that there is a potential oversight role for secretaries to play in overseeing hiring choices, and he did not see anything intrinsically wrong with secretarial involvement in some personnel actions within agencies.

Governor Allen expressed ambiguous feelings about secretarial involvement in agency hiring decisions. He said that – where legal – there may be times when secretaries should be involved in ensuring an important position is properly filled:

I don't think they really do [become involved].... To the extent it's legal, I suppose they could. I don't think that they necessarily need to. It seems to me it would be a waste of their time, unless, it's some very essential position. If it's a really, very important position...I think in that situation, it'd be okay and proper. In fact, desirable.

**ARE THE SECRETARIAL OFFICES ADEQUATELY FUNDED AND STAFFED?**  
**YES**

The number of staff in and funding for the secretarial offices has fluctuated over the system's history. As governors have adapted the system to their own management styles, the functions of the secretarial offices have also changed and with them the funding and staffing needs. Initially, staffing requirements for the system were kept small as one means of convincing the General Assembly that the cabinet was intended to serve an oversight rather than a direct management role. Governor Holton described the secretarial offices as "staffed minimally in the beginning." He explained:

That was part of my sale of the concept. I had insisted that there would not be a great big bureaucracy built up, another great big layer of government built up.... I think each one of them started with a secretary or an assistant. That was about it. I doubt if that was enough in the beginning.

To emphasize the coordination and communication role played by the secretaries, their staff was kept to a minimum.

Governor Robb took a similar approach in encouraging his secretaries to focus on the broader oversight responsibilities he envisioned for the cabinet. He reduced the size of the staffs and the support personnel for each of the secretaries and "asked them to serve with one deputy and one clerical person so that they would be not in a staff micromanagement function but in an advisory oversight capacity." Governor Robb noted that there were drawbacks to the reduced level of staffing, but overall it kept the cabinet focused on broader policy rather than more detailed issues. He said:

I can't tell you that worked with 100 percent success. There's always a mixed result...but there is a certain amount of truth to the sort of exponential increase in terms of the hours worked and the responsibilities and the need for more people to respond to more people. So we wanted to at least start out with an executive level staffing pattern that would be as lean and mean as possible. There was some grumbling.

The reduced staff was meant to reinforce Governor's Robb vision of the cabinet as more of a policy than a managerial tool and discourage over-involvement by secretaries in agency affairs.

Governor Baliles echoed the distinction between the staff necessary to directly manage the agencies and the support needed to oversee agency activities and facilitate communication between agency heads and the governor.

As I remember it, each cabinet had a deputy or in some case two deputies and a personal assistant or two...that basically provided us with the staffing we needed because the cabinet is non-operational. If you're going to be involved in the daily management, you can make a good argument for more adequate staffing.

As "basically a conduit between the governor and the agency heads...overseeing policy and management issues," Virginia cabinet secretaries do not require a large personal staff. Many of the secretarial responsibilities — including interacting with the legislature, the governor, and the agency heads — involved "personal" skills and "could not be substituted for with an army, a legion of assistants."

Governor Wilder noted that some responsibilities are extremely time consuming for cabinet officers, especially tracking legislative activity. While staff and funding for secretarial offices was "adequate" there could be improvements, he said. The improvements he suggests are not in physical amenities but in deputy-level support. Governor Wilder differentiated between secretariats in making that recommendation, however, stating that an "additional staff person here or there" is necessary, but "not across the board." He cautioned that "all of [the secretariats] don't need the same things." Governor Allen also indicated that staffing for the secretariats was about right, though the staff had to work very hard.

#### WAS THERE SUFFICIENT TIME TO SELECT THE CABINET? *BARELY*

The approximately two months between the gubernatorial elections and inauguration day were deemed just barely sufficient to select cabinet members and provide them with training, according to the former governors. As several governors indicated, the question regarding the sufficiency of time was somewhat moot, as it was "inconceivable" that the time available would increase. Governor Allen remarked that:

To me that's a useless question, if you pardon. Because it doesn't matter. They're not going to put the legislative sessions later or change the elections. So the reality is you have whatever it is, a couple of months really, to do it. And, we set a timetable for doing it. The election was over and you thought you could relax, but you really couldn't because you had to start forming the cabinet, which was the most important thing to do.

While adequate, the short time period requires that selecting a cabinet be the primary focus of those two months. Two governors acknowledged that they had begun

preparing for the transition prior to election day. Once secretaries were selected, several governors used meetings and retreats to make the cabinet familiar with the administration's objectives and provide an orientation to State government.

Governor Robb had planned for the transition before the November election and stated that there was "just barely" enough time to select and train the cabinet. "The time is scarce but if you plan for it ahead of time, it's doable." Still, Governor Robb acknowledged the limitations of the brief transition period: "It's not easy and its not free from anxiety or long hours and you do end up making some very important decisions on a fairly short time-frame." He said that his administration's transition plan "became a model for the National Governor's Association in terms of how to conduct a transition and how to put together a transition plan...[but] no matter how well you plan for a transition and how well prepared you are for a transition, it's still going to take every waking moment to do it right."

Governor Baliles had also begun preparations for the transition prior to the election and found that it facilitated the start-up of his administration. "I had some idea in my mind about whom I would select for those cabinet positions before the election was over. The result was that I was able to move relatively soon to name a cabinet." Governor Baliles used the remaining time to meet with his secretaries and their agency heads. Those meetings set the dynamic for the relationship between the governor, the cabinet, and the agency heads. According to Governor Baliles, "that took care of a lot of the start-up problems that I had watched over the years when new administrations took office. If cabinet secretaries were unknown to the agency heads, if they were generally unfamiliar with the legislative process, if, in some cases, they didn't know the State very well, you could have some significant start-up problems." Governor Baliles again emphasized the importance of having individuals experienced in State government in his cabinet. He attributed the perceived success of his cabinet, including the transition, to those selections. Picking "people who knew government, who possessed the institutional memory, who knew the agency heads, and who knew what I thought and what I wanted, made our start-up a lot easier and I think we were able to get off to a fast start."

Governor Wilder took a more formalized approach to cabinet selection and appointed an 11-member commission that interviewed both potential cabinet members and agency heads and made recommendations to the governor. He gave the commission guidance on selecting nominees:

They [the commission members] needed to take into consideration their backgrounds academically, experience-wise. Obviously, I made it clear that I wanted Virginia to be an inclusive government in terms of the kinds of people they would select and appoint and that there were no other considerations other than the best possible talents.

After the commission screening was complete, Governor Wilder and his Chief of Staff met with the recommended nominees: "I would ask questions as to what their views



were, as to what they could do, and how they felt they could operate in a situation that was going to have limited resources and funds available.” Once they were selected, secretaries played a role in the recommendation of agency heads to the governor.

Even with a multi-tiered selection process, Governor Wilder also felt that there was adequate time to compile a cabinet. Focusing on cabinet selection did require that other considerations be postponed. “If you looked at it, any additional time that you could have would be welcome. Is it sufficient time? Yes, but that means that you’re putting a lot of things at bay by saying, ‘hey, we’ll stop this and I’ll just concentrate on forming a cabinet.’”

Once the cabinets were selected, all the governors utilized retreats or group meetings to focus and train new cabinet members. Based on his experience on a retreat with his agency heads, Governor Holton would recommend the use of retreats to governors putting together a cabinet team. In addition to holding planning meetings, Governor Robb also emphasized the role of on-the-job training and described the establishment of an executive leadership institute for use by State officials.

There’s a certain amount of OJT [on-the-job training] in any new administration. I don’t care how carefully you plan and how much of a training program you put together. We did talk about objectives...[and] we supported the development of an executive institute and used that effectively with cabinet, agency, and department heads throughout the remainder of the administration.

Similarly, Governor Baliles held retreats as well as planning sessions with his cabinet. “There were retreats, there were meetings, there were sessions to review what I had committed to during my four years and how we develop a plan or implement the plan that had been developed for the four-year administration.” Governor Wilder used a program run by the National Governor’s Association (NGA) to train his cabinet. The retreat covered “all of the kinds of things that would come up and they would show the various considerations in various states as to what we would be met with and what we would be considering. It was very helpful to brainstorm.” Retreats were a useful and recommended part of the transition process.

### **CONCLUSION: THE SECRETARIAL SYSTEM HAS SERVED VIRGINIA’S GOVERNORS WELL**

Without exception and without equivocation, the governors of Virginia strongly support the secretarial system and recommend its retention. The system has proven to be an effective, responsive, and flexible tool for gubernatorial direction of State government. While minor adjustments to the system have suggested themselves throughout the course of this review, the system as a whole should be retained, largely in its present form.

***Recommendation (1).* The secretarial system should be retained, largely in its present form.**

Over time, the structure and practices of the cabinet have evolved to a point where no structural modifications were made during the most recent gubernatorial administration. The current powers and duties of the secretaries are discussed in Chapter III, and secretarial operations within the context of the system are presented in Chapter IV.

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### III. Current Powers and Duties of Virginia's Secretarial System

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As noted in Chapter I, the secretarial system was created to improve the governor's ability to manage a State bureaucracy that had grown in size and complexity. Authority for the secretarial system was first established in the *Code of Virginia* in 1972. Since that time, each governor has delegated additional authority to the secretaries by issuing executive orders. Some of that secretarial authority has subsequently been codified. The General Assembly, acknowledging that improved management has been coupled with increased executive power, has also placed restrictions on the authority of the governor's secretaries, both in *Code* and in Appropriation Act language.

In general, the authority granted and restrictions placed on the secretarial system seem appropriate. Although executive power has become more concentrated in the Commonwealth, this is not incompatible with the direction established by the General Assembly to provide more cohesive executive direction to the functional areas of government. In its 25-year existence, the secretarial system seems to have been flexible enough to assist very different types of governors and secretaries in managing State government. However, the General Assembly has both defined and decreased that flexibility somewhat in recent years by placing restrictions on secretarial authority.

This chapter lays out the authority for the current secretarial system, and discusses limitations on secretarial authority imposed by the General Assembly. Virginia's current secretarial system seems well-suited for contemporary policy and management challenges and only minor modifications are recommended.

#### AUTHORITY FOR THE SECRETARIAL SYSTEM

The basis of secretarial authority is the authority of the governor. The *Code of Virginia* currently states that the secretaries derive their authority from their standing as "extensions" of the governor. As noted in §2.1-51.10:1 of the *Code of Virginia*, "Each secretary shall be considered an extension of the Governor in the management, coordination and cohesive direction of the Executive Department...." Statutory language regarding the general role of each secretary is universally prefaced by the qualifying language, "Unless the Governor expressly reserves such power to himself, the Secretary is empowered...." This language goes on to address four major areas of secretarial authority which include: resolving interagency conflicts and disputes, delineating a "comprehensive program budget" for their functional areas, ensuring agency head accountability, and guiding the "development of goals, objectives, policies and plans" needed to ensure efficient and effective government. (Appendix B contains a brief explanation of selected responsibilities and authorities of the governor, secretaries, agency heads, and the Department of Personnel and Training and the Department of Planning and Budget as delineated in Title 2.1 of the *Code*.) There are a few specific

powers delegated to the various secretaries that are not held by the governor. For example, since 1990 the Secretary of Transportation has been named as chairman of the Commonwealth Transportation Board (*Code of Virginia* §33.1-1).

In addition, the governor has been granted statutory authority in §2.1-39.1 to delegate "any function which is vested in the Governor by law" to his secretaries "in the form of a written executive order...." The current executive order (31-94) implementing this provision is 43 pages long and is an extensive delegation of authority. While secretaries have been granted a wide range of duties and powers through statute and executive order, a governor's "cabinet" has not been statutorily established, although eight references to a gubernatorial cabinet are contained in the *Code of Virginia*.

### **Statutory Codification of Secretarial Powers and Duties**

The current statutory powers and duties of all of the secretaries, except the secretary of education, were codified in legislation passed during 1984. In the past 13 years there have been several secretarial realignments and name changes. Otherwise, secretarial powers and duties have remained unchanged, except for additional reporting duties being placed on the secretary of public safety, and for direction to the secretary of finance to endeavor to "pay all amounts due and owing by the Commonwealth through electronic transfers of funds...." Exhibit 4 contains the section of the *Code of Virginia* which describes the powers and duties of the secretary of administration. These powers and duties are representative of the general powers and duties granted all of the secretaries except the secretary of education.

As noted previously, the powers and duties of the secretary of education were not changed in the 1984 legislation. In fact those powers and duties have not changed since 1976. Like the other secretaries, the secretary of education is subject to the governor's direction and supervision and is "empowered to resolve administrative, jurisdictional or policy conflicts between any agencies or officers for which he is responsible...." However, agencies in the education secretariat are not required to follow the general policies of the governor and/or the secretary. Furthermore, the secretary of education is not granted the authority to direct the preparation of a comprehensive education budget. Instead, the secretary is directed to prepare a comprehensive budget for "cultural affairs" and "alternative policies, plans and budgets for education...." The secretary of education's authority was apparently limited in order to preserve the relative autonomy that Virginia's Board of Education and institutions of higher education have traditionally enjoyed.

The statutory authority, provided in 1984 for secretarial offices to employ personnel or contract for services, was granted for all of the secretaries except the secretary of education. As noted previously, in 1984 no changes were made to the statutory authority of the secretary of education. In fact, at that time consideration was given to reducing the authority of the education secretariat or even abolishing it completely. Instead, in the intervening years, the education secretariat was neither weakened nor abolished. Regardless, the statutory powers and duties have remained unchanged since

## Exhibit 4

**Statutory Powers and Duties of the Secretary of Administration**

**§2.1-51.26.** Subject to supervision by Governor; powers and duties.

A. The Secretary of Administration shall be subject to direction and supervision by the Governor. The agencies assigned to the Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;
2. Provide such assistance to the Governor or the Secretary as may be required; and
3. Forward all reports to the Governor through the Secretary.

B. Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;
2. Direct the formulation of a comprehensive program budget for the functional area identified in §2.1-398 encompassing the services of agencies assigned for consideration by the Governor;
3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;
4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;
5. Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary; and
6. Employ such personnel and contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order.

**Note:** The powers and duties of the other secretaries are located in the *Code of Virginia* as follows: §2.1-51.8:1 (Natural Resources), §2.1-51.14 (Health and Human Resources), §2.1-51.17 (Public Safety), §2.1-51.20 (Education), §2.1-51.33 (Finance), §2.1-51.39 (Commerce and Trade), and §2.1-51.42 (Transportation).

1976. These statutory powers and duties generally appear to be appropriate and reflective of current practice. The one exception to this is that the secretary of education does not have the authority to retain staff or consultants (within the constraints of office funding and staffing authorization), a power given to the other secretaries in 1984.

***Recommendation (2).*** The General Assembly may wish to consider amending §2.1-51.20 of the *Code of Virginia* to provide the secretary of education with the authority to “employ such personnel and contract for such consulting services as may be required to perform the powers and duties conferred upon the secretary by statute or executive order.”

### **Delegated Authority Through Executive Order**

As noted in Chapter I, the primary source of direction regarding secretarial duties and powers was originally contained within the executive orders issued by Governors Holton and Godwin. Although general powers and duties were included in statute in 1976, governors have continued to issue executive orders which more specifically define duties and delegate authority to each of the secretaries.

***Gubernatorial Delegation of Authority.*** As with most other governors, Governor Allen has issued five executive orders whose principal purpose was to delineate the authority and responsibility that was being delegated to one or more of his secretaries. Two more executive orders are delegations to the chief of staff and the Secretary of the Commonwealth, who serve in the governor's cabinet. Exhibit 5 summarizes the content of each of these seven orders. In defining secretarial duties and powers, there is some reiteration of what is already provided for statutorily as well as additional gubernatorial authority that is delegated. For example, Executive Order 31-94 establishes a review procedure for major policy decisions in stating:

All major policy decisions and actions shall be reviewed by the Governor's Policy Office and shall be approved by the Director of Policy and by the Governor. Thereafter, each Secretary shall provide policy guidance to those persons under the Secretary's supervision who are authorized to take such actions set forth in this Executive Order, and shall be advised by such persons of any proposed actions that may be in conflict with such guidance.

There are other executive orders which delegate authority to a secretary for a very specific area. For example, Executive Order 23-94 provides the secretary of transportation with the authority to address the federal Intermodal Surface Transportation and Efficiency Act of 1991. There are also executive orders which indirectly address the operation of secretarial offices. The purposes of these executive orders include such areas as regulation review and personnel matters and define a secretarial role in each area. Notable examples include:

## Exhibit 5

### Selected Executive Orders Containing Principal Delegations of Secretarial/Cabinet Powers and Duties

Executive Order	Secretarial Area	Summary of Provisions
Number 3-94	Chief of Staff	Designates the chief of staff to: (1) be the deputy planning and budget officer; (2) be deputy personnel officer; (3) to review, in the governor's absence, "major planning, budgetary, personnel policy and legislative matters...and policy differences which may arise among or between...Secretaries"; (4) serve as the chief liaison officer to the General Assembly; and (5) serve as "Senior Executive Assistant" for budgetary and personnel matters within the governor's office.
Number 31-94	All Secretaries	Assigns agencies to each secretary. Provides for both general authority and specific delegated authority for each secretary. Designates the governor's cabinet to include the eight secretaries, Chief of Staff, Secretary of the Commonwealth, and Counselor to the Governor. Dictates that the directors of the Department of Planning and Budget (DPB) and the Virginia Liaison Office "shall regularly attend Cabinet meetings, together with such other officials and employees as the Governor or Chief of Staff may direct."
Number 32-94	Administration Education Finance Public Safety	Delegates Appropriation Act authority for legislatively-mandated duties and responsibilities to specific secretaries (and agencies).
Number 59-95	Commerce and Trade Transportation Education	Moves two agencies between secretariats – the Innovative Technology Authority from Education to Commerce and Trade and the Virginia Port Authority from Commerce and Trade to Transportation. Indicates that it is the Governor's intent that the Secretaries of Commerce and Trade and Transportation continue to cooperate in promoting Virginia's ports.
Number 71-97	Administration	Delegates authority for certain real estate matters in "order to ensure that th[e] pilot project on the decentralization of nongeneral fund capital project management provides a meaningful evaluation of the potential for saving time and money..."
Number 72-97	Administration Education Finance Public Safety	Delegates Appropriation Act authority for legislatively-mandated duties and responsibilities to specific secretaries (and agencies).
Number 56-95	Secretary of the Commonwealth	Delegates authority to the Secretary of the Commonwealth as "Keeper of the Seals of the Commonwealth...to approve the use of the seals...for commercial purposes..."

Source: JLARC staff analysis of certain executive orders issued by Governor Allen.

- Executive Orders 13-94 through 15-94 which define the role of secretaries in reviewing regulations that are proposed by State agencies and in comprehensively reviewing all current agency regulations;
- Executive Order 19-94, which exempts from Virginia Personnel Act provisions all staff working for the secretaries (including the Secretary of the Commonwealth), for the governor's office, and for the Virginia Liaison Office;
- Executive Orders 38-94 and 45-95 on Workforce Reduction, which designate agency heads, the associated secretaries, and the DPB director as the authorities for deciding whether to accept applications for Incentive Plan participation; and
- Executive Order 39-95 regarding legislative activities, which requires the secretaries to "coordinate the development of agency and secretariat recommendations on all proposed, pending, and enrolled legislation, and...oversee communications between Executive Branch agencies and the General Assembly."

### **Gubernatorial Designation of a Cabinet**

When Virginia's secretarial system was established, the term "cabinet" was deliberately avoided. A cabinet connoted an additional level of bureaucracy which policymakers did not want to establish. At the same time, they recognized the necessity to provide the governor with additional tools for managing an increasingly unwieldy bureaucracy. Since the adoption of the "secretarial system" the designation of "the governor's cabinet" has been increasingly used both in speech and in written references. Despite some semantic/classification issues, the avoidance of the term "cabinet" seems increasingly irrelevant. Essentially all of the governors and secretaries interviewed, regardless of the administration in which they served, used the term "cabinet" in describing Virginia's secretarial system. The words "Governor's Cabinet" are literally stenciled along with the name of the secretariat on the secretaries' office doors. Further, Governor Allen (in Executive Order 31-94) has designated 11 officials to serve as his "cabinet."

There are also eight instances in which the term "cabinet" is used in the *Code of Virginia*. Although the governor's cabinet, as an entity, has not been established in the *Code of Virginia*, the term "cabinet" was statutorily introduced in 1979 in §§2.1-398 and 399. These two *Code* sections address procedures for the submission of an "executive salary plan" that includes recommended salary levels for each "cabinet secretary." The other six *Code* references mention the cabinet secretaries or a cabinet-level committee in relation to the Virginia Advisory Council for Adult Education and Literacy, the Comprehensive Services Act, the Administrative Process Act, Virginia's Economic Development Policy, or employee leaves of absence to participate in Pan American or Olympic games.



The General Assembly may wish to statutorily establish the governor's cabinet. The cabinet has been recognized in statute if not explicitly established. Moreover, restrictions have been placed on the secretarial system to discourage a federal-type cabinet, and the continuing advantages of having no statutorily-authorized cabinet seem meager. Recognition of the cabinet in statute would clear up whatever lingering confusion remains and perhaps add more status, which could help the governor recruit exceptional individuals to serve. In addition, by recognizing the existence of a cabinet in statute, the General Assembly could help define its membership and use. For example, all cabinet members could be made subject to confirmation by the General Assembly. The current cabinet includes the eight secretaries, the Chief of Staff, the Secretary of the Commonwealth, and the Counselor to the Governor. All of these positions are subject to confirmation by the General Assembly except the Counselor to the Governor. Several counselors, who were not subject to General Assembly confirmation, have presided over cabinet meetings in the absence of the governor and the chief of staff.

**Recommendation (3).** The General Assembly may wish to consider revising Title 2.1 of the *Code of Virginia* to authorize a governor's cabinet. This authorization could include the members who were to be included at a minimum - the statutorily authorized secretaries - and maintain flexibility for the governor to appoint other staff such as the chief of staff and chief counsel to the cabinet. In addition, the General Assembly may wish to include the requirement for all members of the cabinet to be subject to confirmation by the General Assembly. This requirement for confirmation should not preclude the governor from making interim appointments to the cabinet.

#### RESTRICTIONS ON THE SECRETARIAL SYSTEM

During the past 25 years, many of the changes in the secretarial system have served to increase the power and authority of the system. However, the General Assembly has imposed important restrictions on the secretarial system in an effort to define the limits of its authority. Some of these statutory restrictions emanate from limitations on the governor's authority and by extension on the authority of the secretaries, while other limitations explicitly apply to the secretarial system.

Although the governor is the chief executive officer of the Commonwealth, there are important statutory limitations on gubernatorial authority, including the following:

- the governor is not allowed to serve more than one consecutive term,
- the governor's appointments of agency heads, secretaries, and members of "boards, commissions, councils, [and] other collegial bodies" within the executive branch are subject to confirmation by the General Assembly, and

- the governor is expressly forbidden from exercising any authority related to selecting or retaining any State employee whom the governor is not authorized to appoint.

Except for the term restriction, these limitations on the governor's authority also apply to the secretaries, since they derive their authority from being extensions of the governor.

The General Assembly through other legislative efforts has further defined, and by doing so restricted, gubernatorial and secretarial authority. Most notably, Senate Bill 643 in 1985, and House Bills 776 in 1994 and 2184 in 1995 define the authority of the governor (and by extension the secretaries) to replace agency staff. The remainder of this chapter will examine the restrictions that have been placed on the authority of the governor and the secretaries through:

- restricting governors to only one successive term;
- requiring General Assembly confirmation of appointed secretaries and consequently being subject to Constitutionally authorized impeachment;
- controlling secretarial offices through alignment, funding, and staffing limitations; and
- strengthening constraints on intervention in agency operations.

### **One-Term Limitation on Governor Restricts Secretarial Effectiveness**

There is no statutory language prohibiting secretaries from serving successive gubernatorial terms in a particular secretarial position. Seven secretaries have served in more than one administration. However, limiting the governor to no more than one consecutive term effectively limits the majority of secretaries to a four-year period of service. Secretaries are appointed to serve at the governor's pleasure for a term that generally coincides with that of the appointing governor. (Statutory language does provide for secretaries to hold office until the appointment and confirmation of a successor.) A review of the number of secretaries retained when a new governor has taken office shows that with the exception of the Godwin administration, governors have chosen to replace most or all of the preceding governor's secretarial choices (Table 1).

This one-term limitation results in somewhat limiting the effectiveness of the secretarial system. One former secretary stated:

The bureaucracy knows it can outlast the governor and the cabinet on initiatives they don't like. Their [the secretaries'] ability to make deep and lasting changes is limited. Change takes time, some people say six to eight years.

Table 1

### Analysis of Secretarial Retention in New Administrations

Year	Administration	Number of Incumbents Retained
1974	Godwin	4 of 6
1978	Dalton	2 of 5
1982	Robb	0 of 6
1986	Baliles	2 of 6
1990	Wilder	0 of 7
1994	Allen	1 of 8

Note: This analysis only measured retention within the positions of gubernatorial secretaries. Thus, if a secretary from one administration was appointed secretary of any functional area in the following administration, that was counted as a "retention." However, if a secretary was appointed chief of staff in the following administration, that "retention" would be not reflected in this analysis. This analysis also differs from the analysis of secretarial turnover in Chapter IV which more narrowly defines retention as a secretary being reappointed to the same position.

Source: JLARC staff analysis of initial secretarial appointments.

Another secretary noted surprise at the extent to which initiatives that were undertaken during their administration have not survived.

One of the interesting things about the one-term limit on the governor is that what you do doesn't always survive. In the Wilder and Allen administrations, it seemed that "If I did not think of it, I have no commitment to it." It's almost as if there was a determination to break from the existing structure, even on non-political issues.

Conversely, several secretaries indicated that the four-year limitation was advantageous. One secretary noted that the first task had been to "clean up" a secretariat that had been neglected during the previous administration. The secretary described the predecessor as a "caretaker who had limited [funding] resources." Thus, to some extent each administration brings back into balance some areas that the previous administration may have given too much or too little attention.

### Confirmation Statutorily Required for Secretaries But Not for Deputy Secretaries

The secretaries have been subject to confirmation by both houses of the General Assembly since the creation of the secretarial system. The process to be followed in actually confirming secretarial appointees is not delineated in statute. Statutory language simply indicates that each secretary is "subject to confirmation of the General Assembly." Section 2.1-38 of the *Code of Virginia* is more specific in stating that the chief of staff "shall be confirmed by a majority of the members of each house of the General Assembly."

**Confirmation of the Governor's Secretaries.** The process that is followed in confirming secretarial appointments has been primarily determined by convention rather than by statute. The Secretary of the Commonwealth has assumed responsibility for gathering the information requested for confirmation – resumes and conflict of interest forms – and forwarding it to the General Assembly. Legislative staff draft several joint resolutions containing the names of the governor's nominees. These resolutions and the accompanying forms on the appointees are handled by both the Nomination and Confirmations Committee in the House of Delegates and the Privileges and Elections Committee in the Senate. The Senate Privileges and Elections Committee has appointed a subcommittee to review the resumes and conflict of interest statements to ensure they are in order.

The confirmation process may take several different courses from this point. A hearing may be held to allow appointees to appear before a legislative committee to answer questions. In some cases, the Secretary of the Commonwealth will address questions regarding the appointees' qualifications or the confirmation may go forward without a hearing. Generally hearings are held on confirmations of new secretaries at the beginning of each governor's administration. Appointments made later in an administration often do not result in hearings being conducted.

Hearings may be held by one or more of the following committees – House Nominations and Confirmations, Senate Privileges and Elections, or other “substantive” committees such as House Welfare and Institutions or Senate Finance. In some instances, the House Nominations and Confirmations or the Senate Privileges and Elections committee has referred names to the substantive committees. Those substantive committees then report their recommendations to the chair of the referring committee. In all cases, the House Nominations and Confirmations and the Senate Privileges and Elections committees have the ultimate responsibility for making a confirmation recommendation to the General Assembly.

Although the confirmation process does not require background checks, the Secretary of the Commonwealth under Governor Allen noted that very complete and exhaustive checks were conducted on all potential secretarial nominees. Some of the background information that was collected was not required by the General Assembly and was not forwarded for review. These checks included criminal records checks and checks that probed for traffic infractions, bankruptcies, law suits, the use of domestic help, and financial holdings that might pose conflict of interest problems.

Confirmation of the secretaries has not proven to be a particularly contentious process. In fact a number of respondents both from the executive branch and the legislature used such adjectives as “pro forma” and “formality” in describing its operation. Historically, the confirmation process has rarely intruded into gubernatorial appointment prerogatives. In fact, since the adoption of the 1928 constitution, the General Assembly has not rejected a gubernatorial appointee at the secretarial or agency head level. Despite the legislature's blanket approval of gubernatorial appointments, one legislator stated that he still regarded the confirmation process to be an effective tool in reviewing gubernatorial appointments.

I think it has a positive influence on the quality of those chosen, even though it does appear to be a formality by and large. It does have an influence on the quality of people nominated because the governors know they have to go before P&E (the Privileges and Elections Committee). The governor will put forward good people to avoid conflicts and avoid potential embarrassment.

All governors interviewed stated that the confirmation process was not an obstacle to installing their appointees in office. Governor Robb indicated that the necessity of having his nominations approved by both houses of the General Assembly did "not really" affect his secretarial selections. Governor Wilder referred to the confirmation process as "pretty much rubber stamp...I don't know of anybody that was even conceivably given a hard time."

The majority of secretaries who were interviewed indicated that the confirmation process was successful and that confirmation was not perceived as a threat to their appointments. A few secretaries from previous administrations did not remember whether or not they appeared before any General Assembly committee.

*One secretary who was first appointed by Governor Holton remembered the confirmation in this way. "It was routine. I was appointed by a Republican and a Democrat. Everyone knew who was going to be appointed ahead of time - there were no surprises. That's the way it ought to be done."*

\* \* \*

*Another secretary described appearing before a substantive committee and being pleased to tell them of plans to deal with certain issues. "I considered it to be a positive forum to convey issues." The secretary continued by saying that Wilder's secretaries were "well known to legislators. All had credentials and a great deal of experience."*

Despite the overall lack of contentiousness in the process, several secretaries indicated dissatisfaction with the confirmation process. One secretary expressed a view that the process for some of Governor Allen's secretarial nominees was "hostile" and was used as a forum for "political posturing and personal attacks. It was approached in a very negative way." Another appointee noted that "institutionally" the confirmation process was fine, but in contacting individual legislators, a few people "weren't very nice" and made unnecessary comments about the governor-elect and the nominee's previous employer.

***Confirmation Is Not Required for Deputy Secretaries.*** Statutory language does not clearly require deputy secretaries to be confirmed by the General Assembly. While gubernatorial appointees (with few exceptions) are subject to confirmation, it is not clear who is responsible for appointing deputy secretaries. The *Code of Virginia* clearly states that the governor is the appointing authority for each of the

secretaries but there is no mention of deputy secretaries in this context. The statutory sections delineating the powers and duties of each secretary note that each secretary (except the secretary of education) is empowered to “employ such personnel...as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order.” Whether these sections include authority for the appointment of deputy secretaries has been interpreted differently. Several governors have appointed all of the deputy secretaries with varying input from their secretarial appointees. Governor Allen’s secretaries have indicated that they have been allowed to select their deputies pending his approval of their choices.

Deputy secretaries have been confirmed by the General Assembly dating back at least to the Robb administration. The current Secretary of the Commonwealth noted that although the *Code of Virginia* does not require the confirmation of deputy secretaries, their appointments were submitted for confirmation in keeping with the General Assembly’s wishes. A number of secretaries reported that they delegated broad authority to their deputy secretaries, including the authority to act for the secretary in his or her absence. It may therefore be desirable to statutorily require confirmation for deputy secretaries.

Confirmation of the deputy secretaries would also make clear that they are subject to impeachment by the General Assembly. *The Constitution of Virginia* in Article IV §17 provides that the “Governor...and all officers appointed by the Governor...offending against the Commonwealth by malfeasance in office, corruption, neglect of duty, or other high crime or misdemeanor may be impeached by the House of Delegates and prosecuted before the Senate, which shall have the sole power to try impeachments.” While this is an important control on the system, it has never been initiated against a secretarial appointee. (Only one secretary has resigned due to conflict of interest concerns. Following the secretary’s resignation, no legislative action was taken other than to confirm the individual’s successor.) Impeachment is nonetheless an important control established in the *Constitution of Virginia* for potential use by the legislature. To ensure that impeachment authority also applies to deputy secretaries, the General Assembly may wish to amend the *Code of Virginia* to clarify that deputy secretaries are gubernatorial appointees.

***Recommendation (4).* The General Assembly may wish to clarify language contained within Title 2.1 of the *Code of Virginia* regarding the confirmation process to ensure the following:**

- **that the governor’s appointees must be “confirmed by a majority of the members of each house of the General Assembly,”**
- **that deputy secretaries are appointed by the governor and must therefore be confirmed by the General Assembly, and**
- **that more extensive background investigations including criminal records checks be completed on secretarial appointees.**

## **Secretarial Office Constraints Affect Functional Responsibilities, Staffing, and Funding**

The General Assembly exerts significant controls over the secretarial system. First, the very existence of the system and its functional configuration is established within the *Code of Virginia*. Second, the staffing and funding afforded each secretarial office is contained within Appropriation Acts. Third, the General Assembly has in recent years placed further restrictions on the staffing available to the secretarial offices and has eliminated funding to support some proposed changes in secretarial offices' responsibilities.

***Functional Configuration.*** The current organizational configuration of Virginia's secretarial system is workable, having benefited from 25 years of experience, review, and reconfigurations. The secretarial system, which originally included six secretarial positions, has ranged from a low of five to the current eight positions. The functional alignments of the various secretariats have also changed. These changes resolved such problems as having one secretary oversee two functional areas which had little interdependence (transportation and public safety) or which had potentially incompatible goals (commerce and natural resources).

No realignment of the secretariats was suggested by governors interviewed by JLARC. In addition, the great majority of secretaries indicated that there was little to gain from making further secretarial realignment. The General Assembly granted the governor the authority to move agencies between secretariats in the same legislation that established the secretarial system in 1972. Since that time a limited number of agencies have been moved. Governor Allen has moved two agencies between secretariats during his administration. The Center for Innovative Technology was moved from education to the commerce and trade secretariat, and the Virginia Port Authority was moved from commerce and trade to the transportation secretariat.

***Staffing and Funding of Secretarial Offices.*** The staffing and funding for each secretarial office is specified in the biennial Appropriation Acts. Authorized staffing levels were first included in the 1984 biennial Appropriation Act. Authorized staffing levels for the secretarial offices have increased substantially during the past 14 years from a total of 22 staff for six secretarial offices during the 1984 and 1986 biennia to a high of 53 for eight secretarial offices in FY 1994 and FY 1996. Appropriations to support secretarial office operations have shown corresponding increases. Appropriations for the secretarial offices primarily include general fund moneys except for the transportation secretariat, which is financed by the Commonwealth Transportation Fund. Appropriations for the secretarial offices also include pass-through funds for special projects and studies which may involve millions of dollars.

Prior to July 1, 1995, the staffing levels authorized for the secretarial offices in the Appropriations Acts were position estimates rather than definitive limits. Language in Part IV of the 1994 Appropriations Act stated: "Position Levels are for reference only and are not binding on agencies in the legislative and judicial departments, independent agencies, and the Executive Offices and the Governor's Secretaries." Staff-

ing of the secretarial offices was increased substantially in early 1995 in an effort to consolidate some functions and locate them in the secretarial offices. The *1995 Amendments to the 1994-96 Appropriation Act* included the following amendment language (which was not adopted) under each of the secretarial offices:

**Increase staffing for expanded responsibilities.** Adds funds and positions to centralize legislative, public relations, and constituent affairs functions in the Secretary's office. Certain of these functions were formerly performed at both the Secretarial and agency levels.

This centralization of responsibility (which was later rejected by the General Assembly) was intended to reduce or eliminate the role of agencies for these three functions. The staffing increases made in each of the secretarial offices are shown in Table 2. Since the authorized number of positions for those eight offices was 50 at that time and there were 91 established positions, the secretarial offices had established 41 more positions than their office authorizations included. (Currently the number of staff working within the secretarial offices is below the number authorized in the Appropriation Act.)

To support the additional positions that were established in the secretarial offices, funding was transferred from central appropriations. The additional positions were only employed for a matter of months, however, because the General Assembly did not support the change and eliminated the funding for the additional positions

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Table 2

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### Comparison of Secretarial Office Staffing

Secretarial Office	Established Positions 2/28/95	Authorized Positions 2/28/95	Currently Filled Positions 9/30/97
Administration	14	14	12
Commerce and Trade	16	7	6
Education	18	5	5
Finance	5	4	4
Health and Human Resources	16	7	7
Natural Resources	6	5	5
Public Safety	10	4	2
Transportation	6	4	4
<b>TOTAL</b>	<b>91</b>	<b>50</b>	<b>45</b>

Note: Established positions refer to the number of positions that each secretarial office created through the Department of Personnel and Training based on approval from the Governor. Authorized positions refer to the number of positions shown for each secretarial office in the Appropriation Act.

Source: Employee Position Reports as compiled by the Department of Personnel and Training, and the 1997 Appropriation Act.

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during the 1995 legislative session. According to the Auditor of Public Accounts' FY 1995 audit for the secretarial offices, just over \$2 million was transferred from central appropriations to cover the salaries and fringe benefits associated with the additional staffing that the secretarial offices temporarily employed. Table 3 compares the amount of these central appropriation transfers to the "adjusted funding" or primary appropriation for each of the secretarial offices. ("Adjusted funding" is the sum of the original appropriation, the reappropriation of any unexpended funding from the previous year, and compensation supplements minus the mandatory budget reduction for each secretarial office.) As Table 3 illustrates, the transferred funding represented a significant subsidy ranging from a 10 percent increase for the finance secretariat to a 135 percent increase for commerce and trade. On average, the subsidy amounted to a 45 percent increase for the eight secretarial offices. These funding transfers were not unlawfully made; in fact, central appropriation transfers are made routinely to cover such costs as position regrades. The magnitude of the transfers, however, demonstrates the flexibility traditionally afforded the governor where the secretariats were involved.

In response to concerns about the level of staffing and associated attempts to enhance the authority of the secretarial offices, the General Assembly modified the 1995 Appropriation Act language to make the position levels binding for all but the judicial department. (The Appropriation Act reads, "Position Levels are for reference only and are not binding on agencies in the judicial department.") Thus the current Appropriation Act language effectively establishes staffing limits for the secretarial offices.

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Table 3

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**Comparison of Adjusted Funding and Funding Transferred  
to Support Additional Positions in FY 1995**

<b>Secretarial Office</b>	<b>Adjusted Funding*</b>	<b>Funding Transfer</b>	<b>Funding Increase</b>
Administration	\$800,504	\$ 93,075	12%
Commerce and Trade	\$528,138	\$714,039	135%
Education	\$882,625	\$240,725	27%
Finance	\$381,837	\$ 37,867	10%
Health and Human Resources	\$646,316	\$316,528	49%
Natural Resources	\$381,783	\$195,225	51%
Public Safety	\$527,575	\$263,288	50%
Transportation	\$343,117	\$145,444	42%
<b>TOTAL</b>	<b>\$4,491,895</b>	<b>\$2,006,191</b>	<b>45%</b>

\*Adjusted Funding = Original Appropriation + Reappropriation of Unexpended Funds (from previous year) + Compensation Supplements – Mandatory Budget Reduction

Source: The Auditor of Public Accounts "Governor's Cabinet Secretaries Report on Audit for the Year Ended June 30, 1995."

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Most former and current secretaries indicated that staffing of their offices was lean but adequate. However, there were differences of opinion.

*One former secretary indicated that full-time staffing was so inadequate that two wage employees were used. One wage employee was assigned to handle the huge volume of letters that were received. A second wage employee focused on coordinating the "30 to 40" studies they completed every summer.*

\* \* \*

*Another secretary, who told of having to continually work six days a week for a total of 60 to 70 hours, indicated that additional staffing would not have helped. "If I'd doubled my staff I'd have been working a hundred hours a week," he said. The secretary went on to say that additional staff might have meant that instead of relying on agency heads, he would be taking on direct authority for what the agency head should do and that would have taken even more time.*

A number of secretaries indicated that they did need to use agency staff for short periods of time or on specific projects. This use of agency or "indirect" staff was noted in the 1984 JLARC study of the secretarial system. That study found that while no systematic records of secretaries' use of indirect staff were kept, the secretarial offices were estimated to have used more than 38 full-time equivalents (FTEs) of indirect staff time over a ten-month period. In a recent effort to limit this use of indirect staff, the General Assembly placed the following restrictions on secretarial office staffing in the 1995 Appropriation Act:

Effective July 1, 1995, personnel assigned to the Governor's Secretaries from agencies and institutions under their control for the purpose of carrying out temporary assignments or projects may not be so assigned for a period exceeding 180 days. The permanent transfer of positions from an agency to the office of the secretary is prohibited without the prior approval of the General Assembly.

This prohibition on the use of agency staff for more than 180 days has generally been adhered to, although at least one secretarial office has used temporary staff, whose wages are paid by agency funding, on an ongoing basis.

*Two employees, whose wages were paid by agencies within the Health and Human Resources secretariat, actually worked on an ongoing basis within the secretary's office. One employee, whose wages were funded by the Department of Rehabilitative Services, had worked within the secretary's office for nine months. The other employee, on loan from the Department of Mental Health, Mental Retardation and Substance Abuse Services, had worked in the secretary's office for 20 months.*

This use of temporary staff does not appear to violate the Appropriation Act language, however, since the Act's restrictions have generally been interpreted by executive and legislative staff as applying only to full-time agency staff.

The General Assembly's efforts to limit secretarial office staffing, through restrictions placed within the Appropriation Acts, appear to have been reasonably successful. At the time of the JLARC staff review, none of the secretarial offices reported the employment of full-time staff in excess of their authorized position levels. The Office of Health and Human Resources was the only office which reported using agency staff on an ongoing basis, and these staff were employed on a wage basis. As noted previously, the use of restricted wage staff does not appear to violate Appropriation Act language, although it does represent a usurping of agency funding that is unauthorized and presently difficult to monitor. The General Assembly may wish to consider including additional language in the Appropriation Act to preclude wage employees funded by agencies from working on an ongoing basis within secretarial offices.

Although the majority of secretaries and governors indicated that the staffing of the secretarial offices was appropriate, several indicated that additional staffing was needed on a periodic basis. Examples of when additional staffing may have been needed included the Champion Schools project in the education secretariat and the military base closing and "Opportunity Virginia" projects in the commerce and trade secretariat. The General Assembly may wish to provide the governor with the flexibility to move position authorizations between secretarial offices as long as the total number of authorized positions is not exceeded. This would help to moderate any negative effects of recent restrictions on secretarial office staffing and would be similar to the type of flexibility provided in the appropriation acts for the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Corrections. The 1997 Appropriation Act within Section 4-7.01 states that the "position levels stipulated for the individual agencies within the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Corrections are for reference only and are subject to changes by the applicable Department, provided that such changes do not result in exceeding the position level for that Department."

***Recommendation (5).*** The General Assembly may wish to consider including Appropriation Act language which specifies that wage employees supported by agency funds are not to be assigned to a secretary's office in excess of 180 days.

***Recommendation (6).*** The General Assembly may wish to consider including Appropriation Act language which establishes an overall staffing level for the secretariats and provides the governor with the authority to allocate positions among the secretariats as he sees fit. The language could provide the flexibility to move positions between secretarial offices as long as the total position level for all secretarial offices is not exceeded.

## **The General Assembly Has Further Clarified Restrictions on Secretarial Staff in Personnel Matters**

As noted in Chapter I, in adopting the Virginia Personnel Act in 1941, the General Assembly endeavored to establish a personnel system which ensured that appointments, promotion, and tenure of State employees is based on fitness and merit rather than political considerations. Legislation passed in 1942 to amend the personnel act designated the governor as the chief personnel officer for the State but prohibited him from usurping agency head authority with regard to the recruitment or retention of employees. Although there have been several redefinitions of which State employees are in classified positions, the General Assembly has continued to protect the merit-based system and has placed restrictions on the role of the governor and later on the role of the secretaries regarding the classified personnel system.

***Restrictions on Employee Selection Have Been Clarified.*** The General Assembly in 1976 amended the *Code of Virginia* to affirm its position that agency heads retain the authority to appoint classified staff within State agencies. Section 2.1-114.7. of the *Code* still contains that language, which states:

The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies such methods of administration relating to the establishment and maintenance of personnel standards on a merit basis as are approved by the Governor for the proper and efficient enforcement of this chapter. But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.

The statutory language added in 1976 clearly affirmed that the classified personnel system within State agencies was to be based on merit-related qualifications rather than an appointment system in which the governor selects agency staff. The intent of the General Assembly in this area is stated unambiguously and as noted previously, must be interpreted to apply to secretaries as extensions of the governor.

Although legislative intent regarding recruiting, hiring, and retaining agency employees is both clear and long-standing, secretarial office staff have at times selectively interfered with agency appointments.

*Several secretaries from previous administrations noted that it was possible that their deputy secretaries sat in on agency hiring panels at the request of the agency head. These secretaries generally thought that the procedure had worked well, although as one noted, it is possible that it could have been considered "intimidation by presence."*

*A secretary from the Godwin administration noted that there may have been a few instances of the governor's office being involved in the selection of deputy agency heads but not beyond that as long as the position was approved and the funds were appropriated.*

\* \* \*

*A 1996 JLARC report on the Department of Environmental Quality (DEQ) found examples of inappropriate involvement in selecting DEQ employees by staff within the office of the secretary of natural resources. The JLARC report stated, "the initial inclusion of staff from the secretary's office on interview panels and the submitting of interview questions to be used at DEQ interviews by the secretary's office as well as the continued routine review of hiring decisions by the secretary's office potentially undercut the agency head's role as the agency's appointing authority."*

The General Assembly added language in §4-6.05 in the 1996 Appropriation Act which stated, "The Governor's Secretaries shall exercise no authority with respect to the selection of applicants for classified positions. The Secretary and the Office of the Secretary shall not review or approve employment offers for classified positions prior to an employment offer being extended."

Several secretaries indicated that they do not approve agency hires but that they do require agencies to let them know on an informational basis when an offer of employment is going to be made. This informational alert is typically only for positions above a specified grade level, usually Grade 14. At least one secretary indicated being unsure whether the job offer is made to the applicant before or after a response is received from the secretary's office. Although providing the names of agency hires for informational purposes does not violate Appropriation Act language, the procedure does provide an opportunity for misinterpretation. One agency head stated that the resumes of higher-level staff selections are sent to the secretary "for approval of the candidate." Although this assertion was denied by the supervising secretary, the agency head mistakenly believed that secretarial approval was required. The governor's secretaries should ensure that there is no misunderstanding on the part of agency heads regarding the fact that the secretary is not empowered to and is therefore not requesting to approve agency hires.

***Restrictions Have Been Placed on the Implementation of the Current Hiring Freeze.*** On December 1, 1994, Governor Allen issued Executive Order 38-94 on Workforce Reduction which contained provisions for an immediate hiring freeze. The governor's order indicated that "no part-time or full-time position in the Executive Branch that is vacant or hereafter becomes vacant shall be filled" unless an exception is approved for the position. In Executive Order 38-94 the secretaries were designated as the first level of review to determine whether an exception to the freeze was warranted. Possible exceptions were specifically provided for in the areas of "critical pub-

lic health, safety, and other needs," seasonal positions, and certain employment agreements that predated the executive order's release. If the secretary considered a position to meet one of the three aforementioned criteria and the director of DPB concurred, the secretary was authorized to allow the agency head to fill the position.

To address concerns that lengthy delays could be associated with the review by the secretary's office and DPB and other problems, the General Assembly exempted certain position classes and entire secretariats from the hiring freeze through Appropriation Act language. The 1995 Appropriation Act (for the 1996 biennium) exempted employees involved in public safety or public health:

§4.701e. Positions assigned to agencies that provide services pertaining to public safety and public health shall be exempt from any administratively imposed hiring freeze. Such positions shall include, but are not limited to security positions in the Department of Corrections, parole and probation officers, law enforcement officers, employees that provide direct services or patient care in the local Health Departments and the facilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services. In addition, any position that is funded one hundred percent from federal funds, grant funds, contracts, or auxiliary enterprises is also exempt from any administrative hiring freeze.

The General Assembly continued to specify additional exempt positions in subsequent Appropriation Act language. The 1996 Act reads as follows:

Positions assigned to agencies and institutions that provide services pertaining to public safety, public health, and public higher education shall be exempt from any administratively imposed hiring freeze. Such positions shall include, but are not limited to, security positions in the Department of Corrections, parole and probation officers, law enforcement officers, employees that provide direct services or patient care in the local Health Departments and the facilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Rehabilitative Services, instructional positions in the Department of Correctional Education, employees providing services to students at institutions of higher education, and employees involved in the coordination of higher education. Positions in the Department of Health that are involved in direct patient care, customer service, or support services at the local level (including physicians, nurses and nursing supervisors, and environmental health specialists), and positions that provide support services which are essential to the safe and efficient operation of state facilities, shall also be exempt from any administrative hiring freeze. In addition, any position that is funded one hundred percent from federal funds, grant funds, contracts, or auxiliary enterprises is also exempt from any administrative hiring freeze.

The 1997 Appropriation Act amended this language to specifically state that all staff within the public safety secretariat were to be exempt from the hiring freeze.

***Recommendation (7).* The General Assembly may wish to consider amending Title 2.1 of the *Code of Virginia* to include language similar to the 1996 Appropriation Act provision, which reads, “The Governor’s Secretaries shall exercise no authority with respect to the selection of applicants for classified positions. The Secretary and the Office of the Secretary shall not review or approve employment offers for classified positions prior to an employment offer being extended.”**

The secretarial system has evolved in the last 25 years to be a system that is somewhat different from that which was originally planned. This evolution however, generally does not appear to be inconsistent with ongoing legislative input or with the demands of managing a modern bureaucracy. In fact, the General Assembly has stepped in and placed new restrictions on the system when intended changes were thought to be inconsistent with legislative intent.

It does not appear that major changes in the system are necessary at this time. The recommendations that have been made represent adjustments to a system that has successfully assisted Virginia’s last seven governors in managing the State bureaucracy. As noted in the following chapter, however, each governor’s “cabinet” reflects the management styles and personalities of the incumbents involved and is therefore somewhat unique.





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## **IV. Operations of the Secretariats and Implications for Executive Branch Management**

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As discussed in Chapter II, the secretarial system has been successful in advancing the governor's control over the State bureaucracy. Indeed, governors have come to view the secretarial system as an indispensable component of gubernatorial management. By and large, the General Assembly has also supported the secretarial system. The legislature has used both statute and the Appropriation Act to expand, modify, and limit the powers, duties, staffing, and funding of the secretaries. The system has proven to be sufficiently flexible to successfully accommodate governors of widely different political philosophies and management styles. However, partly as a consequence of increased gubernatorial control of the executive branch, turnover among top-level executive branch officials has increased dramatically, raising issues regarding the continuity of government operations and the preparedness of executive branch officials.

This chapter discusses the functional operations of the secretaries during the past seven gubernatorial administrations, focusing on practices that continue to exist. It describes the major roles of the secretaries and how they have performed them. It also discusses the turnover of executive branch officials, both at the secretarial and agency head levels, and the implications that high levels of executive turnover could have on continuity and effectiveness. Finally, the manner in which gubernatorial transitions affect the secretariats is discussed.

### **OPERATION OF THE SECRETARIATS**

Early in the life of Virginia's secretarial system, the secretaries largely functioned as high level communicators and policy coordinators. Viewed by Governor Holton as being comparable to corporate vice-presidents, they oversaw multiple units of government without becoming directly involved in the day-to-day management of those units. Much of the job involved communicating essential information about agencies to the governor and communicating the direction and philosophy of the governor to the agencies. The operational management of line agencies was left to agency heads who were largely career State employees. By and large, secretaries still refrain from attempting to operationally manage the agencies under their jurisdiction. However, the agency head has increasingly become an extension of the policy apparatus of gubernatorial administrations.

In interviews with JLARC staff, secretaries from every administration spoke about their experiences both as a member of a cabinet "team" and as an individual secretary. Findings from these interviews are largely qualitative, but some patterns of responses are evident. Each group of cabinet secretaries seems to have had a somewhat separate identity. Most seem to feel strongly that the way the cabinet operated during their tenure is the "correct" way for a cabinet to operate. Secretaries look back

on their tenures with a sense of pride and accomplishment. They remember working extremely long hours themselves, and without exception depict Virginia's governors as being even harder working and committed. In essence, the governors and their cabinets look upon the four-year term as an opportunity to make history and commit themselves fully to that goal. (Perspectives of various secretaries on the position are contained in Exhibit 6.)

Looking at the interviews as a whole, there seems to be some variation in the policy/management roles of the secretariats. This variation in emphasis can occur between administrations and even between individual secretaries within an administration. Despite the fact that the policy/management roles and even the specific duties of the secretaries will vary somewhat from governor to governor, the most common operational functions of the secretariats can be seen as falling into two broad secretarial roles. These roles involve (1) acting as a representative of the governor and (2) providing oversight of their agencies and coordinating secretarial activities. The functions that the secretaries play within each of these broad roles are discussed in the following sections.

### **Activities that Focus on the Secretary's Role as a Representative of the Governor**

Perhaps the key role of the secretariats today is to provide a mechanism for the governors of Virginia to translate their electoral mandates into governmental actions. Secretaries perform this role by representing the governor in a variety of capacities:

- functioning as an extension of the governor's office into the bureaucracy of State government,
- communicating the policies and directives of the governor to the agency and program heads,
- coordinating the preparation of the budgets for the secretariats, and
- performing a variety of liaison, information, and policy roles relating to the General Assembly.

***Functioning as an Extension of the Governor's Office into the Bureaucracy of State Government.*** A number of secretaries interviewed by JLARC staff described the secretaries' offices as "extensions of the governor's office," a phrase also found in the *Code* and frequently used by the governors to describe the secretariats. From an operational standpoint, the secretaries are the primary tools by which the governors project themselves into the State's large bureaucracy.

*One individual, who served at high levels in multiple administrations, spoke of the need "to change the bureaucracy" and administer*

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**Exhibit 6**


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**What Makes an Effective Secretary: Some Secretarial Perspectives**

“The Secretary has to remember who the boss is – the Governor...The secretary has to fully understand the title, ‘The Honorable.’ They have to approach everything in an honorable way. Everyone has to trust you – the Legislature, the Governor, the agency heads.”

\* \* \*

The secretary has to be prepared to work hard. The job is non-stop for four years. Sixty-and seventy-hour weeks. You have to be prepared to make that commitment.

\* \* \*

“It helps if you’ve been in the trenches.... Government experience helps, so does experience in the private sector.”

\* \* \*

The governor’s agenda cannot seek to achieve breakthroughs in every area. He knows there will be “two or three legacy areas.” The governor needs some secretaries who are simply “good administrators with integrity” that realize that they won’t be “a pathfinder or model maker in that area.” If you put a strong advocate in a low priority area you will have trouble.

\* \* \*

The most important things for a secretary are: (1) An individual should have management experience when they become secretary. If they don’t, then they are in deep trouble. It is ridiculous to go in without management experience to overseeing the operation of huge agencies funded by taxpayers and providing services. (2) They should have political skills because a major job is to run interference. The secretary protects both the governor and the agency from political influence. (3) Be prepared to work with both sides of the aisle. It is important for a secretary who is funded by Democrat, Republican and Independent tax payers to be helpful to everyone. They’re all trying to do the best for their constituents.

\* \* \*

Knowledge of the issues but not necessarily the details; to be smart; to be able to sell programs and initiatives. “The secretaries are going to get shot and that is their job....” A good secretary tries to implement the governor’s agenda or get agency needs on the agenda.

\* \* \*

“You have to be a good follower.... You have to remember you’re working for the Governor...While you have a role to play, the Governor has the final say. Without that, it wouldn’t function effectively.” Communication skills are extremely important. The ability to communicate ideas logically and concisely. To be persuasive and understand what others are saying to you. “It’s not always the case, but I think you need a thick skin too.”

Note: Direct statements are in quotation marks; paraphrased summary statements are not.

Source: JLARC staff interviews with current and former secretaries.

*government. The governor needs the authority to make changes in agency management to achieve an agenda within a four-year term. That is the purpose of elections, he said. However, "Virginia still falls well short of the mark in giving the governor the tools for the necessary penetration of the governor's office into the bureaucracy."*

*There will be many disappointments in gubernatorial appointments, he said. You are always going to end up with people who are more well known to the governor than to the bureaucracy. "Increasingly, this will be more the rule than the exception." In his opinion, governors generally don't view agency heads as instruments for running State government. Agency heads are seen as "ministerial," he said, and one shouldn't view them as the principal managers of government. It's really the next layer down that runs the agencies.*

The desirable amount of political penetration into the bureaucracy remains an issue of considerable controversy, and has been the subject of three major legislative initiatives since the Robb administration. The principal issue is how to achieve a workable balance between responsiveness to the electoral mandate of the State's top elected official and the desire to have a professional workforce, capable of efficiently performing complex and demanding tasks ranging from bridge and road maintenance to upholding the State's fiduciary responsibilities. Without such balance, governments can operate at the extremes of either a patronage system or an unresponsive and out-of-control bureaucracy.

The secretaries are generally acknowledged to be a bridge between the largely political orientation of the governor's office and the largely technical or substantive orientation of the State agencies. Thus, the secretaries not only communicate the policies and priorities of the governor to the agencies, but also serve as a conduit of information about agencies and programs to the governor.

To perform these various roles, the secretaries must have a combination of political skills and substantive knowledge or program experience. Without political skills, the secretary may be viewed as naïve or ineffective by the governor and his staff. Without substantive knowledge or program experience of any kind, the secretary may have limited understanding of important agency issues and diminished credibility with the bureaucracy, the legislature, the press, and other interest groups.

*One secretary from an early cabinet was described to JLARC staff as being so ill-informed that he was not permitted by the governor to appear before the General Assembly without a representative of the governor's office being present with him. However, because of the political ramifications of removing him, action to replace the individual was slow in coming.*

Different cabinets have been characterized as having different balances. (Almost without exception, secretaries regarded the cabinet in which they served as being

the most effective and best balanced.) The Holton and Godwin cabinets consisted primarily of career State officials and business executives. The Baliles cabinet was dominated by individuals with substantial State government experience. Other cabinets had more of a mix of individuals with business, government, and academic credentials. The degree of success of these individuals, or their predecessors, is judged by the governor, first, and also by the broader public policy community.

*The predictors of a cabinet's success, according to one former chief of staff, measured both by the governor's opinion and the assessment of larger groups such as the General Assembly and issue stakeholders, are (1) to have a model that corresponds to the governor's management and leadership style and (2) to have individual members with institutional knowledge and functional credibility. You could have a cabinet with strong technical backgrounds and experience but have a governor who uses a strong chief of staff style and has a greatly reduced need for independent thinkers in the cabinet.*

All of the governors interviewed by JLARC staff were very satisfied with the overall performance of their secretaries, although several noted that some of their secretaries were more effective than others. Many of the secretaries seemed in agreement with one who stated "there is no one good or bad scheme" for cabinet operations. Much depends on the style of the governor, his agenda, and his interest in changing government.

***Communicating the Policies and Directives of the Governor to the Agency and Program Heads.*** Although the secretaries are regarded as a "bridge" between the governor's office and the bureaucracy, JLARC interviews with secretaries from every administration indicated that most of the communication is from the governor's office to the agencies and not vice versa. This is somewhat different from the original orientation of the cabinet, which was seen primarily as a means of collecting and selectively passing on information about agencies to the governor. Governor Holton clearly expressed this initial orientation in his interview with JLARC staff:

There were 107, I think...governmental agencies in Virginia reporting to the governor. So you had at least 107 people who theoretically reported to the third floor of the Capitol, to one person, the governor. That was impossible, of course. The management study clearly recommended the creation of a cabinet system. It was a...device for communication with the agency heads. It was not designed to replace the substantive agency heads. It was a communication device.

Communication involving the secretaries is still two-way, but with increasing emphasis on communicating the policies and positions of the governor.

*According to Governor Allen's Chief of Staff, communication between the Governor and the agencies is very much a two-way process, but it changes during the course of the administration. Early in the admin-*

*istration, when the Governor is articulating his agenda and initiatives, most of the communication is downwards, from the Governor to the agencies. Later, when the administration is in the "implementation mode," there is more upwards communication from the agencies, through the secretaries, regarding the status of the implementation of initiatives.*

Secretaries perform this communication role through a variety of methods including group meetings with agency heads, one-on-one meetings, phone calls, email, memos, and other devices. Although they mostly use their cabinets, governors may also play a direct role in communicating with and to agencies. Several governors have had large group meetings with agency leadership, to directly communicate their vision, philosophy and agenda. Governor Allen has had regular group meetings with his agency heads and other senior officials in his administration. One Allen administration secretary told JLARC staff that the Governor was such a good communicator and was so consistent in his political philosophy that it was "rarely necessary" for the secretary to communicate policy on the behalf of the Governor. After receiving guidance from the governor or the secretaries, agency heads then communicate the policies down the line to the bureaucracy as a whole.

To communicate the governor's guidance, the secretaries must receive it. As one secretary, who served in several administrations, stated "the challenge is how does the chief executive of State government share his management vision with the cabinet?" Secretaries receive guidance from the governor through a variety of forums. On specific issues, the secretaries generally received one-on-one direction from the governor or the chief of staff. Governors will meet directly and individually with the secretaries, communicate with them at official functions (such as a ribbon cutting ceremony or conference), call them on the telephone, and use many other methods. Through such methods, the governors also collect information about the agencies. Governor Allen receives a written report from each of his secretaries every Friday. This report provides him with details on secretariat activities which do not need to be brought up in a common forum, such as the cabinet meeting.

The communication styles of the governors are said to have varied. Governor Baliles was described as being "very hands on" in "picking up the phone and calling people" himself. Governor Robb is said to have used his chief of staff more than most governors and was known for preferring a more clearly defined chain of command. Governor Allen is described by his secretaries as an "inspirational" governor who communicates his overall principles clearly, then expects his cabinet and agencies to implement policy in accordance with those principles.

All governors and all secretaries indicated that each secretary had direct access to the governor and could meet with him, schedule permitting, on request. Out of respect for the governor's time, such requests were generally limited. In addition, secretaries indicated that they would occasionally set up a meeting between the governor and an agency head on a specific issue. Over the years, finance secretaries have tended

to meet with the governors more regularly than other secretaries, given the importance of finance in Virginia State government.

The cabinet meeting has also been a vehicle for communicating the policies of the governor to the secretaries and subsequently to agencies and the larger bureaucracy. Cabinet meetings usually focus on more cross-cutting issues, such as the implementation of the Workforce Transition Act, personnel directives, overall budget guidance and procedures, and other such topics. A focus on individual secretariats generally occurs only when an issue has some applicability to other secretariats or is of topical interest.

A governor will typically hold frequent cabinet meetings at the beginning of a term, often being personally in attendance. When the governor attends, he presides over the meeting. As the gubernatorial term progresses, the meetings become more infrequent and are typically chaired by the chief of staff. An exception to this diminution of frequency has been the Allen administration, where regular bi-weekly meetings have been held throughout the Governor's term. Although the Governor's personal attendance has diminished over time, these coordinating meetings are regularly scheduled and usually attended by most cabinet members. The Chief of Staff presides, except on those occasions when the Governor attends. Daily cabinet meetings are often held during the legislative session. At these meetings, the chief of staff or governor's counselor generally presides.

The communication of the governor's policies and priorities to the agencies and bureaucracy takes on a variety of forms. Some specific cross-cutting issues will be addressed by written communications (for example, budget instructions, directions on performance measures, or decisions about workforce transition). Most often, secretaries indicated that they talked individually with their agency heads. Some held regular meetings, but this varied from administration to administration.

*The Secretary of Administration in the Baliles administration held regular meetings with agencies in the secretariat. The current Secretary questions the value of such meetings because of the different missions of his agencies. While he has daily communication with several of his agency heads, he has never held a meeting of all of his agency heads.*

\* \* \*

*The current Secretary of Transportation holds regular weekly meetings with his agency heads. Because the Director of the Virginia Port Authority operates out of the Tidewater area, he will be hooked up electronically at the weekly meeting and attend in person about once a month. Under the two previous secretaries of transportation, meetings with agency heads were rare and were usually focused around pending legislation.*

There is no preferred way of communicating gubernatorial policies and priorities to agency heads and the bureaucracy. The appropriate method will depend on the preference of the governor, the issue, the priority and timeliness attached to it, and the methods of communication available. However, communication on behalf of the agencies to the governors is, perhaps, more limited than may have been expected. Secretaries have tended to resolve agency-level issues themselves and report specific agency issues selectively to the governor and chief of staff.

***Coordinating the Preparation of the Budgets for the Secretariats.*** A major statutory and operational role of the secretaries is “the formulation of a comprehensive program budget for the functional area” of their jurisdiction. While this study does not comprehensively assess the budget process, it does confirm the active involvement of the secretaries in the budget development process. Indeed, as the secretarial system has evolved, secretaries seem to have become increasingly involved in fulfilling this responsibility. In recent years, it has been the secretary, and not the relevant agency head, who was “at the table” when key decisions were made by the governor on how much would be recommended for an agency in the governor’s budget proposal.

The secretary’s role in budget preparation has three principal components: (1) shaping and coordinating the various agency budgets, (2) securing the governor’s support for the budget, and (3) representing the proposed budget to the Assembly.

The roles of the secretaries in shaping and coordinating the budget varies by secretariat. As the transportation secretariat is comprised almost wholly of special funds, the secretary’s role is different than that of a secretariat funded by general funds. The role of the secretary of education is also somewhat unique. All agencies and secretaries follow procedures promulgated by statute, the Appropriation Act, gubernatorial priorities and directives, and instructions from the Department of Planning and Budget (DPB). The process varies from administration to administration. The budget proposal that goes to the governor bears the approval and support of the secretary. (Statute theoretically allows agency heads the opportunity to submit a budget proposal to the governor and General Assembly at odds with secretarial approval. Under the current process, this could occur in the October agency budget submission. Because the process incorporates substantial guidance from the administration, it appears that agencies very rarely forward requests which have not received secretarial approval. Agencies seeking funding beyond that approved by the secretary or governor generally do so “through the back door” – that is, by privately articulating their needs to interest groups or legislators.)

While secretarial involvement in budget preparation is extensive, other actors also play key roles, including the director and staff of DPB, the secretary of finance, the chief of staff, and the governor’s policy staff. Indeed, it is these individuals who are generally “at the table” with the governor when final decisions are made. Individual agency heads are rarely present. The final calls on all major budget decisions are always the governor’s to make, according to everyone interviewed by JLARC staff. The level of detail at which a governor chooses to get involved has varied, however. Gover-



nors Robb and Allen were very detail-oriented and would “read every line in 16-page spreadsheets,” according to one interviewee familiar with budget processes in multiple administrations. Others relied more on meetings, or were less detail oriented, focusing more on the big picture. All of the governors were said to spend an enormous amount of time on the preparation of the budget.

A governor’s approach to the budget is dictated to some extent by his objectives and management style, as well as by the fiscal condition of the State. The Wilder years were said to be unique because of the huge budget shortfalls faced at the time, and some secretaries were frustrated by the limits that resulted. One observer described the secretaries’ role in budget preparation in the following manner.

*How the cabinet functions and interacts with the agency heads and the governor is a function of personalities and experiences. “How well it works is often a function of events beyond its control” especially regarding the budget. “Budget preparation in bad times is easier than budget preparation in good times.” There’s too much competition for money when it’s there. In the governor’s one-on-one budget discussions with secretaries he has seen everything from table-pounding to weeping. One secretary walked out of the room during budget negotiations. It is a very intense time. Secretaries have ambitions and they come to the table with their programs and want to see them adopted. “You have one shot in four years” to get that. If you get too many things on the table, nothing is a priority. But the calendar forces action.*

When the governor’s budget proposal is submitted to the General Assembly, the secretaries generally play a major role in explaining and defending it. Again, however, the degree of involvement will vary with the secretary.

***Performing a Variety of Liaison, Information, and Policy Roles Relating to the General Assembly.*** During legislative sessions, secretarial activity is dominated by the General Assembly. Secretaries must often present and defend elements of the governor’s budget and proposed substantive legislation, as well as attend to general informational and policy interests of legislators. Most secretaries from all administrations indicated that they spent the majority of their time during sessions meeting with legislators and legislative committees, or preparing to do so. Cabinets in the Allen, Wilder, Baliles, and Robb administrations had daily meetings, usually in the morning, during the session. Even so, involvement varies according to the secretary. One Allen secretary said he was in the General Assembly Building literally every day of the session. Another Allen secretary delegated almost all legislative relations to agency heads, preferring to advise them and stay informed.

The ability to communicate effectively with legislators is essential for secretaries working for the success of a governor’s legislative program. Governor Holton emphasized the importance of the secretaries in working with the legislature.

They were instrumental in carrying the message to and from the General Assembly. We used them as lobbyists. I wanted them to stay in touch with the General Assembly. Most of them had experience doing that. Most of them knew the members. A lot of them were highly respected by the members of the General Assembly. They were effective lobbyists. I wanted them to do that and I don't remember any time where they submitted wishes to the General Assembly opposed to my wishes. I think that they were pretty well informed about what I wanted and they did a good job of letting me know the reactions of the members. I, of course, did a lot of lobbying myself. I stayed very closely in touch with the General Assembly, but I was assisted strongly by members of the Cabinet.

To promote their legislative programs, some governors emphasized legislative experience in their selection of secretaries. Many of the secretaries interviewed for this study listed experience with or knowledge of the legislature as an essential characteristic of an effective secretary. Governor Baliles' cabinet was dominated by individuals with legislative experience. It included two former members of the Assembly and four secretaries with extensive legislative staff experience.

While the role of the secretary in presenting the governor's program to the legislature is important, the governor himself is often the key player. Governor Allen emphasized that it would be unfair to judge the effectiveness of his secretary of public safety based on whether or not the abolition of parole was passed. He – the Governor – should be held “ultimately responsible” for the success or failure of a major legislative initiative.

### **Activities that Focus on the Secretary's Oversight and Coordination Responsibilities**

The secretaries also have responsibilities which emanate from their role as a layer of management in State government. These responsibilities include:

- providing oversight of the agencies and programs within the secretariats,
- coordinating activities of agencies within the secretariat,
- coordinating, where necessary, programs and activities which bridge secretariats, and
- performing substantial information and constituent services, and other administrative tasks.

***Providing Oversight of the Agencies and Programs within the Secretariats.*** Statute requires that secretaries “hold agency heads accountable for their administrative, fiscal, and program actions.” Different secretaries have responded to

this oversight responsibility in different ways, and it has led to some instances where secretaries have become too involved in the operations of agencies. For, while secretaries have oversight responsibility, statute directs that agency heads “exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor.” (Statute is even clearer with regards to the personnel powers of agencies heads, as discussed in Chapter III.)

Governors interviewed by JLARC staff made it clear that they expected their secretaries to oversee, not manage, agencies under their direction. Governor Robb noted that he wanted his secretaries “to leave most of the management function, except for simple oversight, to the managers, to the department and agency heads.” Secretaries also indicated that they generally avoided “micromanaging” their agencies. Governor Allen stated that it would be “a waste of their time” for secretaries to get involved in the minutia of agency management. Further, secretaries have indicated that they simply don’t have the time to do their own jobs and try to micromanage agencies.

*One recent secretary stated that she rarely became involved in the operations of agencies. “Managing and running agencies is not my job. I didn’t have the capability or the inkling to run my agencies.” However, even though she was disinclined to get involved, she said she would “if it’s not getting done right.”*

Despite their intentions in this regard, some secretaries have become involved in the management of their agencies. Secretaries, in the current and previous administrations, have also acknowledged extensive involvement in agencies’ affairs, sometimes defending the practice. As one secretary noted:

You can’t do policy without management. The day-to-day workings are so complex if you don’t know how things work in the field you can’t do policy. For example, human services formulas. Maybe Meals on Wheels in Portsmouth could make all its deliveries in one and a half hours and the vans would last; while in southwest [Virginia], it is 45 minutes between clients and there is a lot more wear and tear on the van and additional equipment concerns. Unless you see it and understand that circumstance, then the secretary won’t understand the budget requirements or the policy requirements or how to write the formula to accommodate those regional differences. The cabinet does do policy and oversees management.

There can be a fine line between ensuring adequate oversight of an agency and becoming too involved in operations which are the statutory responsibility of the agency head. Personnel is an area where the General Assembly has drawn a firm line. The governor and secretaries are now specifically prohibited from involvement in personnel actions involving the classified service (Chapter III). However, some governors and secretaries continue to see a valid, though limited, role in the personnel area. Ensuring the representative inclusion of minority and women candidates in application pools, for example, was a concern of several governors and secretaries. Governor

Holton was emphatic in his insistence that the State Police include minorities in its ranks. Governor Robb made affirmative action a high priority in his administration, and this involved secretarial involvement:

Under Executive Order Number One, cabinet secretaries were required to monitor the hiring actions of their agencies to ensure compliance with federal law and guidelines on Equal Employment Opportunity. Each Secretary established their own procedures for carrying out this task and reported on an annual basis to the Secretary of Administration concerning results. I felt such involvement was appropriate. Some secretaries were more direct with their agencies than others and this did produce concerns in those cases where the Secretary became personally involved. I believe the balance between proper oversight and inappropriate interference is often a difficult call to make since it must frequently be made under difficult circumstances and in an intensely political and public environment.

Similar directives in other administrations also resulted in secretarial involvement in agency hiring practices.

*One secretary stated that she did not choose people but made sure the candidates were selected from a qualified pool. She was sent the top three candidates (and the pool they were selected from) to make sure that the agencies had diversity. In one instance, the secretary returned the agency's selection three times because she felt that the pool had not been sufficiently diverse.*

Despite such exceptions, the general consensus was that the classified system should not be influenced by the secretaries. When asked whether the secretary should be involved in the appointment and selection of classified employees, Governor Wilder replied:

No, I don't think so. I think the selection of classified employees should follow the normal route of advancement through the State system. Other than that and it's a morale buster. You'll have people believing that favoritism existed and how much political connections you had and if you weren't politically connected, you couldn't make it and couldn't advance. Virginia's been pretty fortunate, in that we haven't had too much of that. Some have said we've had enough.

Because of recent legislative actions to clarify statute regarding the involvement of secretaries in agency personnel decisions, no further action is necessary at the time of this report. Moreover, Cabinet members should be made aware of these restrictions, upon assumption of office. It is unlikely, however, that this issue will ever be fully resolved. As one secretary said: "the law is going to say what the law is going to say, but people are going to do what people are going to do."

***Coordinating Activities of Agencies within the Secretariat.*** One of the reasons for establishing the secretarial system was to encourage the coordination of the activities of agencies with similar missions. In addition, statute provides the secretaries the power to “resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies....” Coordination of activities within agencies occurs on a routine, non-controversial basis. It may happen through regular meetings of the entire secretariat, as in the case with transportation, or it may occur when the secretary brings together two or more agency heads to coordinate an initiative.

Resolving inter-agency disputes has clearly become the domain of the secretaries. When the system was first established, agencies were more likely to appeal decisions of the secretary to the governor. Larger agencies, such as the Department of Transportation, had become accustomed to dealing with the governor directly. Governor Holton said he made a point of working through and supporting his secretaries, and that cut down on appeals. As the secretarial system became more established, agency heads entered the system expecting to accept the authority of the secretaries. Today, the resolution of inter-agency disputes by secretaries is taken for granted.

*One Allen secretary stated that “it’s one of the things we’re statutorily charged with.” If he is unable to solve a dispute, he will prepare a decision brief for the Governor. Sometimes the Governor will become more involved and may want additional information or a meeting. “Sometimes, but not usually.” The secretary likes to resolve disputes at his level. Governor Allen stated that he expected agency-level concerns to be addressed by the secretary. While agency heads sometimes sought to address him directly on an issue, such appeals were very rare and he preferred that they use the chain of command.*

From a practical standpoint, high-level secretarial involvement in working out inter-agency difficulties seems to have been rarely necessary. To the extent that it has, Virginia’s governors and secretaries generally indicated that the system has been successful in this regard. The practice seems to have been that governors from Holton on would generally defer on such matters to the appropriate secretary. Consequently, there has been little incentive for agency heads to appeal disputes beyond their secretary.

In addition to resolving disputes within their jurisdiction, secretaries are sometimes called upon to coordinate activities between secretariats.

***Coordinating Programs and Activities which Bridge Secretariats.*** In the current and past administrations, secretaries have been called upon to coordinate related activities or resolve disputes that crossed secretarial lines. Gubernatorial and secretarial respondents noted that it was very rare for all of the secretaries to meet to work out statewide problems or major policy issues. Rather, such coordination is typically accomplished by two or three secretaries meeting about specific cross-cutting issues. The workfare component of welfare reform, for example, has involved the secre-

tary of education, the secretary of health and human resources, and the secretary of economic development. The secretaries of transportation and commerce and trade routinely have worked closely on activities such as securing rights of ways for businesses considering a Virginia location.

*Attracting new businesses to Virginia often requires answering questions which bridge secretarial areas, according to the current Secretary of Commerce and Trade. He rarely brings up issues relating to prospects at cabinet meetings, because of the need for confidentiality. Instead, he will contact the Secretary of Transportation if he needs information on highway matters, or the Secretary of Natural Resources if he needs information on environmental permits. The secretaries have taken the Governor's message of economic development seriously. They have been "immensely helpful ... it's almost embarrassing sometimes, they'll drop what they're doing to help out."*

While inter-secretarial involvement is usually of a positive nature, focused on the accomplishment of objectives which cross jurisdictional boundaries, there are times when the interests of the secretariats are at cross purposes. In past administrations, the secretary of natural resources might have been expected to take a position contrary to that of the secretary of commerce and trade. Indeed, the secretariat of commerce and resources was split in 1986 because of the implied contradictions of the joint secretariat. Conflicts still occur, however, because some of the functions are ground in different philosophical perspectives.

*One secretary of health and human resources stated that sometimes the interests of that secretariat are at "cross purposes" with those of other secretariats. "Public safety would like to apprehend someone with a problem. We'd like to rehabilitate them. The administration of the law needs balancing."*

Overall, however, inter-secretarial cooperation was generally described as successful by all of the governors and secretaries interviewed for the study, indicating that this goal of the secretarial system has been met.

***Performing Substantial Information and Constituent Services, and Other Administrative Tasks.*** Secretaries' activities are extremely varied, and this report cannot fully capture the wide variety of tasks they routinely perform. Secretaries work hard. Many describe 60 to 70 hour weeks as routine. Much of the minutiae of secretarial activity is delegated by the governors. Citizens increasingly write, call, and email the governor and the cabinet to express their opinions, concerns, and needs on a wide range of issues. Much of the secretaries' work involves a myriad of administrative activities ranging from answering constituent mail to reviewing regulations, giving speeches, and meeting the public.

*Correspondence and constituent demands vary substantially by secretariat and by season. At the low end, the Secretary of Finance estimated he routinely received about ten inquiries a week, with some-*

*what more during budget season. Constituent demands on the Secretary of Education tend to peak in the late spring and early summer when there is great demand for graduation speakers. The currency of an issue also drives public interest and consequently constituent inquiries. During the early months of welfare reform, the Secretary of Health and Human Resources received “thousands of letters” and made numerous speeches “selling” the concept.*

Many activities are essentially public relations activities, which result from the expectation of the public that government be open and responsive. Other activities are more technical. Secretarial review of regulations, for example, can take a great deal of time. While the governor is responsible for reviewing and commenting on proposed agency regulations, secretarial involvement in such reviews can be delegated. Their involvement can range from taking a negligible to substantial portion of the secretaries' time.

The cumulative effect of the various requirements of the secretarial offices are demanding. The governor has statutory responsibility for hundreds of actions, ranging from the routine and mundane, such as approval of which State employees can take athletic leave, to the extraordinary, such as declarations of emergency. Sources of gubernatorial authority include the *Constitution*, the *Code*, the Appropriation Act, and tradition. Many of these responsibilities and authorities are delegated to secretaries and agency heads through executive orders, which are incrementally adjusted from administration to administration. The principal executive order delegating the Governor's *Code* authority (Number 31-94) runs 43 pages and is still not a complete enumeration of responsibilities or delegations.

Because Virginia has a one-term governor, the full magnitude of gubernatorial responsibilities and secretarial delegations may not be fully grasped until late in an administration, at which point the investment in such a comprehensive review has little utility for the incumbents. A systematic and comprehensive assessment of governors' authorities and the level at which they are delegated could possibly result in a streamlining of processes and a reduction in workload for both the governor and the secretaries. This would provide the governors and secretaries with more time for higher level functions. Such a review should take place in an executive branch agency with long-term familiarity with gubernatorial actions.

***Recommendation (8).* The Governor may wish to direct a comprehensive review and inventory of gubernatorial and secretarial responsibilities and authorities with a view towards streamlining routine approval processes and fixing approval at the appropriate level to avoid unnecessary work. Such a review should take place in an executive branch agency, such as the Department of Planning and Budget, with long-term familiarity with gubernatorial authorities and responsibilities. The Governor should report to the General Assembly his recommendations on any proposed revisions to statutorily-based gubernatorial responsibilities and authorities and their appropriate delegation.**

The evolution of the secretarial system, combined with the empowerment of the governor's chief of staff, has enabled governors to project their agendas more effectively into the State's large bureaucracy. One means by which this projection of power has occurred is through the appointment of agency heads who are philosophically compatible with the governor and his cabinet. Gubernatorial appointments have resulted in a level of turnover among agency heads which bears examination.

### **Turnover of Agency Heads and Secretaries**

The accelerating turnover of executive branch officials at the agency head level may be expanding the role of the secretaries, by giving them even greater influence on the bureaucracy to effect changes consistent with the governor's policy agenda. As Virginia has become more of a two-party state, turnover has accelerated. The rate of turnover of senior agency and department head personnel for the first year of a gubernatorial administration has increased substantially since the secretarial system was instituted in 1972. The rate of change among these positions had already increased from 15 percent in 1950 to 27 percent in 1974 (the initial year of the first full administration serving under the secretarial system). It has since increased to 76 percent in 1994.

The highest rates of turnover have occurred when the governorship has changed parties. Governor Robb replaced 35 percent of agency heads his first year in office. Governor Allen replaced 76 percent. Governor Robb followed three Republican governors. Governor Allen followed three Democratic governors. In addition, during the 12-year period between the Robb and Allen inaugurations, Virginia has become much more of a two-party state. One secretary in the Allen administration told JLARC staff:

*Virginia was a "one-party State and that will change." The secretary is "willing to bet" that whoever the next Governor is, he too will make significant changes among agency heads. "Virginia is becoming a two-party state. Virginia is changing and we are seeing history in the making." The two political parties in Virginia have very different views and "it is an exciting time to be in Virginia" but everyone will have to make adjustments and change. "Agency heads will continue to change and people will simply have to get used to it."*

High turnover of senior executive branch officials has raised concern both in the legislative branch and the executive branch. Another cabinet-level officer in the Allen administration stated:

Lack of continuity in the executive branch is a problem. Where is it? Not in the governor's office. Not in the secretary's office. Not in the agency heads. Administrations tend to flip-flop on issues.



The designers of the secretarial system appear to not have anticipated high turnover at the agency head level. Governor Holton was particularly emphatic on this point.

I would emphasize the political nature of the cabinet and the professional nature of the agency heads and never the twain should meet. You should never politicize the cadre of professional people who are there and who are specialists in mental health or health or highways or information services or what have you. They're professionals and they ought to be trained in that and they ought to be the best there is. But they have to understand themselves that they carry out the policy direction that comes from the governor's office and that's the cabinet.

As Holton, one of the system's strongest proponents, envisioned it, the secretarial system was expected to reduce the effect of politics on the agencies and shield them by inserting a political cushion between the agencies and the governor. In fact, the opposite may have happened. The extended policy and managerial reach that the secretarial system provided has allowed governors to have more control over agencies and their directors. Consequently, governors and secretaries have increasingly sought agency heads more on the basis of philosophical compatibility than management and program expertise.

In order to determine the rate of change among top level agency personnel, JLARC staff analyzed data from the *Report of the Secretary of the Commonwealth* for the first year of each administration from 1950 through 1994. These reports were used to identify agency head positions appointed by the governor as well as the incumbent personnel for each year. To calculate the turnover rate, individuals holding gubernatorially-appointed posts were compared to the previous year's office holder. An average of the number of agencies and departments that experienced a change in leadership was determined for the initial year of each administration. (A detailed explanation of the methodology used in determining these rates and the agencies included in the calculations is contained in Appendix C.)

To accurately compare turnover, the rate for the first year of each governor's term was calculated without including secretarial and deputy positions for 1974 through 1994. These figures could therefore be compared to the rates for gubernatorial appointments before the secretarial positions existed. The turnover rate between gubernatorial administrations from 1950 through 1994 is shown in Table 4.

Prior to the implementation of the secretarial system, the rate of change in senior agency personnel was between eight percent and 15 percent. Following the system's creation, the turnover figures have risen from 22 percent in 1974 to 76 percent in 1994. Thus, in 1994, more than three-quarters of sitting agency heads were not re-appointed compared to approximately one-quarter 20 years earlier (and one-tenth 40 years earlier). The increase in the turnover rate can also be understood as a reduction

Table 4

**Rate of Turnover in Agency Heads Appointed by the Governor  
1950 - 1994**

<b>Year</b>	<b>Administration</b>	<b>No. of Appointees*</b>	<b>No. Replaced</b>	<b>Percent Change</b>
1994	Allen	66	50	76%
1990	Wilder	72	24	33
1986	Baliles	61	19	31
1982	Robb	62	22	35
1978	Dalton	54	13	24
1974	Godwin	49	11	22
1970	Holton	50	16	32
1966	Godwin	40	3	8
1962	Harrison	37	3	8
1958	Almond	31	4	13
1954	Stanley	33	3	9
1950	Battle	33	5	15

\*Note: The number of appointees do not include new or reorganized positions.

Source: *Report of the Secretary of the Commonwealth, 1948-49 through 1996-97.*

in the retention rate of agency and department heads. Viewed in this way, prior to the implementation of the secretarial system, 85 percent to 92 percent of incumbent agency heads were retained by the new administration. Following 1972, retention dropped to between 65 and 78 percent. In 1994, the retention rate dropped to 24 percent.

When considered for the entire term of an administration, turnover is shown to affect a significant number of State agencies. Table 5 contains the percentage of agency head positions that turned over during the administration of each governor since the introduction of the secretarial system. Approximately 39 percent to 53 percent of agencies experienced at least one change in top personnel over the course of the Holton through Wilder administrations. In the first three years of the Allen administration (1994 to 1997), 80 percent of agencies or departments experienced a change in leadership.

As recommended by the 1972 Governor's Management Study, the secretarial system was intended to assist the governor in managing the operation of State agencies. Under the system, department and agency heads reported to six secretaries who in turn reported to the governor. More oversight of agency heads was possible as secretaries had between three and 13 agencies appointed by the governor under their supervision. The reduction in direct reports allowed for closer monitoring of agency activity by the intermediate supervisors – the secretaries. With the secretarial system, it became possible for the governor to exert influence in more detailed matters, by using the

Table 5

**Cumulative Rate of Change in Agency Heads  
by Administration, Holton through Allen**

Administration	Percent of Agencies Affected
Allen	80%
Wilder	48
Baliles	39
Robb	50
Dalton	42
Godwin	49
Holton	54

Source: *Report of the Secretary of the Commonwealth, 1971-72 through 1996-97.*

secretary to project his policy directives. The use of the secretarial system to assist the governor in managing the growing number of agencies and departments of the executive branch also allowed the governor to have greater influence over the individuals heading those agencies and departments.

Turnover among the secretaries is high, but this is entirely expected. The position of secretary is not viewed by either the governors or the secretaries as a long-term appointment, nor is the cabinet deemed a good place for individuals with independent agendas. As part of a "team," cabinet members are expected to work together on the governor's initiatives. A member of the Allen administration cabinet stated that secretaries should be willing to support the governor's decisions or resign. Governors place high value on loyalty and trustworthiness in their cabinet as a key element in its operation as a policy and management tool. Governor Baliles stated:

If a governor cannot trust a cabinet member then that member does not need to be a member of the cabinet. I think it's that basic.

Because the secretaries were always considered part of a governor's four-year team, turnover among the secretaries has always been high (Table 6). As in the case of agency head appointments, however, the rate of turnover has increased, although not as dramatically. High turnover also has ramifications for gubernatorial transitions.

### GUBERNATORIAL TRANSITIONS

Transitions between administrations also pose a problem, particularly in a State where the governor cannot succeed himself. The election of a Virginia governor in November, followed by a session of the General Assembly dealing with the biennial

Table 6

**Turnover in Cabinet and Deputy Positions\***

<b>Years</b>	<b>Administration</b>	<b>Number of Secretaries/Deputies</b>	<b>Number Replaced</b>	<b>Percent Replaced</b>
1994	Allen	19	18	95%
1990	Wilder	15	13	87
1986	Baliles	14	11	79
1982	Robb	8	7	88
1978	Dalton	9	5	56
1974	Godwin	7	2	29

\*Cabinet positions include the chief of staff or the governor's executive assistant or senior executive assistant and special assistant. Deputy positions vary by secretariat and year and were used only in the secretariat of administration and finance prior to 1981-82.

Source: *Report of the Secretary of the Commonwealth, 1972-73 through 1994-95.*

budget two months later, poses special problems for a new gubernatorial cabinet. One former secretary told JLARC staff:

New cabinets are really lost. Some end up relying heavily on their agencies or the budget staff. [And]...the legislature realizes that when everyone first takes office, the secretaries don't know what's going on. If you want to get bad legislation through, you put it through the first year, when the governor will sign anything.

The amount of time newly-appointed secretaries have to prepare for office is dependent on a variety of factors: their background and prior government experience, the timing of their appointments, and the nature of the training and orientation provided to them.

### **Background and Prior Government Experience**

Opinions differed regarding the importance of a government or public policy background as a pre-requisite for secretarial service. While secretaries and governors interviewed by JLARC staff generally indicated that such experience was valuable, ability – more than experience – was generally articulated as the most important characteristic of a secretarial appointee.

*One individual who served in top positions in multiple administrations stated that the effectiveness of the secretaries was largely an outcome of their experiential base and their functional expertise.... "If they were good players, then they were effective; if they weren't, they weren't."*

*During the Baliles administration, the cabinet was seen as a strong tool because of the individuals involved and the relationship between the General Assembly and the governor. He believes that secretaries' achievements were based on their individual strengths rather than the power of their offices.*

On the other hand, secretaries without prior Virginia State government experience often noted that there was a "steep learning curve."

*"The first year is still a blur to me," said one Allen appointee. There was a "huge learning curve." The demands when the Governor is sworn in make it like "a horse race that's already started," because the legislature is already in session. It's "incredible" if you're unfamiliar with government procedures. He was invited by his predecessor to come in before the inauguration and interview people in the office. The secretary was greatly assisted by the agreement of one of the current deputies to remain through the session. Also, there were several administrative staff in the secretary's office, whom he retained throughout his tenure. He didn't come into an office with "seven empty desks." Fortunately there "were good people" already there to rely on. Knowing what he knows now, he wishes he had taken the offer to spend more time with his predecessor. There was not enough time to prepare for his job after his appointment by the Governor. He wishes he could have started his term by interviewing people about the operations of the office. "But how do you make that into policy and procedure? It's hard to say."*

Several secretaries and one chief of staff suggested that some form of statutory qualifications might be of value. However, none wanted to restrict the governor's ability to select a team of his choosing and none had specific advice as to what would constitute a meaningful set of qualifications. To address the issue of secretarial qualifications, Governor Wilder used an appointments commission to inform his decisions. In several cases, he appointed individuals primarily on the basis of the commission's recommendation. A different approach was used by former Governor Robb, who quietly used his future chief of staff to plan the organization of a government during the course of the campaign. In a letter to JLARC, former Governor Robb wrote:

The time between election and swearing-in is crowded with a multitude of governmental, political, and ceremonial tasks that require the personal time of the Governor-Elect. Added to this is the political negative for a candidate to do post election planning while running because both the media and your political opponent will make it an issue in the campaign. So the task of forming a credible government becomes even more daunting.

We developed a transition plan before the election in spite of the political dangers of such an enterprise and we were still faced with a

“fire storm” of activity during the transition period that ended six months into the administration. No one would attempt to organize or reorganize corporations in such a short period and yet it is a given in government. The time spent on recruiting, evaluating, and interviewing Secretarial candidates was intensive and we came right down to the wire in announcing a cabinet. As a result we were criticized by the media and some members of the General Assembly for spending too much time on the process.

The appointment of a secretary is an important gubernatorial decision. The timing of the appointment is clearly not as important as the quality of the appointment. However, the timing can also affect the quality of the appointment, as the secretary-designate may already occupy a position of responsibility. One Allen administration appointee noted that his biggest preparatory challenges came not in preparing for his new job, but in responsibly severing his commitments to his current employer. A secretary in another administration reported having been designated only days before the General Assembly session. The lateness of the appointment meant living out of a suitcase throughout the legislative session. In addition, the appointee's predecessor had already left, so orientation was minimal. The entire legislative session was chaotic for the secretary. On the other hand, secretaries who were designated even a couple of weeks earlier reported that while the first session was challenging, they were generally able to cope with the situation. Timely designation of secretaries would increase the probability that highly-qualified appointees would be able to sever their existing professional relationships, as well as provide some opportunity for transition with the preceding administration.

### **Orientation and Training of Secretaries**

Newly-appointed secretaries receive both formal and informal training after their selection. Most of the training, some noted, was simply experience on the job. Both the outgoing and incoming administrations are sources of secretarial orientation and training. In some cases, the transition is recognized by both incoming and outgoing administrations to have been successful.

*One newly-appointed cabinet secretary had minimal time to prepare for his position. He had early on indicated his disinterest in the post to the Governor-elect and suggested other candidates. The Governor-elect persisted, however, and named the secretary the day before the General Assembly convened. The new secretary asked his predecessor to stay on as an acting deputy, which he did, until the conclusion of the legislative session. The overlap provided for an unusually thorough transition period.*

In other cases, the administrations may have different perspectives as to what has been provided by their predecessors. Incoming Allen administration nominees, for example, generally indicated that the most valuable orientation materials they received

were prepared by the Allen transition team. The Allen administration's transition team was, in the opinion of an appointee who served in multiple administrations, extremely well-organized. The team was organized by function, and secretaries were given extensive materials on gubernatorial priorities, issues, agency structure and organization, and a wide range of other subjects. All of the secretaries interviewed felt the materials were exceptional.

*The Allen administration has been “a far more organized and orderly administration,” said one individual who served in multiple administrations. Within the first few weeks, the cabinet met to discuss the Governor-elect’s agenda. The meeting was held before the inauguration and session. “It was one of the more orderly transitions.”*

*Another secretary noted the systematic approach taken by the Allen transition team. The Allen transition team broke the policy side down into nine areas, one for each of the eight secretariats plus the “Strike Force” issues team. The team prepared issue/briefing books for each secretary. The materials included the budget, an organizational chart, a list of campaign promises made by the Governor that related to their secretariat, transition materials prepared by the Wilder administration, and other materials. Allen’s transition team will prepare similar books for the next governor, he said.*

In addition to the Allen transition team's preparations, substantial materials had been prepared by the outgoing Wilder administration. Allen appointees were less enthusiastic about the value of those materials, because they were committed to changing the overall direction of State government. The perspective of the Wilder appointees, however, was different. In the opinion of some secretaries, the materials they prepared were ignored. One cabinet secretary indicated that he had prepared extensive transition materials and was prepared to spend substantial time in a collegial exchange of information with his successor. The successor, however, was said to be uninterested in the material and held only a cursory meeting with the predecessor.

*My successor didn’t want to be bothered.... We had one hour and a half session. They already had an agenda and things I thought would be important — like agency operations, constituent groups, pending law suits — were irrelevant. The outgoing secretary put together briefing books, but they didn’t want to know details. They already had their own pre-packaged agenda.*

Some of the lack of interest was attributed to the change in party of the administrations. As Virginia evolves into a competitive two-party state, such “revolutionary” changes in policy direction may occur more frequently.

An individual who served as both secretary and chief of staff observed that there are always some impediments to a successful transition, but there are also important reasons for transitions to succeed.

*The outgoing governor always wants State government to do well. The new incumbent clearly wants to be in the best position possible. "With Dalton and Robb, the two men tried. But the staffs had a hard time communicating. It really wasn't pleasant. Robb and Dalton tried to get outside the bitterness of their staffs." A standard orientation could focus on the non-controversial parts of State government. What is the state of the commonwealth vis-à-vis certain issues such as State employment? You could talk about scope, demographics, fiduciary environment, emergency response. The former secretary/chief of staff noted that he could not over-emphasize the importance of transition information on emergency response. The Flight 190 crash into the Potomac happened at the end of Governor Dalton's term. Dalton took Robb on the helicopter with him to observe the disaster and learn first hand something about emergency response.*

State government is a huge business. Even when parties change, turnover of key services and functions of government would be expected to occur more smoothly with a cooperative transition process. While cooperation is the goal of every administration, a number of variables from style to timing can affect success. The chief of staff often plays a key role. As one former chief of staff said:

Transition materials are generally provided by the secretaries and go to the governor's office. What's provided to the incoming administration depends on how the chiefs of staff cut the deal about transferring.

Even when the chiefs of staff are personally cooperative, however, mistakes during a gubernatorial transition often occur. Despite the careful planning that took place during the Wilder-Allen transition, one major mistake was caused by miscommunication.

*The Chief of Staff of the Allen administration stated that he got along very well with the outgoing Wilder administration chief of staff. His questions, he said, were always answered precisely and accurately. He asked for a list of "at will" employees, meaning, he thought, employees who served "at the pleasure of" the Governor. He received an accurate list of "at will" officials, and letters were sent to them requesting their resignations. The "at will" list included numerous appointees not subject to removal by the governor, including officials of other branches of government. The result was a "disaster." He will, he said, try to be more careful with his successor, regardless of who it is.*

Each administration will, and should be, shaped considerably by the electoral mandate that brings it to office. The incoming administration is never, however, in a position to fully appreciate the issues and difficulties faced by its predecessors. One of the limitations of a one-term governor is that there is a significant amount of re-in-



venting the wheel. Consequently, one administration (Robb) learned the importance of disaster preparedness, but the issue may not arise again for years. One way to ensure that incoming administrations receive essential information on critical issues of administration and management would be to require in statute the preparation of key transition materials. These could be supplemented at will by both the outgoing and incoming administrations, but the requirements would represent the accumulated “wisdom” of prior administrations regarding essential transition information.

After the transition period, secretaries and agency heads fall into a mode of behavior that is somewhat more routine than the “trial by fire” of the initial General Assembly session. While secretaries continue to work hard, by most accounts the job is no longer seven days a week, twenty-four hours a day.

After the first session, governors have handled the ongoing training of their cabinets in various ways. Governor Baliles had retreats and training sessions at the beginning of the administration. Governor Allen has had meetings with secretaries and agency heads throughout his administration. Early meetings focused on duties, responsibilities, and issues such as conflict of interest pitfalls. Recent training has focused on archival procedures. One of the broadest perspectives was taken by Governor Dalton.

*Governor Dalton had cabinet meetings in different parts of the State four times a year, according to cabinet members who served in his administration. This practice familiarized secretaries with areas of the State that they weren't familiar with and gave people in other parts of the State the opportunity to address the cabinet. Governor Dalton also let Lieutenant Governor Robb and his future chief of staff attend cabinet meetings. This greatly aided Robb when he took office and smoothed the transition between the two administrations.*

While the dynamics of Virginia government may have changed to the point where it would be unrealistic to expect a Governor of one party to allow the Lieutenant Governor of another party to attend cabinet meetings, the combined effects of a one-term governor, increased turnover in the executive branch, and haphazard transition activities should not be ignored. The General Assembly may wish to address this situation by establishing a statute which institutionalizes some components of transition planning.

**Recommendation (9).** The General Assembly may wish to enact a statute which requires the preparation of transition materials and training by outgoing gubernatorial administrations. The parent agency for coordinating or preparing such materials and training should be a central staff agency, such as the Department of Planning and Budget. However, statute should allow the governor to designate a transition director of his choice. Consideration should be given to addressing the following transition activities:

- **Emergency preparedness**
- **Training related to fiduciary responsibilities, conflict of interest requirements, and procurement procedures**
- **Powers, duties, and responsibilities of appointees**
- **Limitations on the powers and duties of appointees**
- **Provisions of the Virginia Personnel Act**
- **Agency missions and duties**
- **Legislative process**

The specific consequences of executive branch turnover are not fully known. Positive effects could include (1) the fuller implementation of the electorate's will by better empowering the Commonwealth's highest elected official to carry out his electoral mandate, (2) an infusion of new ideas and perspectives, and (3) the replacement of ineffective administrators. Negative effects could include the loss of top talent, the politicization of the professional cadre to ever lower levels, a loss of institutional memory and technical expertise, and the discouragement of talented subordinates in the professional ranks from accepting appointment to leadership positions. These effects – both positive and negative – will likely affect the role played by secretaries in Virginia State government. If turnover continues to be high, the influence of the secretaries on agency management could become greater.

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## V. Follow-Up of Issues Raised in the 1984 Report

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JLARC'S 1984 report, "An Assessment of the Secretarial System in the Commonwealth of Virginia," reviewed "the concept, responsibilities, structure, and resources of the secretarial system in Virginia." It was part of a larger study of the overall structure of State government, a study series which also addressed boards and commissions, structural targets, and the organization and nomenclature of the executive branch. As mandated, this study has only followed-up on issues raised by the 1984 report regarding the secretarial system.

The 1984 report stated that:

Generally, this study concludes that the structure and operations of the secretarial system are consistent with the management needs of the Commonwealth. There is simply no evidence that it would be desirable for the Commonwealth to return to a system where all program-related agencies report directly to the Governor.

This study has reached similar conclusions, as detailed in the preceding chapters. Many of the issues addressed in earlier studies seem to have been resolved by practice or familiarity. To address the study mandate of the 1996 Appropriation Act, this chapter supplements earlier portions of the report by briefly addressing the status of recommendations offered by that report.

### **1984 Staff Recommendation 1: Retain the secretarial system with its management-coordination orientation.**

This report also recommends the retention of the secretarial system. While the current orientation of the system has evolved somewhat away from the purely "management-coordination" orientation initially envisioned by statute, it has generally not done so to a problematic extent. Where secretaries have exceeded their authority, they have been criticized and in some cases additional restrictions have been placed on their powers. The continuing advantages of not officially designating a gubernatorial "cabinet" seem meager, however. Moreover, the absence of the statutory designation of a cabinet is somewhat confusing and contradictory with practice and those sections of the *Code* and Appropriation Act which recognize or reference a cabinet. By recognizing the existence of the cabinet in statute, the General Assembly would be validating the evolution of the secretarial system. In addition, the General Assembly could influence certain aspects of the cabinet, for example, by specifying that all members of the cabinet be subject to confirmation. Recommendation 3 in Chapter III addresses this issue.

### **1984 Staff Recommendation 2: Clarify the mission of the secretarial system and the authority of the Governor and the secretaries to hold agency heads accountable for fiscal, administrative, and program performance.**

Action was taken in 1984 to clarify the mission of the secretarial system. As noted in Chapter III, however, some ambiguity and potential contradiction still exist in this area. Chapter III of this report recommends that Appropriation Act language relating to the secretarial authority be included in statute.

**1984 Staff Recommendation 3. Eliminate the current administration and finance secretariat and create a separate Secretary of Administration and Secretary of Finance.**

This proposal was implemented and is working well. No further change should be made in this area. While the finance secretariat has relatively few agencies assigned to it, the secretary has a broad range of responsibilities. The Commonwealth's exceptional performance in the finance area, as recognized by its consistent rankings as one of the best managed states in the nation, strongly suggests the efficacy of the current configuration.

**1984 Staff Recommendation 4: Appoint a full-time director for the Department of Planning and Budget.**

This proposal was implemented and is working well. No further action is needed in this area.

**1984 Staff Recommendation 5: The Governor should rescind Executive Order Number 36 that establishes the Governor's Senior Executive Assistant as Chief of Staff with budgetary, personnel, and planning authority.**

The explanation of this recommendation went on to specify that "if a Governor wishes to organize on the basis of Executive Order Number 36, the General Assembly should be requested to establish a Chief of Staff position which is confirmed." Legislation to implement this recommendation was introduced as Senate Bill 384 of the 1984 Session and was enacted as Chapter 104 of the 1984 *Acts of Assembly*. Provisions relating to this section are included in §2.1-38 of the *Code of Virginia* and other sections. While there has been some concern that the chief of staff position has become too powerful, governors are satisfied with the arrangement and have found such a position necessary. No further action is recommended in this regard.

**1984 Staff Recommendation 6: Eliminate the position of Secretary of Education and create the position of Special Executive Assistant for Education in the Governor's Office. For the present, executive orders should be brought into conformance with statute.**

No action was taken to abolish the position of secretary of education. This report does not recommend the elimination of the position of the secretary of education.

Statute still differentiates between the powers of the secretary of education and other secretaries. The Superintendent of Public Instruction and the Board of Edu-

cation still are vested with constitutional powers. The State Council of Higher Education still has a statutory role in budget development. Delegations of authority to the secretary of education by current executive orders appear to be in conformance with statute. The system appears to work acceptably and no recommendations are proposed. Several secretaries and governors, however, noted that the area of education does not receive the level of gubernatorial oversight and direction afforded other areas. While this situation has been a frustration to some executive branch officials, the constituency for change appears to be meager. Although no action is recommended by this report, the education area may need to be revisited periodically in the future to assess whether or not a change is needed.

**1984 Staff Recommendation 7: The General Assembly should separate the emergency and energy division of the Office of Emergency and Energy Services (OEES), and transfer the Energy Division to the secretariat with oversight of conservation activities. The Governor should transfer the Department of Military Affairs and the emergency response activities of the OEES to the Public Safety Secretariat.**

The Department of Military Affairs was moved and is now part of the public safety secretariat. The Department of Emergency Services is also part of the public safety secretariat and focuses on “effective preparedness and response to emergencies and disasters throughout Virginia.” The Department of Mines, Minerals and Energy (DMME) is located in the secretariat of commerce and trade. It could be argued that DMME and two other agencies from the secretariat of commerce and trade could be moved to the secretariat of natural resources. (The other agencies are the Department of Forestry and the Department of Agriculture and Consumer Services.) There is no compelling reason to make such a transfer on a statutory basis, however, as the agencies each have mixed responsibilities. Further, the governor has the authority to make such a transfer by executive order and might reasonably do so for managerial or policy purposes. No further action is needed in this regard at this time.

**1984 Staff Recommendation 8: The General Assembly should eliminate the Transportation Secretariat.**

**1984 Staff Recommendation 9: The General Assembly should create a Secretary of Commerce and Transportation.**

These recommendations were based on the relatively small size of the transportation secretariat and the proposed removal of two additional agencies, the State Office of Emergency and Energy Services and the Department of Military Affairs. The recommendations also noted that “the new secretariat of commerce and transportation would take advantage of the strong link between commerce and transportation....” While the transportation secretariat continues to have a relatively small number of agencies, the current configuration is working well and the secretaries work closely enough to achieve the need anticipated in the report for “integrated planning for commercial development and maintenance and constructions of roads....” None of the secretaries interviewed by JLARC staff thought that the combination of the transporta-

tion secretariat with another secretariat would be in the best interests of the Commonwealth.

An additional rationale underlying the 1984 recommendations regarding the elimination and merger of secretariats was an inclination to restrict the number of secretariats to the six that then existed. The system was still relatively new, and there was little – if any – support in any quarters for its expansion. In 1986, the number of secretariats increased from six to seven, as the commerce and resources secretariat was split into an economic development secretariat (which was renamed commerce and trade in 1993) and a natural resources secretariat. The number of secretariats increased to eight in 1990, when the transportation and public safety secretariat was split. The current number of secretariats appears appropriate, given the overall structure and success of the system. None of the governors or secretaries interviewed suggested changes to the number of secretariats.

No action should be taken on recommendations eight and nine of the 1984 report.

**1984 Staff Recommendation 10: Create a Secretary of Natural and Cultural Resources.**

The rationale for this recommendation was based on the structure of the cabinet at the time and the assumption that “the Secretary for Natural and Cultural Resources would oversee the natural resource and historic attraction agencies and act as a strong advocate for environmental and preservation concerns... Should conflicts arise with commercial and economic development, resolution would be the responsibility of the Governor, who is elected by the people to balance such competing concerns.”

The 14 agencies proposed for this secretariat (or their successor agencies) are currently housed in the education and natural resources secretariats. No further action is needed or recommended in this regard at this time.

**1984 Staff Recommendation 11: Place at least one deputy secretary position in each secretariat and create a central staff agency within the Administration Secretariat.**

Each secretariat today has at least one deputy position. The staffing of the secretariats has been an issue in the past and continues to raise some concerns. A fuller discussion of staffing of the secretariats is contained in Chapter III.

Regarding the creation of a central staff agency within the administration secretariat, action was taken. A Division of Selected Agency Support exists today within the administration secretariat to provide business support functions for the secretaries and the governor’s office. The division consists of a director and six accounting and administrative staff persons. This arrangement appears to be working satisfactorily. No further action is recommended with regards to this portion of the recommendation.

## CONCLUSION

While the secretarial system continues to elicit occasional concerns and may always require some occasional modification, it essentially accomplishes the objectives for which it was established. It has enabled the governors of Virginia to more effectively communicate with and direct the management of the executive branch. The system has been sufficiently responsive to accommodate governors of different parties, political philosophies, and management styles. The system is sufficiently flexible so as not to present a compelling reason for reorganization. As a result of these findings, the system should be retained with the minor modifications suggested by this report.





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# Appendixes

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## **Appendix A Study Mandate**

### **Item 14G - 1996 Appropriation Act**

The Joint Legislative Audit and Review Commission shall conduct a follow-up study of its 1984 assessment of the secretarial system in the Commonwealth. The follow-up study shall include, but not be limited to, issues identified in the 1995 JLARC interim report on the Department of Environmental Quality on the role of the cabinet secretaries in internal agency management and the structure and staffing of the current secretarial system. The Commission shall report its findings to the 1997 General Assembly.



## Appendix B

<b>General Enumeration of Responsibility and Authority in Title 2.1 of the <i>Code of Virginia</i> *</b>			
<b>Governor</b>	<b>Secretaries</b>	<b>Agencies</b>	<b>Statewide Roles for Specific Agencies</b>
<p>“Designat[ing] and empower[ing] any secretary or other officer in the executive branch who is required to be confirmed by the General Assembly or either house thereof , to perform...any function which is vested in the Governor by law....” (§2.1-39.1.)</p> <p>Devising and administering executive branch policies. (§2.1-41.1.)</p> <p>Appointing executive branch agency heads. (§2.1-41.2.)</p> <p>Appointing and removing for cause members of “boards, commissions, councils, or other collegial bodies...in the executive branch.” (§2.1-42.1. &amp; §2.1-43.)</p> <p>Inspecting “any official books, accounts, vouchers, and other papers” of Governor-appointed officials. (§2.1-44.)</p> <p>Temporarily suspending any executive branch mandate to be followed by a local government entity. (§2.1-51.5:1.)</p>	<p>“Unless the Governor expressly reserves such power to himself, the Secretary is empowered to:</p> <p style="padding-left: 20px;">Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or official assigned.” (§2.1-51.8:1.B1.)</p> <p>“Direct the formulation of a comprehensive program budget for the functional area” for the Governor’s consideration. (§2.1-51.8:1.B2.)</p> <p>“Hold agency heads accountable for their administrative, fiscal and program actions.” (§2.1-51.8:1.B3.)</p> <p>“Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government.” (§2.1-51.8:1.B4.)</p> <p>“Sign documents on behalf of the Governor which originate with [assigned] agencies.” (§2.1-51.8:1.B5.)</p>	<p>“Exercis[ing] their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor.” (§2.1-51.8:1.A.1.)</p> <p>Assisting the Governor or Secretary as requested and “forward[ing] all reports to the Governor through the Secretary.” (§2.1-51.8:1.A.2.) (§2.1-51.8:1.A.3.)</p> <p>“The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies...personnel standards on a merit basis as are approved by the Governor....But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed...except when the Governor is the appointing authority.” (§2.1-114.7.)</p>	<p><u>DPT to Implement:</u></p> <ul style="list-style-type: none"> <li>◦a personnel information system</li> <li>◦an employee-management relations program</li> <li>◦a performance evaluation system</li> <li>◦a recruitment system</li> <li>◦an application form</li> <li>◦an employee training and development program</li> <li>◦an evaluation of agency-directed personnel programs</li> <li>◦an equal employment opportunity program</li> <li>◦State personnel policies with the Governor’s approval. (§2.1-114.5.)</li> </ul> <p>DPT is to submit a quarterly report (as of January, April, July, and October) to the chairs of HAC and SFC and the DPB director that shows the number of State employees who have been transferred from one agency to another without transferring appropriations. (§2.1-114.7:1.)</p> <p>By September 30, DPT is to submit an annual report that shows the “number of employees who voluntarily and involuntarily terminated their employment...in the previous fiscal year.” (§2.1-404.)</p>

**Appendix B (continued)**

<b>General Enumeration of Responsibility and Authority in Title 2.1 of the <i>Code of Virginia</i> *</b>			
<b>Governor</b>	<b>Secretaries</b>	<b>Agencies</b>	<b>Statewide Roles for Specific Agencies</b>
<p>Acting as the Chief Personnel Officer in implementing the Virginia Personnel Act to include: establishing and maintaining a classification plan and a compensation plan. (§2.1-113/§2.1-114.2.)</p> <p>The “Governor shall exercise no authority with respect to the selection or tenure... of any individual... except when the Governor is the appointing authority.” (§2.1-114.7.)</p> <p>“The Governor may prescribe [budget] targets which shall not be exceeded in the official estimate of each agency....” (§2.1-394.)</p> <p>The “Governor shall submit to the presiding officer of each house...a budget, based on his own conclusions and judgment containing...a statement of the Governor’s proposed goals, objectives, and policies....” (§2.1-398.)</p>	<p>“Employ such personnel and...such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order.” (§2.1-51.8:1.B6.)</p> <p>“Each secretary shall be considered an extension of the Governor in the management, coordination and cohesive direction of the Executive Department....” (§2.1-51.10:1.)</p>	<p>Submitting to the Governor, through the assigned secretary, an itemized estimate of biennial funding needs. (Agencies may request, in addendum form, funding that exceeds budget targets.) (§2.1-394.)</p> <p>“[A]ll departments, agencies and institutions ...and their staff and employees shall, upon request, provide [legislative] committees with any additional information, as may be deemed necessary....” (§2.1-404.)</p>	<p><u>DPB to Implement:</u></p> <ul style="list-style-type: none"> <li>◦“an integrated policy analysis, planning and budgeting process”</li> <li>◦an executive budget</li> <li>◦“policy analysis and program evaluation for the Governor”</li> <li>◦continual review of the budgetary needs of agencies related to achieving required goals and objectives</li> <li>◦budget execution ensuring adherence to appropriated totals and “gubernatorial and legislative intent”</li> <li>◦certification of the revenue amounts available from nongeneral fund sources. (§2.1-391.)</li> </ul>
<p>*This Exhibit does not attempt to enumerate all responsibilities and areas of authority that are spelled out in Title 2.1 of the <i>Code of Virginia</i>. Instead the Exhibit identifies the major responsibilities that are assigned to most or all secretaries or agencies.</p> <p>Source: JLARC staff analysis of Title 2.1 of the <i>Code of Virginia</i>.</p>			

## **Appendix C**

# **Technical Appendix**

The rate of turnover among executive branch agency heads has increased substantially over the years that the secretarial system has been in existence. The rate of change for the year prior to the implementation of the secretarial system was ten percent. With the secretarial system, the turnover rate has significantly increased for the first year of new administrations. Under Governor Mills Godwin, the first Governor to serve a full term with the secretarial system, 27 percent of agency heads changed in the first year of his term. Under the most recent Governor, George Allen, there was a 76 percent rate of turnover in the first year.

This appendix describes in detail the methodology used in determining the rate of change, the agencies included and those omitted from the calculations, and the resulting rates of change by year and administration. Spreadsheets are available at JLARC on the rate of change within individual agencies or departments.

### **AGENCIES AND INSTITUTIONS INCLUDED IN THE ANALYSIS**

The yearly change in gubernatorial appointments from 1971-72 to 1996-97 was determined by compiling data on State officials from the Secretary of the Commonwealth's *Reports*. Positions included in the turnover figure are appointed by the governor to direct a State agency, department, commission or secretariat. This appendix contains a list of those entities included in the turnover calculations. Commissions or authorities led by a gubernatorially appointed chair rather than a staff executive director were not included, unless the chair also serves as the chief executive officer of the agency. Authorities whose executive directors were appointed for a term rather than serving at the pleasure of the Governor were not included.

While appointed by the governor, the executive director position of several smaller councils or boards were or have been in existence a relatively short period of time (five years or less). Frequently, direction of these councils or boards would be transferred back and forth from the authority of the entity's chair to the executive director. Due to their limited duration and brief control, these positions were omitted from the turnover calculations.

Also excluded from turnover figures were authorities or institutions whose director or executive officer is appointed by the legislature or a governing board, even if members of that board are themselves gubernatorial appointees. Such institutions include the Commonwealth's colleges and universities, the State Council for Higher Education in Virginia and the Virginia Community College System. State-owned mu-

seums and board-appointed resource authorities such as the Virginia Housing Development Authority were also omitted. In addition, two officials appointed by the Secretary of Finance and the Director of the Department of Conservation and Recreation were excluded. This appendix contains a list of entities excluded from the turnover calculations.

### **Counting State Agencies**

As Governor Holton acknowledged, the number of agencies reporting to the governor in 1970 varied “depending on who makes the count.” According to the Governor’s Management Study, there were more than 150 discrete entities in the executive branch, of which approximately 75 reported directly to the governor. That number increases to 82 if the seven agencies that reported to the Commissioner of Administration are included. Counted in the 150 total units but not in the 75 direct reports are the 11 institutions of higher education and their various branches. The community college system with its 16 campuses is treated as one unit. When colleges and universities are included in the count of agencies reporting to the governor, the number of entities he directly oversees increases to 94 or 109 depending on the treatment of the community college system. This number also increases based on the treatment of political subdivisions such as the Virginia Airports Authority and the Jamestown Foundation.

For this study, a total of 48 agencies and departments were identified that were both appointed by and reported to the governor in 1969-70. Higher education institutions were not included individually. Umbrella educational organizations led by individuals appointed by a board were also excluded, such as the State Council for Higher Education in Virginia and the Department of Community Colleges. Similarly, political subdivisions headed by board-appointed chief executives or secretaries were not included, such as the Jamestown Foundation, while those appointed by the governor were included, i.e. the Virginia Airports Authority.

The number will vary by year as agencies were created, eliminated, merged and separated.

### **CALCULATING THE RATE OF CHANGE**

In determining the rate of change for each year, a database was compiled of gubernatorially appointed secretary, deputy secretary, and agency, or department head positions and their incumbents. The office holders for each year were compared to the preceding year to identify the rate of change for these positions. A dummy variable was created for each agency with 1 representing a change in its head from the preceding year and 0 indicating no change. By summing this variable over all the gubernatorially appointed chief positions and dividing by the total number of positions included, an average rate of change or the turnover rate for each year was found. Table A contains the rate of change for each year for the agency, department and commission heads, and secretaries appointed by the governor.



**Table A**  
**Rate of Change in Agency Heads and Secretaries**  
**Appointed by the Governor, 1972 - 1997**

<b>Years</b>	<b>Administration</b>	<b>No. of Appointees</b>	<b>Percent Change</b>
1996-97	Allen	77	29.87
1995-96	Allen	83	08.43
1994-95	Allen	84	78.57
1993-94	Wilder	83	15.66
1992-93	Wilder	85	17.65
1991-92	Wilder	88	17.05
1990-91	Wilder	85	41.18
1989-90	Baliles	84	10.71
1988-89	Baliles	81	11.11
1987-88	Baliles	80	02.50
1985-86*	Baliles	74	39.19
1984-85	Robb	72	19.44
1983-84	Robb	62	14.29
1982-83	Robb	72	11.11
1981-82	Robb	69	42.03
1980-81	Dalton	71	16.90
1979-80	Dalton	71	09.86
1978-79	Dalton	70	08.57
1977-78	Dalton	62	27.42
1976-77	Godwin	65	12.31
1975-76	Godwin	60	13.33
1974-75	Godwin	62	09.68
1973-74	Godwin	55	25.45
1972-73	Holton	55	10.91
1971-72	Holton	48	20.83

\*Note: The Report of the Secretary of the Commonwealth covers periods consistent with the terms of the Governor and his appointees. By long-standing convention, the reports are labeled for a two year period. Thus the first year of the Allen administration is labeled 1994-1995 (for a term beginning January 1994) and the fourth year will be 1997-1998 (with the term ending January 1998). The designation of years shifted forward one year in 1987, thus there is no report labeled 1986-1987, even though there were four reports for the Baliles administration, the year during which the change took place.

Source: *Report of the Secretary of the Commonwealth, 1971-72 through 1996-97.*

Newly created agencies were not included in the turnover figure until the second year of operation for which the incumbent official could be compared to the preceding year. Changes in name but not in function were not considered to have resulted in a new agency or executive officer position. For example, the shift from the State Office of Minority Business Enterprise to the Department of Minority Business Enterprise was not considered to have created a new agency or agency head position.

However, when the function of two or more agencies were combined to create a third agency or department such as the merger of the Division of the Budget and the Division of State Planning and Community Affairs to become the Department of Planning and Budget, the resulting agency was considered a new agency. The director of the resulting agency was not included in the turnover calculations for the first year of its existence, even when that official had served as head of one of the previous components of the new agency. Similarly, when the function of an agency was divided to become two or more agencies, the directors of the new agencies were not included in the calculations for the first year. An example of this type of transformation is the division of the Department of Welfare and Institutions into the Department of Welfare and the Department of Corrections. The directors of both agencies were not included in the rate of change calculations for 1973-74, the first year of their existence, and were included in the figures for 1974-75.

The total figure for the years 1971-72 through 1996-97 includes both secretary and deputy secretary positions. To compare the turnover rates for these years with the rate of change in agency and department heads appointed by the governor prior to the creation of the secretarial system, these secretary and deputy positions were removed from the calculations. Table B contains the rate of change for each new administration from Governor John Stewart Battle who took office in 1950 through Governor George Allen's administration which began in 1994. The rate at which agency heads turn over in the first year of a new administration has been increasing since the 1950's. Between 85 percent and 92 percent of agency and departments heads were retained when a new Governor took office prior to the advent of the secretarial system.

Table B

**Rate of Turnover in Agency Heads Appointed by the Governor  
1950 - 1994**

<b>Year</b>	<b>Administration</b>	<b>No. of Appointees</b>	<b>No. Replaced</b>	<b>Percent Change</b>
1994	Allen	66	50	76%
1990	Wilder	72	24	33
1986	Baliles	61	19	31
1982	Robb	62	22	35
1978	Dalton	54	13	24
1974	Godwin	49	11	22
1970	Holton	50	16	32
1966	Godwin	40	3	8
1962	Harrison	37	3	8
1958	Almond	31	4	13
1954	Stanley	33	3	9
1950	Battle	33	5	15

Source: *Report of the Secretary of the Commonwealth, 1948-49 through 1996-97.*

Since the system was first utilized in 1972, the rate of retention decreased to 78 percent under Governor Godwin and reached a low in 1994 of 24 percent under Governor Allen.

#### RATE OF TURNOVER WITHIN AN ADMINISTRATION

The turnover figures already described capture information for each snapshot year studied. To identify the rate of change in agency head personnel over the four year term of the governors who have served with the secretarial system, another dummy variable was created. If the agency or department head did not change over a governor's term, then a 0 was entered for the administration change variable. If the agency experienced any change in top level staff over an administration, then a 1 was entered. These figures do not capture the effect of more than one change in senior personnel at an agency. Table C shows the change in agency or department heads over the seven

Table C

#### Percent of Agencies Affected by Change, Holton through Allen

Administration	Percent of Agencies
Allen	80.00
Wilder	48.00
Baliles	38.81
Robb	50.00
Dalton	41.79
Godwin	49.18
Holton	53.57

Source: *Report of the Secretary of the Commonwealth, 1971-72 through 1996-97.*

gubernatorial administrations that have served with the secretarial system. Thirty-eight percent to 54 percent of the agencies experienced a change in leadership for the Holton through Wilder administrations. Under the Allen administration, 80 percent of State agencies or departments have experienced turnover in leadership.

Again, this figure does not show whether an agency was served by more than two directors during one gubernatorial administration. For example, a new head of the Alcoholic Beverage Control Board was appointed during the first year of the Dalton administration. That change is reflected in the percentage of agencies affected by turnover under Governor Dalton. The subsequent change in the ABC Board leadership two years later is not shown since the percentage of agencies affected does not capture the number of changes each agency experienced but reflects only that the agency head position turned over during the course of the administration.

### AVERAGE YEARS OF EXPERIENCE

One concern with the increased rate of turnover is that it results in a “brain drain” on the agency with the institutional and technical knowledge leaving with the senior level personnel. As a measure of the institutional knowledge and experience of agency leadership, the average number of years of experience as an agency head the governor’s appointments have for each year was calculated. The first year an individual was appointed, that individual is considered to have zero years of experience in the agency head position. Prior experience within an agency in a position other than agency head is not included in each individual’s total years of experience nor is experience in the senior position of a different agency.

Service that is not continuous is counted toward an individual’s years of experience. For example, the Director of the Department of the Deaf and Hard-of-Hearing for 1993-94 also served in that role for 1996-97 while a different individual held the position for 1994-95 and 1995-96. For his second term, the director was recognized as having one year of experience in the position. Also included as years of experience were any years served at the pleasure of a board prior to changes in statute that required a director to serve at the pleasure of the governor. A former Director of the Virginia Outdoors Foundation served in the position for 16 years, seven of them while the organization’s board appointed the director. Those seven years were included in the experience average for 1981-82, the first year the director was appointed by the governor. When the director was appointed by the board, the experience of the individual holding the position was not included in the yearly calculation.

For each year, an average was taken of the number of years of experience the agency heads serving in that year had in their positions. Table D contains the averages for the Holton through the Allen administrations. As these figures indicate, the average number of years of experience has been declining from 5.45 years in 1969 to a low of 1.63 years in 1995.

### LIST OF AGENCIES INCLUDED IN CALCULATIONS

The following agencies and departments were included in the calculation of the rate of turnover in executive branch officials appointed by the governor for each year of the secretarial system’s existence (1971-72 through 1996-97) and for each new administration from 1950 to 1994.

- Advocacy Office for the Developmentally Disabled
- Alcoholic Beverage Control Board
- Chesapeake Bay Local Assistance Board
- Chesapeake Bay Local Assistance Department
- Commission for the Visually Handicapped
- Commission of Outdoor Recreation

Table D

**Average Number of Years Experience of Agency Heads,  
Appointed by Governor, 1970-1997**

<b>Years</b>	<b>Governor</b>	<b>No. of Years of Experience</b>	<b>No. of Positions</b>
1969-70	Holton	5.45	49
1970-71	Holton	5.31	48
1971-72	Holton	4.21	48
1972-73	Holton	4.77	48
1973-74	Godwin	4.07	55
1974-75	Godwin	4.42	55
1975-76	Godwin	3.98	58
1976-77	Godwin	3.66	59
1977-78	Dalton	2.98	60
1978-79	Dalton	3.61	62
1979-80	Dalton	4.15	62
1980-81	Dalton	4.16	63
1981-82	Robb	3.51	61
1982-83	Robb	3.58	62
1983-84	Robb	3.98	60
1984-85	Robb	4.52	60
1985-86*	Baliles	3.45	62
1987-88	Baliles	4.19	62
1988-89	Baliles	4.36	66
1989-90	Baliles	4.34	70
1990-91	Wilder	3.62	71
1991-92	Wilder	3.54	68
1992-93	Wilder	4.03	69
1993-94	Wilder	4.45	66
1994-95	Allen	1.63	65
1995-96	Allen	2.45	65
1996-97	Allen	2.94	63

\*Note: The Report of the Secretary of the Commonwealth covers periods consistent with the terms of the Governor and his appointees. By long-standing convention, the reports are labeled for a two year period. Thus the first year of the Allen administration is labeled 1994-1995 (for a term beginning January 1994) and the fourth year will be 1997-1998 (with the term ending January 1998). The designation of years shifted forward one year in 1987, thus there is no report labeled 1986-1987, even though there were four reports for the Baliles administration, the year during which the change took place.

Source: *Report of the Secretary of the Commonwealth, 1971-72 through 1996-97.*

Commission on Local Government (1981 - 1997)  
 Compensation Board  
 Council on Human Rights  
 Council on Information Management

Council on the Environment  
Criminal Justice Officers Training and Standards Commission  
Criminal Justice Services Commission  
Department for Children  
Department for the Deaf and Hard-of-Hearing  
Department for the Rights of the Disabled  
Department for the Rights of Virginians with Disabilities  
Department for the Visually Handicapped  
Department of Accounts  
Department of Agriculture and Consumer Services  
Department of Air Pollution Control  
Department of Aviation  
Department of Computer Services  
Department of Conservation and Economic Development  
Department of Conservation and Historic Resources  
Department of Conservation and Recreation  
Department of Correctional Education  
Department of Corrections  
Department of Criminal Justice Services  
Department of Economic Development  
Department of Emergency Services  
Department of Employee Relations Counselors  
Department of Environmental Quality  
Department of Fire Programs  
Department of Forestry  
Department of General Services  
Department of Health  
Department of Health Professions  
Department of Health Regulatory Boards  
Department of Highways  
Department of Highways and Transportation  
Department of Historic Resources  
Department of Housing and Community Development  
Department of Information Technology  
Department of Intergovernmental Affairs  
Department of Juvenile Justice  
Department of Labor and Industry  
Department of Management Analysis and Systems Development  
Department of Medical Assistance Services  
Department of Mental Health, Mental Retardation and Substance Abuse Services  
Department of Mental Health and Mental Retardation  
Department of Mental Hygiene and Hospitals  
Department of Military Affairs  
Department of Mines, Minerals and Energy  
Department of Minority Business Enterprise  
Department of Motor Vehicles

Department of Personnel and Training  
Department of Planning and Budget  
Department of Property Records and Insurance  
Department of Purchases and Supply  
Department of Rail and Public Transportation  
Department of Rehabilitative Services  
Department of Social Services  
Department of State Police  
Department of Taxation  
Department of Telecommunications  
Department of the Aging  
Department of the Treasury  
Department of Transportation  
Department of Veterans' Affairs  
Department of Vocational Rehabilitation  
Department of Volunteerism  
Department of Waste Management  
Department of Welfare  
Department of Welfare and Institutions  
Department of World Trade  
Department of Youth  
Department of Youth and Family Services  
Developmental Disabilities Protection and Advocacy Office  
Division for Children  
Division of Consolidated Laboratory Services  
Division of Drug Abuse Control  
Division of Engineering and Building Services  
Division of Industrial Development  
Division of Justice and Crime Prevention  
Division of Motor Vehicles  
Division of Personnel  
Division of State Planning and Community Affairs  
Division of the Budget  
Division of Volunteerism  
Drug Abuse Control Council  
Governor's Council on Narcotics and Drug Abuse Control  
Governor's Council on Transportation  
Governor's Employment and Training Department  
Gunston Hall Plantation  
Health Services Cost Review Council (1990 - 1997)  
Highway Safety Division  
Law Enforcement Officers Training Standards Commission  
Library of Virginia  
Marine Resources Commission  
Milk Commission  
Office of Civil Defense  
Office of Fire Services Training

Office of Housing  
 Office of Special Programs  
 Office on Aging  
 Rehabilitative School Authority (1975 - 1983)  
 Secretary of the Commonwealth  
 Soil and Water Conservation Board  
 State Air Pollution Control Board  
 State Board of Elections  
 State Education Assistance Authority  
 State Energy Office  
 State Office of Emergency and Energy Services  
 State Office of Minority Business Enterprise  
 State Water Control Board  
 Superintendent of Public Instruction  
 Virginia Drug Abuse Advisory Council  
 Virginia Agricultural Development Authority  
 Virginia Airports Authority  
 Virginia Commission for Children and Youth  
 Virginia Commission for the Arts  
 Virginia Commission on the Arts and Humanities  
 Virginia Council for the Deaf  
 Virginia Council on Child Day Care & Early Childhood Programs  
 Virginia Education Loan Authority  
 Virginia Employment Commission  
 Virginia Historic Landmarks Commission  
 Virginia Liaison Office  
 Virginia Outdoors Foundation (1982 - 1997)  
 Virginia Parole Board  
 Virginia Probation and Parole Board  
 Virginia Resources Authority  
 Virginia State Fire Services Commission  
 Virginia State Library and Archives  
 Virginia Student Assistance Authorities

The following secretaries, assistant secretaries and deputy secretaries were included in the calculation of the yearly turnover rate from 1972 to 1997.

Secretary of Administration (1971 - 1976, 1983 - 1997)  
 Secretary of Administration and Finance (1976 - 1983)  
 Deputy Secretary of Administration (1983 - 1997)  
 Assistant Secretary for Financial Policy (1975 - 1983)  
 Assistant Secretary for Administration and Finance (1975 - 1977)  
 Assistant Secretary of Administration (1971 - 1975)  
 Deputy Assistant Governor's Cabinet (1974 - 1977)  
 Secretary of Commerce and Resources (1971 - 1985)  
 Secretary of Economic Development (1987 - 1993)  
 Secretary of Commerce and Trade (1993 - 1997)



Deputy Secretary of Economic Development (1981 - 1993)  
 Deputy Secretary of Commerce and Trade (1993 - 1997)  
 Secretary of Human Affairs (1971 - 1975)  
 Secretary of Human Resources (1975 - 1988)  
 Secretary of Health and Human Resources (1988 - 1997)  
 Deputy Secretary of Human Resources (1982 - 1988)  
 Deputy Secretary of Health and Human Resources (1988 - 1997)  
 Secretary of Public Safety (1975 - 1983, 1990 - 1997)  
 Deputy Secretary of Public Safety (1981 - 1983, 1990 - 1997)  
 Deputy Secretary of Transportation and Public Safety (1983 - 1990)  
 Secretary of Finance (1971 - 1973, 1983 - 1997)  
 Deputy Secretary of Finance (1983 - 1997)  
 Secretary of Education (1971 - 1997)  
 Deputy Secretary of Education (1981 - 1997)  
 Secretary of Natural Resources (1985 - 1997)  
 Deputy Secretary of Natural Resources (1985 - 1997)  
 Secretary of Transportation and Public Safety (1971 - 1975, 1983 - 1990)  
 Secretary of Transportation (1975 - 1983, 1990 - 1997)  
 Deputy Secretary of Transportation (1981 - 1983, 1990 - 1997)

#### LIST OF AGENCIES NOT INCLUDED IN TURNOVER CALCULATIONS

The following boards, authorities and governmental institutions were excluded from the calculation of the rate of turnover in executive branch officials appointed by the governor for each year of the secretarial system's existence (1971-72 through 1996-97) and for each new administration from 1950 to 1994.

#### **Directors of Commissions, Authorities, and Institutions Appointed by Governing Boards or Entities other than the Governor\***

Board for People with Disabilities  
 Center for Innovative Technology  
 Charitable Gaming Commission  
 Commission on Local Government (1976 - 1980)  
 Commonwealth's Attorneys' Services Training Council  
 Department of Game & Inland Fisheries  
 Frontier Culture Museum of Virginia  
 Health Services Cost Review Council (1983 - 1989)  
 Jamestown-Yorktown Foundation  
 Science Museum of Virginia

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\*This list is not inclusive of all institutions or commissions with board-appointed directors. Only major entities consistently listed independently (not within another agency or department) within a secretariat were included.

Southwest Virginia Higher Education Center  
 State Council of Higher Education in Virginia  
 Virginia Advisory Council for Adult Education & Literacy  
 Virginia Business-Education Partnership Program  
 Virginia Community College System  
 Virginia Economic Development Partnership  
 Virginia Fuel Conversion Authority  
 Virginia Housing Development Authority  
 Virginia Museum of Fine Arts  
 Virginia Museum of Natural History  
 Virginia Outdoors Foundation (1972 - 1982)  
 Virginia Port Authority  
 Virginia Racing Commission  
 Virginia Retirement System  
 Virginia Truck & Ornamentals Research Station  
 Virginia Veterans' Care Center

#### **Legislative or Independent Commissions<sup>+</sup>**

Virginia State Crime Commission  
 State Corporation Commission  
 Auditor of Public Accounts

#### **Director Appointed by the Director of the Department of Conservation & Recreation**

Chippokes Plantation Farm Foundation

#### **Classified Positions Appointed by the Secretary of Finance**

State Internal Auditor

#### **Commissions & Boards Headed Briefly by Gubernatorial Appointees**

Art Commission  
 Commission on the Alcohol Safety Action Program  
 Commission on the Status of Women  
 Equal Employment Opportunity Council  
 Overall Advisory Council on the Needs of Handicapped Persons

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<sup>+</sup>These legislative and independent agencies listed were briefly included within a secretariat during the formative years of the secretarial system. (1972 - 1975)

Virginia Baseball Stadium Authority  
Virginia Developmental Disabilities Planning Council  
Virginia Independence Bicentennial Commission  
Virginia Public School Authority  
Virginia College Building Authority

#### **CURRENT AGENCY HEAD POSITIONS WITH CODIFIED REQUIREMENTS**

Below is a list of current agencies whose director, department head, or commissioner is appointed by the Governor and is required to meet certain qualifications by the *Code of Virginia*. The *Code* reference stating these requirements is also listed.

State Board of Elections (§24.2-102)  
Department of Forestry (§10.1-1100)  
Department of Labor and Industry (§40.1-5)  
Milk Commission (§3.1-426)  
Superintendent of Public Instruction (§22.1-21)  
Department of Taxation (§58.1-200)  
Department for the Rights of Virginians with Disabilities (§51.5-36)  
Department for the Deaf and Hard-of-Hearing (§63.1-69)  
Department of Health (§32.1-17)  
Department of Mental Health, Mental Retardation and Substance Abuse Services (§37.1-42)  
Department of Rehabilitative Services (§51.5-13)  
Marine Resources Commission (§28.2-102)  
Department of Correctional Education (§22.1-344)  
Department of Military Affairs (§44-11)  
Virginia Liaison Office (§2.1-564)



## **Appendix D**

### **Agency Response**

As part of an extensive data validation process, State agencies involved in a JLARC assessment effort are given the opportunity to comment on an exposure draft of the report. The written response received from the Office of the Governor did not include any technical corrections.

This appendix contains the response from Governor Allen.



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## Recent JLARC Reports

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*Review of the Virginia Retirement System*, January 1994  
*The Virginia Retirement System's Investment in the RF&P Corporation*, January 1994  
*Review of the State's Group Life Insurance Program for Public Employees*, January 1994  
*Interim Report: Review of the Involuntary Civil Commitment Process*, January 1994  
*Special Report: Review of the 900 East Main Street Building Renovation Project*, March 1994  
*Review of State-Owned Real Property*, October 1994  
*Review of Regional Planning District Commissions in Virginia*, November 1994  
*Review of the Involuntary Commitment Process*, December 1994  
*Oversight of Health and Safety Conditions in Local Jails*, December 1994  
*Solid Waste Facility Management in Virginia: Impact on Minority Communities*, January 1995  
*Review of the State Council of Higher Education for Virginia*, January 1995  
*Costs of Expanding Coastal Zone Management in Virginia*, February 1995  
*VRS Oversight Report No. 1: The VRS Investment Program*, March 1995  
*VRS Oversight Report No. 2: The VRS Disability Retirement Program*, March 1995  
*VRS Oversight Report No. 3: The 1991 Early Retirement Incentive Program*, May 1995  
*Review of Capital Outlay in Higher Education*, June 1995  
*The Concept of Benchmarking for Future Government Actions*, July 1995  
*1995 Report to the General Assembly*, September 1995  
*Follow-Up Review of Community Action in Virginia*, September 1995  
*VRS Oversight Report No. 4: Semi-Annual VRS Investment Report*, September 1995  
*Technical Report: The Cost of Competing in Standards of Quality Funding*, November 1995  
*Funding Incentives for Reducing Jail Populations*, November 1995  
*Review of Jail Oversight and Reporting Activities*, November 1995  
*Juvenile Delinquents and Status Offenders: Court Processing and Outcomes*, December 1995  
*Interim Report: Feasibility of Consolidating Virginia's Wildlife and Marine Resource Agencies*, December 1995  
*Review of the Virginia State Bar*, December 1995  
*Interim Report: Review of the Department of Environmental Quality*, January 1996  
*Minority-Owned Business Participation in State Contracts*, February 1996  
*Legislator's Guide to the Virginia Retirement System*, May 1996  
*VRS Oversight Report No. 5: Semi-Annual VRS Investment Report*, May 1996  
*VRS Oversight Report No. 6: Biennial Status Report on the Virginia Retirement System*, May 1996  
*Special Report: Review of the ADAPT System at the Department of Social Services*, June 1996  
*Technical Report: Review of the Medicaid Forecasting Methodology*, July 1996  
*Review of the Magistrate System in Virginia*, August 1996  
*Review of the Virginia Liaison Office*, October 1996  
*Feasibility of Consolidating Virginia's Wildlife Resource Functions*, December 1996  
*VRS Oversight Report No. 7: Review of VRS Fiduciary Responsibility and Liability*, January 1997  
*The Operation and Impact of Juvenile Corrections Services in Virginia*, January 1997  
*Review of the Department of Environmental Quality*, January 1997  
*Interim Report: The Secretarial System in Virginia*, January 1997  
*The Feasibility of Modernizing Land Records in Virginia*, January 1997  
*Review of the Department of Corrections' Inmate Telephone System*, January 1997  
*Virginia's Progress Toward Chesapeake Bay Nutrient Reduction Goals*, February 1997  
*VRS Oversight Report No. 8: Semi-Annual VRS Investment Report*, May 1997  
*Services for Mentally Disabled Residents of Adult Care Residences*, July 1997  
*Follow-Up Review of Child Day Care in Virginia*, August 1997  
*1997 Report to the General Assembly*, September 1997  
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*Review of DOC Nonsecurity Staffing and the Inmate Programming Schedule*, December 1997  
*Technical Report: Gender Pay Equity in the Virginia State Workforce*, December 1997  
*The Secretarial System in Virginia State Government*, December 1997  
*Overview: Review of Information Technology in Virginia State Government*, December 1997  
*Review of the Comprehensive Services Act*, January 1998  
*Review of the Highway Location Process in Virginia*, January 1998  
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*Special Report: Status of Automation Initiatives of the Department of Social Services*, February 1998





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