

Joint Legislative Audit and Review Commission

The Virginia General Assembly

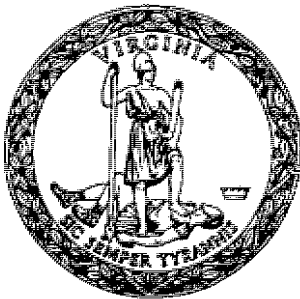
**AN ASSESSMENT OF
THE SECRETARIAL
SYSTEM IN THE
COMMONWEALTH
OF VIRGINIA**

A report in a series on the organization of the
Executive Branch in Virginia

**REPORT OF THE
JOINT LEGISLATIVE
AUDIT AND REVIEW COMMISSION ON**

**AN ASSESSMENT OF THE
SECRETARIAL SYSTEM IN
THE COMMONWEALTH OF VIRGINIA**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 21

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PREFACE

House Joint Resolution 33 of the 1982 General Assembly directed the Joint Legislative Audit and Review Commission to "study the organization of the executive branch for the purpose of determining the most efficient and effective structure". While the resolution itself primarily expressed concern regarding the number and independent status of executive agencies, debates and discussions surrounding passage of the resolution indicated that there was also significant legislative interest in the role and structure of the secretarial system.

An interim report outlining areas of inquiry, research approach, and preliminary findings was issued in December of 1982. A resolution, House Joint Resolution 6, was passed during the 1983 Session of the General Assembly which extended the study through 1983.

This report on the secretarial structure in Virginia is the second in a series of four final reports on executive branch structure issued under HJR 33 and HJR 6. The companion volumes in this series are entitled An Assessment of Structural Targets in the Executive Branch of Virginia, An Assessment of the Role of Boards and Commissions in the Executive Branch of Virginia, and Organization of the Executive Branch in Virginia: A Summary Report. The summary report presents a comprehensive summary and analysis of the three parts and highlights each principal finding and recommendation.

Following a staff report to the Commission on November 4, 1983, the reports were authorized for printing and referred to a subcommittee for further consideration.

On behalf of the commission staff, I wish to acknowledge the cooperation and assistance of the Governor's secretaries who provided information for this report.



Ray D. Pethtel
Director

December 21, 1983

REPORT SUMMARY

The secretarial system was established in statute by the General Assembly in 1972. The system now consists of six secretaries and an Assistant Secretary for Financial Policy. Each secretary is responsible for overseeing the agencies within a functional area of government. During 1982, the secretaries and direct staff included 26 FTE staff positions. Over 38 additional FTE positions, among them agency staff and consultants, were also utilized during 1982 to carry out special studies and projects for the secretaries. The secretarial system had direct and indirect payroll costs which exceeded \$2 million in 1982 alone.

Over the years the responsibilities of the secretaries have been amplified by statute, and the structure of the secretarial system has been altered by action of the General Assembly. Each Governor has also had broad latitude to define the secretarial role and to delegate responsibilities through executive order. As a result, the role of the secretaries has evolved from policy coordination to a stronger management and policy-making orientation.

JLARC Review

House Joint Resolution 33, passed during the 1982 session of the General Assembly directed JLARC to "study the organization of the executive branch for the purpose of determining the most efficient and effective structure". Debates and discussions surrounding passage of the resolution indicated significant legislative interest in the structure and role of the secretarial system.

The purpose of this review was to assess the extent to which (1) the responsibilities and activities of the Governor's secretaries are consistent with the purposes of the system and (2) the structure is useful in effectively managing the State's resources and administrative processes. Criteria used to make judgements for this review were drawn from the historical record and the statutory framework established for the secretarial system.

This report is the second in a series of four final reports on executive branch structure. The companion volumes in this series are entitled An Assessment of Structural Targets in the Executive Branch of Virginia, An Assessment of the Role of Boards and Commissions in the Executive Branch of Virginia, and Organization of the Executive Branch in Virginia: A Summary Report.

Concepts, Roles, and Responsibilities

The secretarial system is consistent with the management needs and traditions of Virginia government. The secretaries carry out important coordinative, budgetary, and oversight responsibilities for their functional areas. Nevertheless, agency heads, or in some instances supervisory boards, are responsible for operating agencies and administering programs. The potential for problems arises when the distinction between the responsibilities of such governmental entities is not clearly delineated or generally understood.

There is no question that the State requires efficient management of its resources. There is a need, however, to clarify and balance (1) the constitutional authority of the General Assembly and Governor, (2) the responsibilities spelled out in statute for agency directors and boards, and (3) the management responsibilities of the secretaries.

Staff Recommendation 1: The General Assembly should retain the secretarial system with its management-coordination orientation.

Staff Recommendation 2: The General Assembly should clarify the mission of the secretarial system and the authority of the Governor and secretaries to hold agency heads accountable for fiscal, administrative, and program performance.

Structure of the Secretarial System

The structure of the secretarial system should be periodically assessed. Unique circumstances may require reconsideration by the Legislature of the configuration of functional areas or the organization within or among secretariats. Four of the six secretarial areas warrant attention at the present time.

The structure of the Administration and Finance secretariat has been the least enduring of the secretariats, and organizational arrangements are not presently in compliance with statute. The Assistant Secretary for Financial Policy acts as a seventh secretary, and the Department of Planning and Budget does not have a full-time director. In addition, the assignment of specific functions to the Governor's Chief of Staff is out of conformance with statute and with requirements that executive authority be delegated only to confirmed individuals.

Given the unique constitutional and statutory positions of educational institutions and boards in the Commonwealth, the General Assembly appears not to have intended a managerial role for the Secretary of Education. Nevertheless, in practice and through executive order, the role of the secretary has been brought closer to that of the other secretaries.

The size of two secretarial areas is also a concern. The recommended transfer of two agencies from the Transportation secretariat to more appropriate locations would leave a Transportation secretariat with only four agencies. On the other hand, the Commerce and Resources Secretariat is very large and encompasses agencies with divergent orientations.

Staff Recommendation 3: The General Assembly should eliminate the current Administration and Finance secretariat and create a separate Secretary of Administration and Secretary of Finance.

Staff Recommendation 4: The Governor should appoint a full-time director for the Department of Planning and Budget.

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.

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

Staff Recommendation 7: The General Assembly should separate the emergency and energy divisions 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.

Staff Recommendation 8: The General Assembly should eliminate the Transportation secretariat.

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

Staff Recommendation 10: The General Assembly should create a Secretary of Cultural and Natural Resources.

Staffing the Secretarial System

The staff resources of the secretarial system encompass both direct and indirect staff. The direct staff assigned to the secretaries have the greatest visibility, and their number has fluctuated over time. Secretaries also have access to the resources of central staff agencies and may use supplemental staff from agencies within the secretariat.

Determining the appropriate level and type of staff resources involves more than consideration of numbers of staff and associated costs. The system's resources should be commensurate with the role and responsibilities determined to be appropriate for the Governor's high-level assistants. Moreover, the resources may be provided in a variety of ways depending upon the purpose, objectivity, and accessibility desired for staff support.

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

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I. INTRODUCTION

The secretarial system in Virginia is a result of a perceived need, expressed in the Governor's Management Study of 1970, to gain control over a great number of State government entities with divergent lines of reporting and fragmented responsibilities. The study group believed that organizational restructuring to reduce the overall size and complexity of government was a continuing need that could best be accomplished when the Governor had a capable executive team to bring into focus the present and future needs for governmental services and administrative processes.

The secretarial system was formally authorized in statute by the General Assembly in 1972. It currently consists of six secretaries and an Assistant Secretary for Financial Policy. Each secretary is primarily responsible for overseeing the agencies within a functional area of government. During 1982, the secretarial system was funded to include 26 FTE staff positions assigned directly to the system. Over 38 additional FTE positions were also utilized during 1982 by the secretaries to carry out special studies and projects. The secretarial system had direct and indirect payroll costs which exceeded \$2 million in 1982 alone. Six additional positions are also routinely available on request to provide programmatic or analytic services to the secretariats.

Over the years the responsibilities of the secretaries have been amplified by statute, and the structure has been altered by action of the General Assembly. Each Governor has also had broad latitude to define the secretarial role and to delegate executive power as he has deemed appropriate. As exemplified in the executive orders of several Governors, secretarial responsibilities have evolved from roles primarily concerned with policy coordination to roles more involved with management and policy-making.

The basic functioning of the secretarial system has certainly been consistent with the Commonwealth's movement toward more centralized management processes. Secretaries were created by the General Assembly as a means of strengthening the management of the executive branch and better enabling the Governor to ensure that the laws are faithfully executed. Nevertheless, the purposes for the system and its statutory base, structure, responsibilities, and operations continue to require periodic assessment.

FRAMEWORK FOR HIGH-LEVEL ASSISTANCE

Any review of the secretarial system must recognize the conceptual framework established in previous studies of executive direction in the Commonwealth, and the structure and authority granted by the General Assembly. Although specific proposals have varied, all major reorganization studies during the 1900's have addressed the need to concentrate executive authority and strengthen the Governor's capacity to cope with growth in agencies, personnel, and expenditures. Reservations about vesting too much power in the Governor have been countered by citing the constitutional provision that prohibits a Governor from succeeding himself.

The present secretarial system was established based on recommendations that in addition to the staff support provided to the Governor by the then existing Commissioner of Administration, a more direct line management was needed of agencies providing services to the public. The secretaries were originally authorized by statute to assume management responsibilities delegated by the Governor. Later, their responsibilities were made more specific and were to include budgetary and coordinative functions.

Reorganization Studies

The first mention of a corps of high-level assistants to the Governor was made in 1927 when Governor Byrd indicated he would call agency heads together periodically to serve as an informal "cabinet" of advisors. Additional structural changes between 1926 and 1928 strengthened executive direction. The short ballot was adopted; many agencies were abolished; and a number of agencies were brought together in the Governor's Office.

A series of studies in the 1940's offered a range of recommendations to provide management assistance to the Governor (Table 1). These recommendations included several new positions as well as broadened responsibilities for some existing positions:

- a *Commissioner of Finance* to relieve the Governor of administrative detail in the direction and coordination of fiscal affairs of the State (1940)
- that the *Secretary of the Commonwealth* serve as the assistant to the Governor for handling details of business management (1940)
- a *cabinet of agency heads* to advise the Governor (1947)
- a *Commissioner of Administration* to carry out the Governor's responsibilities in budgeting, personnel, and planning (1966).

Table 1

COMPARISON OF RECOMMENDATIONS FOR A MANAGEMENT LEVEL
BETWEEN THE GOVERNOR AND AGENCIES

<u>Study Commission</u>	<u>Recommendation</u>
Committee on Consolidation and Simplification in State and Local Government (1926)	Consolidate 85 agencies into 11 and have the 11 department heads constitute the Governor's cabinet for discussion of administrative matters.
Executive Proposal For Administrative Reorganization (1940)	Appoint a Commissioner of Finance to relieve the Governor of administrative detail in the direction and coordi- nation of fiscal affairs of the State.
Chamber of Commerce (1940)	Appoint the Secretary of the Common- wealth the assistant to the Governor for handling details of business management.
Commission on Reorganization of State Government (1947)	Form a cabinet of the agency heads to advise the Governor on the activities of agencies.
Commission for Economy in Governmental Expenditures (1966)	Create a Commissioner of Administration to carry out the Governor's responsi- bilities in budgeting, personnel, and planning.
Governor's Management Study (1970)	Create five "deputy governors," in addition to the Commissioner of Administration, who would report directly to the Governor and oversee groupings of agencies.

The Governor's Management Study found that during the 1960's the number of State employees had increased five times faster than the population and that State expenditures had tripled. The study concluded that the proliferation of executive branch agencies that had occurred had not been conducive to economy and efficiency, and the high number of agencies reporting to the Governor placed too many demands on his time.

To help alleviate some of these conditions, the study group recommended the creation of five top executive positions, to be titled deputy governors, who would report directly to the Governor. The Commissioner of Administration, a position which had been established in 1966, was to work along with the deputy governors while serving as the principal coordinating executive. The study group recommended that the deputy governors serve at the pleasure of the Governor and not be subject to confirmation of the General Assembly.

Secretarial Structure

In 1972, the General Assembly established six high-level positions to assist the Governor and oversee the following areas of government:

Administration	Commerce and Resources
Finance	Human Affairs
Education	Transportation and Public Safety

The assistants were each titled Secretary. The Commissioner of Administration was redesignated as the Secretary of Administration. Each secretarial appointment required confirmation by the General Assembly.

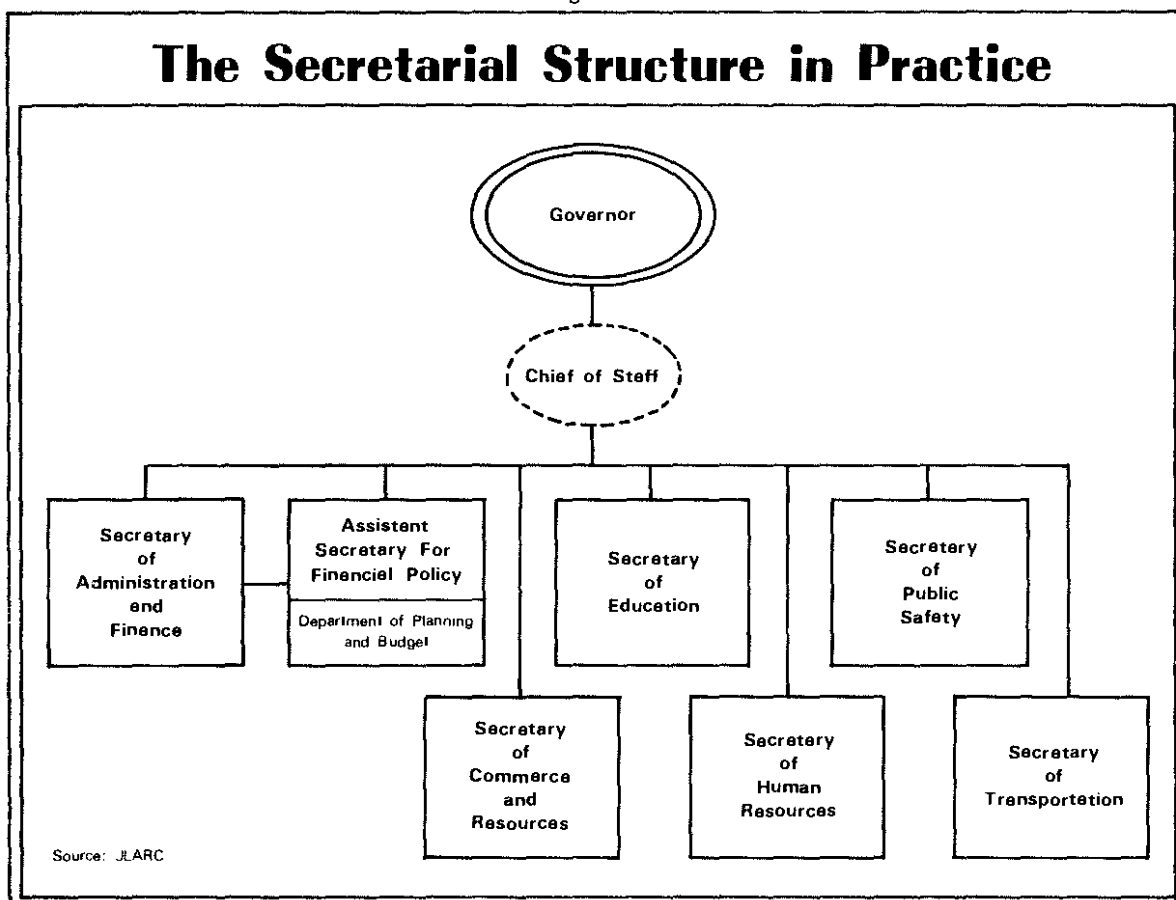
The structure of the secretarial system has been modified by the General Assembly several times. In 1974, the separate Secretaries of Administration and Finance were combined into one position. A separate secretarial position for public safety was created in 1976. Also in 1976, a special position -- Assistant Secretary for Financial Policy -- was established to serve as an assistant and advisor to the Secretary of Administration and Finance. In 1982, the Assistant Secretary was given status similar to the other secretaries through an understanding with the Governor and with specific legislative concurrence regarding salary.

Currently, the secretarial system consists of seven statutory positions in the chain of command between the Governor and executive branch agencies (Figure 1). An eighth position -- Chief of Staff -- was introduced by executive order in June of 1983 and serves in a position between the secretaries and the Governor.

The original enabling legislation created six secretarial positions in the Governor's Office. Agencies were designated by statute to fall within each secretarial area. The powers and duties of the secretaries were not specified, but were left to the discretion of the Governor:

Powers and duties. Each Secretary shall exercise such powers and perform such duties as may be delegated to him by the Governor to execute the management functions of the Governor with regard to those agencies for which the Secretary is responsible as provided in §2.1-51.9.

Figure 1



Unless prohibited by the Constitution, each Secretary shall be vested with the powers of the Governor, if authorized by the Governor, with respect to those agencies for which the Secretary is responsible. All reports to the Governor from the head of any such agency shall be made through the Secretary responsible for such agency. (§2.1-51.8, *Code of Virginia*)

In 1976, the authority of the secretaries was made more explicit in statute based on recommendations made by the Commission on State Governmental Management.

The powers and duties currently assigned by the Legislature to the Governor's secretaries are listed in Sections 2.1-51.7 through 51.30 of the *code*. Each secretary is subject to the direction and supervision of the Governor. With the exception of the Secretary of Education, a secretary is empowered to resolve conflicts between assigned agencies, direct the formulation of a comprehensive program budget for his or her office and agencies, and transmit agency reports

to the Governor. Agencies in five secretariats are directed to exercise their powers and duties in accordance with general policy established by the Governor or the appropriate secretary.

In accordance with Section 2.1-39.1 of the Code, the Governor has also delegated additional responsibilities to the secretaries.

Secretarial Staffing

In the 11-year history of the secretarial system, the level of staff assistance has varied considerably. The number of funded positions in the secretarial offices has fluctuated from a low of 15 in 1972 to a high of 72 in 1978.

By 1978 the size of the secretarial staff had grown to 72 because of the addition of positions that had formerly been in the Division of State Planning and Community Affairs. By 1980, the number of funded positions had decreased to 46. Twelve of these positions were in the Office of Administration and Finance. The other secretaries had staff levels of seven, with the exception of the transportation area, which had six. These staff were assigned research, policy, and evaluation responsibilities.

By 1983, the number of appropriated positions which were part of the secretarial system was 26.

JLARC REVIEW

The secretaries were created as a means of strengthening executive control over the multiple agencies that carry out the business of State government. To some extent, they were superimposed on the existing structure because establishment of high-level policy direction and coordination was seen as preferable to the piecemeal consolidation or reorganization of agencies which had occurred in the past. A major innovation, however, was the clustering of related agencies under the jurisdiction of each secretary for management purposes, and the emphasis on streamlined and centralized administrative processes.

The secretarial system should be viewed within the contexts under which it was established and now functions. The purpose of this part of the study of the organization of State government is to review the extent to which (1) the responsibilities and activities of the secretaries are consistent with the purposes of the system and (2) the structure is useful in effectively managing the State's resources and administrative processes. The criteria used to make judgements for this review are drawn from the historical record and statutory framework established for the secretarial system. Where particular problems with the framework or implementation of the system have been noted, options for legislative alteration are proposed.

The review addresses the following questions:

- To what extent are secretarial activities consistent with their statutory responsibilities and their role as high-level executives?
- Are the management responsibilities of the Governor sufficiently defined and appropriately delegated to the secretaries?
- Are the central support functions of administration and finance appropriately structured and managed to effectively meet the needs of the Governor, secretaries, and operating agencies?
- Do the functional groupings of agencies within secretariats enhance management control and provision of related governmental services?
- Are the resources assigned to the secretaries adequately identified and commensurate with their responsibilities and workload?

II. CONCEPT, ROLES, AND RESPONSIBILITIES

The creation of the secretaries accelerated a trend toward greater concentration of executive authority. This gave rise to new expressions of concern about excessive concentration of executive power and the ambiguous assignment of such power in the Constitution and statutes. Nevertheless, secretarial authority has evolved over the years to become more extensive and specific through both statute and executive order.

A stronger management role for the secretaries has paralleled concern about the cost and complexity of government. Secretaries carry out important coordinative, budgetary, and oversight responsibilities for functional areas. Agency heads or in some instances supervising boards, rather than secretaries, are responsible for operating agencies and administering programs. The potential for problems arises, however, when the distinction between two governmental entities is not clearly delineated or generally understood.

There is no question that the State requires efficient management of its resources. There is a need, however, to clarify and balance (1) the constitutional authority of the General Assembly and Governor, (2) the responsibilities spelled out in statute for agency heads and boards, and (3) the management responsibilities of the secretaries.

CONCEPT AND AUTHORITY

Secretaries began with an essentially coordinative role, and now have a stronger management orientation. This has evolved over time, although a certain amount of ambiguity still exists. In part, this ambiguity is due to questions about the constitutional authority of the Governor and the General Assembly.

Authority of the Governor and General Assembly

Virginia is generally regarded as having a strong Governor because the powers of item veto and extensive appointment authority are constitutionally assigned to the position. Questions have been raised, however, about the extent to which the Governor can exercise management prerogatives -- especially in regard to governmental organization and the accountability of agencies. These questions are particularly important to an assessment of the secretarial system, because secretarial authority over the operations and programs of agencies is in large measure delegated by the Governor.

The executive powers of the Governor appear in two key provisions of the Constitution. The extent of the authority in these provisions has long been open to debate and interpretation as noted in the Commentaries on the Virginia Constitution and in the various organizational studies prepared for the Commission on State Governmental Management. The Constitution states:

The chief executive power of the Commonwealth shall be vested in a Governor. (Article V, Section 1)

The Governor shall take care that the laws be faithfully executed. (Article V, Section 7)

As explained in the Commentaries, these provisions are often taken together to give the chief executive vast areas of discretionary and informal power. This occurs most frequently in situations where there is no specifically enumerated power. It is further stated, however, that executive power is dependent, in part, on the other powers given a Governor by the State Constitution as well as by statute.

Constitutional Authority. Apparently bolstering the Governor's power is the constitutional provision which empowers use of the armed forces to enforce execution of the laws. And, there is specific executive authority in the Constitution to appoint and remove officials, require information, and fill vacancies.

In contrast, the Governor does not have constitutional authority to create, define or organize agencies within the executive branch. The General Assembly specifically rejected a proposal to grant the Governor constitutional authority to reorganize State administration. The organizational provisions of the Constitution reserve that power to the General Assembly. The Governor has statutory authority, however, to propose a reorganization plan for legislative consideration. The Constitution states in the separation of powers article that:

... Administrative agencies may be created by the General Assembly with such powers and duties as the General Assembly may prescribe. (Article III, Section 1)

And in defining the administrative organization of the State it states:

The functions, powers, and duties of the administrative departments and divisions and of the agencies of the Commonwealth within the legislative and executive branches may be prescribed by law. (Article V, Section 9)

Finally, in defining the powers of the General Assembly, the Constitution cautions that:

The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear. (Article IV, Section 14)

Statutory Authority. To some extent, the authority of the Governor has been clarified by statute. By virtue of being designated as the Chief Budget Officer in 1918 and the Chief Personnel Officer in 1941, the Governor has clear authority over the development of an executive budget, which is an important policy and management tool. The Governor also has the power to direct the central staff agencies of State government.

It was not until 1976, however, that new statutory authority was enacted for the Governor to establish policy for State agencies, provide coordination, and resolve conflicts among agencies:

Except as may be otherwise provided by the Constitution or law, the Governor shall have the authority and responsibility for the formulation and administration of the policies of the executive branch, including resolution of policy and administrative conflicts between and among agencies. (§ 2.1-41.1, Code of Virginia)

This action of the General Assembly appeared to legitimate policy-making authority that was already exercised informally by Governors. The Legislature apparently did not believe that such power was inherent in the "vesting" or "enforcement" clauses of the Constitution. It had to be specified in statute.

In fact, the Commission on State Governmental Management argued that unless such authority was made explicit for the Governor, compliance by agencies with the Governor's policies could not be enforced. The only recourse was to remove a recalcitrant agency head and have a successor confirmed by the General Assembly.

As stated in a staff paper of the Commission, it is generally accepted constitutional and political theory in America that legislatures may vest certain responsibilities and authority directly in agencies rather than in the chief executive. The paper goes on to state:

Such functions as are given directly to officials or agencies can be exercised on their own responsibility. In Virginia, the Governor may take steps to

see that responsibility is not ignored, but it is important to remember that he is not legally responsible for the functions and is not authorized to carry them out personally.

Unclear Authority. Although similar reasoning was applied to the Governor's authority to hold agency heads accountable for their performance, specific statutory authority was not enacted by the General Assembly. The Commission on State Governmental Management raised questions about the extent of a chief executive's power to ensure that the actions of subordinates would produce the overall results which the chief executive wanted.

The Commission did not advocate that the Governor be assigned line authority over programs. This was seen as violating governmental traditions in Virginia and upsetting the balance of legislative and executive authority.

Instead, the Commission recommended statutory language for each secretary to grant "authority and responsibility to hold the head of each administrative unit assigned to him accountable for the administrative, fiscal, and program performance of such administrative unit." This language was not enacted into law.

Thus, while adherence to budgetary and personnel directives may be required under the Governor's statutory authority, accountability for performance in program areas appears to be more diffuse. The General Assembly did not choose to make that authority explicit for the secretaries. The Governor's power is not entirely clear either.

Governors, nevertheless, are traditionally understood to hold agency heads accountable for their overall performance. Furthermore, this responsibility has been delegated to the secretaries by executive order during the last three administrations whether it was appropriate or not.

The Governor has the authority to appoint and remove agency heads, and agencies are required by statute to exercise their respective powers and duties in accordance with the Governor's policies. Agency heads still retain the authority to make a broad range of programmatic decisions relative to those policies. Since agency heads are charged by statute with administering programs and are held accountable by the General Assembly for results, this may be a reasonable separation of powers. Nevertheless, who has explicit power to hold agency heads accountable for their actions is an important management concern which the General Assembly may wish to address by statute.

Evolution of Secretarial Authority

Since 1972 the management role and responsibilities of the secretaries have been significantly strengthened through a major statu-

tory revision and successive executive orders. The Governors have made use of their flexibility in executive orders both to define statutory provisions and to delegate additional responsibilities of their own to increase the management orientation of secretarial positions.

To determine the evolution of secretarial responsibilities and authority, JLARC has reviewed relevant statutes, the executive orders of four successive administrations, and the studies that affected the establishment or role of secretaries.

Refining Authority through Statute and Executive Order. Although the Legislature wished to ratify the Governor's choice of secretary, few responsibilities were initially specified in the Code. This left a governor discretion to delegate his own powers. However, the limited nature of implementing authority in the 1972 executive orders led the Commission on State Governmental Management to describe the original secretaries as serving in an unintended staff capacity to the Governor.

The secretaries had the following general responsibilities in 1972:

- employ necessary personnel or consultants within budget constraints to perform the duties assigned to them. Secretaries could also request temporary assistance from agency personnel subject to the agency head's approval.
- coordinate the programs within each secretarial office and exchange information with other secretarial offices to assure consistent State government activity.
- review program proposals for legislative action and prepare priority recommendations. Programs which should be considered for reduction, combination, or elimination were to be part of their review.
- request, if desired, a copy of agency budget submissions made directly to the Division of the Budget.
- establish reporting procedures that enable secretaries to make prompt decisions on behalf of the Governor yet recognize agency heads' ultimate responsibility to the Governor.

The Commission on State Governmental Management reported that the secretaries had not provided the management and supervisory assistance contemplated by the Governor's Management Study and made possible by the legislation:

In far too many instances, the Secretaries have viewed themselves as a committee having collective responsibility. These officials should consider

themselves a top management team, but not a committee or a cabinet. More attention should be devoted by each Secretary to his own area of responsibility resolving disputes, coordinating planning and operations, evaluating program performance, setting goals and policies, reviewing budgets, and identifying duplication and ineffectiveness with respect to the agencies assigned to him.

Budgeting was singled out as a primary function. The Commission saw the secretaries as a key ingredient in making successful an integrated system of program budgeting.

The Commission indicated in a June 1975 report that it had recommended new executive orders to Governor Godwin in order to provide the secretaries with as much responsibility and authority as could possibly be delegated under the law as it existed at that time.

In his first set of executive orders, Governor Godwin delegated to the secretaries many of the responsibilities that they continue to hold today. Statutes enacted in 1976 codified and expanded upon those responsibilities. The 1976 legislation was a major step forward in operationalizing the secretarial system. It made clear for the first time that agencies were required to carry out their activities in accordance with the policies of the Governor and appropriate secretary. It also specified that secretaries were to be involved in compiling program budgets for their functional areas and were responsible for resolving conflicts among agencies. The secretaries were thus provided with potentially powerful tools for becoming effective managers of functional areas.

The statutes were reflected in a second set of executive orders. An important exception was the authority to hold agency heads accountable. This authority was omitted from statute but retained in executive order.

An additional responsibility was added in the executive orders by Governor Dalton and continued by Governor Robb. Secretaries were authorized to examine the organization of agencies, not just programs, and recommend changes to promote more effective and efficient operation. Governors have also instituted review and clearance procedures for coordinating the administration's relations with the Legislature.

Current Responsibilities in Executive Order. Because Governors generally rescind their predecessors' executive orders but incorporate the concepts into their own, current secretarial responsibilities reflect changes over time. The broad responsibilities as defined in statute and in executive orders as of May 1983 are shown in Figure 2.

Figure 2

Powers And Duties Of The Governor's Secretaries As Specified In The Code

Power or Duty	Secretary					
	A&F	C&R	ED	HR	PS	TR
Subject to direction and supervision of the Governor	•	•	•	•	•	•
Agencies shall exercise their respective powers and duties in accordance with general policy established by the Governor or the appropriate Secretary acting on his behalf	•	•		•	•	•
Resolve administrative jurisdictional or policy conflicts between assigned agencies (unless the Governor expressly reserves such a power for himself)	•	•	•	•	•	•
Direct the formulation of a comprehensive program budget for his office and agencies	•	•	•	•	•	•
Transmit agency reports to Governor	•	•	•	•	•	•
Provide policy direction for programs involving more than a single agency			•			
Direct the preparation of alternative policies, plans, and budgets in education			•			
Direct the formulation of a comprehensive program budget for cultural affairs			•			
Coordinate and present the Statewide Transportation Plan						•
Oversee financial policy development	○					
Coordinate the financial activities of the several public authorities, agencies, and institutions issuing bonds	○					
Establish specified insurance plans	•					
Serve as deputy personnel officer	•					
Serve as deputy planning and budget officer	•					

○ Assigned to the Assistant Secretary for Financial Policy
• Assigned to Secretary

Source: JLARC

Powers And Duties Delegated By Executive Order

Power or Duty	Secretary					
	A&F	C&R	ED	HR	PS	TR
Provide general policy direction to agencies	✓	•	•	•	•	•
Resolve administrative, jurisdictional, policy, program, or operational conflicts among agencies	✓	•	•	•	•	•
Hold assigned agency heads accountable for the administrative, fiscal and program performance of their agencies		•	•	•	•	•
Transmit reports to the Governor	✓	•	•	•	•	•
Examine the organization of agencies and recommend changes		•	•	•	•	•
Transmit recommendations required by statute of State agencies to the Governor		•	•	•	•	•
Direct, for the Governor's consideration, the formulation of comprehensive policies, plans, and budgets	✓	•	•	•	•	•
Direct, for the Governor's consideration, the preparation of alternative policies, plans, and budgets for education	✓		•			
Coordinate assigned agencies activities with other entities		•	•	•	•	•
Take specific actions, or sign documents in the Governor's stead, as specified in Executive Order	•	•	•	•	•	•
Coordinate communications with the Federal government and governments of other states		•	•	•	•	•
Implement policies for legislative coordination		•	•	•	•	•
Employ personnel and contract for consulting services as required and subject to available funds	•	•	•	•	•	•
Direct the administration of the State government planning and budget process	✓					
Direct the administration of the State government personnel system	✓	•				
Resolve conflicts among and between secretarial areas which may arise concerning any actions delegated to the Secretaries		•				
Develop revenue forecasts and provide advice on matters of finance to Governor and other secretaries	○					
Oversee financial policy development and coordinate financial activities of public entities issuing bonds	✓	○				
Serve as a member of Treasury Board	○					
Develop and operate a legislative coordination process	○					
Ensure that the legislative coordination process is implemented		•	•	•	•	•
Serve on the Central Car Pool Committee as Chairman		•	•	•	•	•

○ Assigned to the Assistant Secretary for Financial Policy
• Assigned to Secretary
⊕ Responsibility limited to non-institutional programs
⊙ Responsibility includes institutional programs

✓ Provision which clarifies or comes straight from statute.

When issuing executive orders, governors generally cite the enabling statutes for the secretaries. They also cite Section 2.1-39 of the *Code of Virginia*, which authorizes a governor to delegate power. Executive orders generally mirror statutory provisions with additions and exceptions.

Major exceptions for the Secretary of Education, however, appear to exceed the accepted usage of executive orders. In this case, executive orders have been used to give the Secretary of Education powers and duties similar to those of other secretaries. These are duties that are explicitly absent from statute. The Secretary, for example, does not have statutory authority to transmit agency reports to the Governor, and statutory language does not require educational agencies and institutions to exercise their powers and duties in accordance with the policies of the Governor and Secretary. Nevertheless, such requirements are included in the executive orders.

The appropriate delegation of responsibility to the Secretary of Education is a complicated issue that is further discussed in Chapter III of this report. However, it appears questionable for executive orders to be used to make positions equivalent that are clearly differentiated by the General Assembly.

IMPLEMENTATION OF ROLE AND RESPONSIBILITIES

Because the secretarial system is relatively new and is still continuing to evolve, it has not yet reached its full potential for exerting management control over the executive branch. If present trends continue, secretaries will continue to make use of improved management processes and personal initiative to strengthen their roles. This may have significant benefits for the State in terms of management efficiency and increased capacity to respond to changing conditions. However, exercise of such power may also result in collision with the statutorily assigned responsibilities of agencies, boards, and commissions.

Potential Overlap with Agency Heads and Boards

Secretaries generally report that they attempt to fulfill a high-level management function and to deal with issues rather than the detailed operations of agencies. It is difficult, however, to draw a clear line. Complexity is introduced by circumstances that may involve unique conditions, overlapping responsibilities, or the personal style of those involved.

Variation in Emphasis. A certain amount of variation in secretarial emphasis is to be expected. Personal styles and circumstances within a secretariat will, of course, differ. Each of the current secretaries has set a tone or emphasis for his or her activities:

The Secretary of Public Safety defines his major responsibility as coordinating programs and exercising his political/substantive judgement in shaping overall policy initiatives within public safety. Two of his primary concerns are (1) to review competing demands and make decisions which maximize limited resources, and (2) to deal with problems that are broader than the scope of individual agencies.

* * *

The Secretary of Commerce and Resources spends much of her time on issues related to overall agency coordination and operations review. She is currently evaluating a proposal to merge over 30 commerce and resource agencies into a smaller number to enhance coordination and save an estimated \$3.5 million. She has become involved in several agency management questions.

* * *

The Secretary of Human Resources feels that one of his major responsibilities is to meet with client and constituency groups, and he estimates that approximately 20 percent of his time is spent on these activities. He feels that this is especially important during periods of budget reductions and service cutbacks. Even if clients and constituents cannot get what they want, they need someone to talk to about their concerns.

Conflict with Agencies. The General Assembly has not made its intent clear regarding the dividing line between agency and secretarial authority. It may never be possible to provide for every circumstance. However, a responsibility for compiling budgets, for example, can be implemented along a continuum from providing broad policy guidance to determining the amounts of individual line items or the allocation of personnel positions. This lack of clarity can result in friction between an agency and a secretary when both can cite statutes to claim competing levels of authority.

A recent problem involved the State Water Control Board. Secretarial involvement in agency and board activities has raised questions concerning the division of responsibilities between the secretary and other entities.

A 1983 Management Analysis and Systems Development study of the State Water Control Board found that the "current Secretary [of Commerce and

Resources] has raised a number of concerns about water resource management in Virginia. To the extent these concerns are perceived as inconsistent with the interests of the Board, as skirting the tradition of Board decision making, and not fully grounded in Code, the Executive Director and the staff are unfortunately placed in a position of confusion and frustration, with split accountability and responsibility. This confusion and frustration are resulting in lowered morale and acrimony at all levels in the staff." All involved parties are reportedly now working to clarify the role of each and work more cooperatively together.

Another example involves implementation of the executive agreement process. Under this process written agreements were reached between agency heads and the respective secretaries, and goals and objectives pertaining to programs and operations were formulated for the coming biennium. However, the operating status of boards of visitors of higher education institutions was not recognized.

The Code of Virginia, for example, assigns responsibility to the State Board for Community Colleges for "the establishment, control, and administration ... of the Virginia Community College System" (§ 23-215). The Board has authority to prepare and administer a plan providing standards and policies for the establishment, development, and administration of the community colleges. It also controls and expends funds and fixes fees and charges.

Contested authority occurred in the following situation:

In formulating the executive agreement for the Virginia Community College System (VCCS), the Secretary of Education worked directly with the Chancellor of VCCS. The Board, which is responsible for the control and administration of the system, felt that it should have been involved in the process. The Board questions the value of the agreements in light of its omission from the process and has sought advice from the office of the Attorney General regarding the legality of the process.

As illustrated in these examples, authority and reporting relationships can be confused and result in legal difficulties. The General Assembly should take action in this area by setting out in statute appropriate parameters for secretarial activity.

Lack of a Clear Mission Statement

At present, Secretaries do not appear to uniformly interpret their parameters for action. The general mission of the secretaries in the 1982-84 budget proposals is "to assist the Governor in the management and direction of State government." The separate mission statements for each secretary in the executive budget, however, show a significant range of interpretations:

"...to assist the Governor in the management of State government." (Secretary of Human Resources)

"...to assist the Governor in the management and direction of a specific functional area." (Secretary of Transportation)

"...to develop, direct, and manage programs and policies to achieve broad goals of the functional area." (Secretary of Commerce and Resources)

To define the secretarial mission as the overall management of State government is to imply a level of responsibility significantly different from that of focusing on a single functional area. Moreover, providing high-level policy and guidance to the agencies in an area is different from direct management of programs.

Difficulty also arises over the use of the word "cabinet" to describe the secretaries -- even collectively. The Commission on State Governmental Management took exception to the concept because it believed that the secretaries were to function individually as line managers of functional areas. Collective action as a cabinet was seen as reducing the focus on line issues. It has also been pointed out (in recent legislative discussion) that the enabling statutes for the secretaries do not constitute them as a cabinet. Moreover, providing high-level policy and guidance to the agencies in an area is different from direct management of programs.

"Cabinet" has several meanings in the classification of government organizations. It refers formally to a system where the top operating manager of an agency sits on a formally constituted cabinet that advises the Governor. It is also a term applicable to an informally constituted group of advisors whose composition is determined by the Governor. The group may meet regularly or on an *ad hoc* basis.

The use of the term "cabinet" is becoming more common in Virginia. Governor Robb used the term to describe the secretaries in his State of the Commonwealth speech. The term cabinet appears on the entrance door to the offices of the present secretaries. The Secretary of Administration and Finance often refers to one of his roles as the "Cabinet" Chief of Staff. The term also appeared early in the lifetime of this system. It was used in the title of an article assessing the

early operation of the secretarial system, written for the University of Virginia *Newsletter* by the first Secretary of Administration, T. Edward Temple.

A mission statement for the secretaries would address their individual and collective roles as well as the balance of responsibility between the secretaries and the agencies. A mission statement should be incorporated in the Code. If the parameters in the mission statement are broadly defined, maximum flexibility would be maintained for the Governor and the secretaries. Defining responsibilities more precisely could set statutory limits on the level of secretarial activity and more clearly define the prerogatives of agency heads and boards.

The General Assembly could also choose to endorse a stronger manager concept for secretaries and provide specific authority for secretaries to hold agency heads accountable for administrative, fiscal, and program performance. Furthermore, the General Assembly could resolve the "Cabinet" issue by applying the term to the collective actions of the Governor's advisors regardless of who is or is not included.

Secretarial Activities

The ability of the secretaries to exert executive direction is not derived entirely from the powers incorporated in statute or executive orders. Individual secretaries have shown considerable initiative in doing their work. In addition, management developments that have paralleled the evolution of the secretarial system have considerably enhanced its potential impact. These developments include computerized budgeting and accounting systems, consolidation of support services, and a form of management by objective.

Such management processes and tools provide the secretaries with potentially powerful sources of information and interaction with the agencies under their jurisdiction. This is reflected in the implementation of the key responsibilities of the current secretaries such as policy direction, agency accountability, budget formulation, and report transmittal -- each of which is discussed briefly in the following sections.

Policy Direction. The secretary's role in establishing policy is both direct and indirect. A primary source of direction, according to one secretary, is the policy papers prepared prior to an administration's taking office. Actions should be consistent with those policies. Policy is also developed throughout the budget and legislative proposal process, through special studies, and as a result of special assignments.

The Secretary of Public Safety initiated policy development through analyses of court and correctional system statistics. A finding that longer periods of incarceration were largely responsible for higher costs in correctional institutions led to a task force, which is now proposing to shorten the waiting time before parole for non-violent offenders.

* * *

The Secretary of Education was given a lead role in formulating the Office of Civil Rights (OCR) plan for higher education. This plan establishes policies and practices to address the balance of minority representation in college populations on campuses throughout the State.

Establishing Accountability Through Executive Agreements. An executive agreement process implemented for the first time to cover the FY 1982-84 biennium serves to establish policy direction for agencies and fix accountability for results in programs and overall agency operations. The documents are formal agreements between agency heads, their respective secretaries, and the Governor. Incorporated in the agreements are the Governor's top priorities of reducing employment levels without adversely affecting essential services. Other goals include achieving efficiencies and economies through consolidation, reduction, and elimination of low priority activities.

The agreements, negotiated between secretaries and agency heads, incorporated objectives to be accomplished within the biennium. Some objectives were specific in terms of savings or levels of activity anticipated. Others called for organization or program-related studies.

According to the Secretary of Administration and Finance, the executive agreements will be used to evaluate the performance of agency heads. Agencies report progress to the secretaries through regular or quarterly reports and meetings of various kinds. For example, the Secretary of Human Resources has established a committee of individuals from outside State government to evaluate the quarterly reports.

For purposes of evaluating agencies and programs, secretaries also have access to the resources of the Departments of Planning and Budget and Management Analysis and Systems Development. Several such studies are proposed in the executive agreements. Secretaries have requested studies of agencies that they believe are having problems. In one recent instance a critical study was cited in the dismissal of an agency head.

Budget Development. Secretaries are heavily involved in the various phases of the budgeting process. Secretaries, assisted by analysts from the Department of Planning and Budget, review and make recommendations on initial agency proposals. They then meet with the Governor's Budget Steering Group in developing the Governor's Guidance Package. The process establishes priorities and budget targets for each secretarial area and agency. Secretaries have some flexibility in adjusting targeted funds and in allocating priority funds. Once agency fiscal proposals are compiled into a functional area budget, the secretary defends it to the Governor's Budget Steering Group and later represents the Governor's point of view to the General Assembly.

Report Transmittal. Secretaries are responsible for transmitting agency reports to the Governor. They also review and comment on reports requested by the General Assembly. For example:

Staff in the office of the Secretary of Administration and Finance monitor the completion of reports requested of Administration and Finance agencies by the General Assembly. An "encyclopedia" of key dates for each report is compiled at the conclusion of the legislative session, and agency progress until completion is monitored.

* * *

The Secretary of Human Resources has established a committee of agency personnel with evaluative experience to monitor the progress of reports assigned to any human resource agency. In some instances, he has directed review of the report of one department by other concerned departments.

MODELS FOR SECRETARIAL ROLES AND RESPONSIBILITIES

The secretarial system appears to be consistent with tradition in Virginia and the proposals of two major study commissions. Whether or not the basic structure should be retained can also be considered in contrast with other organizational models that are available. The section which follows describes several models of executive leadership in State government.

A Caveat on Organizational Models

The purpose of reorganization is to create a manageable structure with roles and responsibilities that are commensurate with the purposes to be achieved. While increased efficiency is an important goal, the multiple purposes of government and the importance of

checks and balances in a democratic system should not be overlooked. Some confusion in roles and responsibilities may be impossible to eliminate and may even serve useful purposes.

As noted in a 1981 publication of the National Governor's Association:

...The responsibilities assigned to government are not the single product of one well organized mind. They are the cumulative debris of legislative battles, court compromises, interest group demands, bureaucratic tradition, and federal mandate that has arrived from different perspectives for different reasons, and at different points in time.

An effective management model must be capable of balancing many factors, and its structure must take into account the needs of the various actors in State government, including the General Assembly, Governor, executive branch agencies, and collegial bodies.

Leadership Models

The various organizational models were classified in 1965 by the Council of State Governments. The three general organizational models are termed Traditional, Secretary-Coordinator and Cabinet (Figure 3).

Under the Traditional model, independent agencies report to the Governor. There is no grouping of agencies by function, nor is there an intermediate management level. The Cabinet model consolidates agencies as subunits of major departments. Each department is headed by a secretary who manages the department and serves as an advisor to the Governor. The Secretary-Coordinator model functionally aligns independent agencies under a few secretaries. The secretaries serve as program and policy advisors and assist the Governor in implementing decisions. They do not, however, have responsibility for agency administration. Although not incorporating all the agency consolidation features of the Secretary-Coordinator, Virginia falls within this general category.

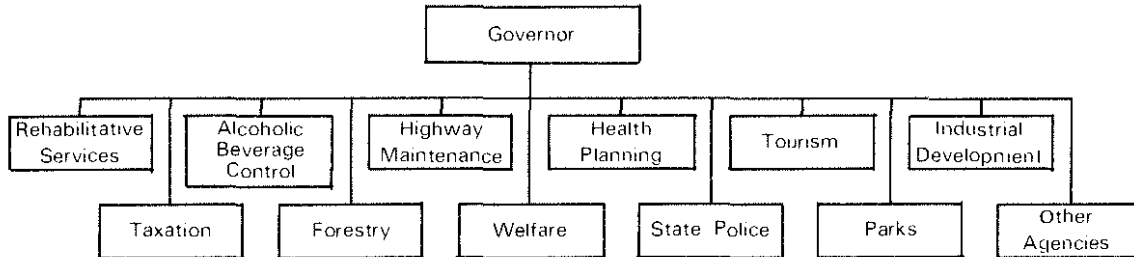
According to the Council of State Governments, less modernized states are generally organized along traditional lines. (Degree of modernization is based on factors such as literacy rates, income per capita, and proportion of urban population). More modernized states tend to use versions of the other models and to move in the direction of instituting further organizational and administrative efficiencies. Concurrently, states which have embraced an umbrella structure may be expected to move toward more narrowly focused departments. Moreover, structural reorganizations can be expected to be promptly succeeded by studies focused on management practices and capabilities.

Figure 3

Organizational Models For State Government

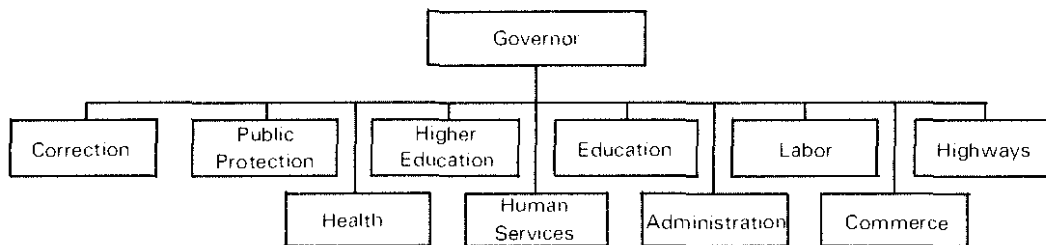
TRADITIONAL

Several independent agencies reporting to the Governor



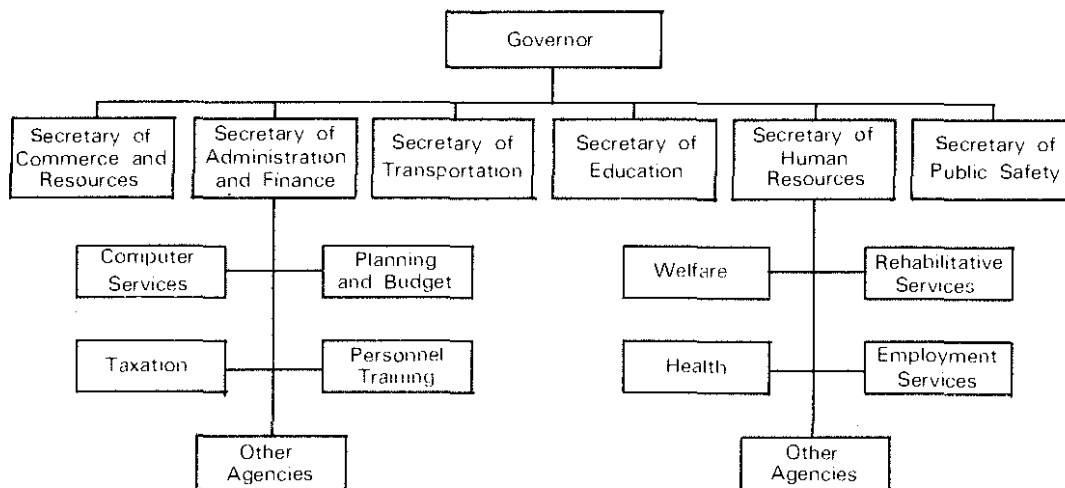
CABINET

Agencies consolidated as sub-units of 9-16 major departments



SECRETARY-COORDINATOR

Independent agencies functionally aligned under 1-8 Secretaries



Source: Council of State Governments.

The emphasis on procedural efficiency has already been initiated in Virginia. Moreover, various proposals for reorganization continue to stress merging agencies with related missions to create larger agencies, and to focus agencies on a particular function of government such as environmental protection or human resource management.

Organization In Other States

As can be seen from the wide variation in organizational structures in other states, the three leadership models are generally not adopted in a pure form. States may be in the process of evolving toward a particular model or may have consciously selected various components to meet particular circumstances.

According to data compiled by the Council of State Governments, many states have reorganized in recent years. To gain a better understanding of the actual organizational structures, JLARC contacted nine states with different characteristics -- Kentucky, Wisconsin, West Virginia, Georgia, Florida, North Carolina, Maryland, Oklahoma, and California. The information is useful to show the diversity involved.

Most of these states have some means of functionally coordinating agencies, but have dissimilar agency configurations and arrangements for providing high-level assistance to the Governor. Georgia, for example, has 27 independent agencies that report directly to the Governor through an Executive Secretary who is empowered to resolve conflicts. In West Virginia and Wisconsin, agency heads constitute an informal cabinet at meetings called by the Governor.

Maryland has a strong cabinet system. Between 1969 and 1970, approximately 200 units of Maryland's executive branch were merged into 11 principal departments. Each department is headed by a secretary appointed by the Governor and approved by the state Senate. (Not included within secretarial departments are the areas of education, higher education, and the agencies headed by the Attorney General, Comptroller, and Treasurer). The secretaries are responsible for internal department management and serve with the Secretary of State and the Lieutenant Governor on the Governor's Executive Council. Also sitting on the Council are the Commissioner for Higher Education and the State Superintendent of Schools. The duties of the Council are established in statute.

In Florida, six popularly elected agency heads are independent of the Governor's authority. They form a constitutionally established cabinet. The Governor and the cabinet are responsible for supervising five agencies. Eleven other agencies report directly to the Governor, and three function independently. Agencies are not functionally grouped.

The system in Kentucky is similar to Virginia's. Eight secretaries, who do not head agencies, are statutorily assigned to serve as "major assistants to the Governor" and to "consider policies and procedures" initiated by the Governor. Agencies with related functions are grouped under the respective jurisdictions of the Secretaries of Justice, Environment and Natural Resources, Public Protection and Regulation, Corrections, Commerce, Finance and Administration, Transportation, and Human Resources.

Options To Consider

A fairly broad continuum of responsibility can be established at State option, within any structural model. For example, responsibilities assigned to executives within the Secretary-Coordinator model may be placed anywhere along a continuum from advisory to management-oriented responsibilities. If a specific model were adopted for Virginia it would take one of the following forms.

● If Virginia Adopted a Traditional Model

This option would be a departure from the current secretarial system. Instead of secretaries with some degree of line authority over functional areas, the Governor would be served by executive staff serving primarily as policy advisors. The staff would represent the Governor and have responsibilities such as developing new program and policy initiatives and dealing with selected issues.

Each agency would report directly to the Governor. However, staff assistants could be assigned to work within functional areas. To reduce the Governor's span of control to a manageable size, some consolidation of agencies would probably be considered.

Implementing this model would require repeal of the sections of the Code that establish the secretarial positions and assign powers and duties.

● If Virginia Adopted A Traditional Model With A Strong Administrator

This model is similar to the organization that predated the secretarial system. Line agencies would report directly to the Governor. The Governor would be assisted by a single high-level executive assistant with coordinative and management responsibilities. The assistant would supervise the central staff agencies such as planning and budget, personnel, general services, and accounts.

Functional areas would not be directly supervised by a high-level executive. The central agencies would continue to serve a staff function to the Governor and provide support to the line agencies. Budgets would be developed by individual agencies and centrally compiled.

Implementing this model would require repeal of the sections in the Code that establish and assign powers and duties to the Secretaries. It would also require establishing the position of Executive Assistant in the Code.

- If Virginia Adopted A Cabinet Model

In this case, secretaries would become operating directors of consolidated agencies and serve in a collegial role as advisors to the Governor. This model would likely reduce the number of agencies in State government. It would just as likely increase the number of secretaries.

Implementing this option would require major reorganization of State agencies and redefinition in statute of the powers and duties assigned to each agency. Statutes to create and define the secretarial structure would also be needed.

- If Virginia Retained the Secretary-Coordinator Model and Emphasized the Coordinator Role

A clear mission statement for this model would define coordination and set limits on the extent of management authority delegated to a secretary. Secretaries in Virginia would probably no longer be responsible for holding agency heads accountable or for resolving conflicts. They would continue to play a mediator or problem-solving role.

Implementing this model would require revisions in both statutes and executive orders. Agencies would continue to be grouped in functional areas. They would report to the Governor through their respective secretaries.

- If Virginia Retained the Secretary-Coordinator Model but Emphasized the Manager Role

A clear mission statement would define the management responsibilities of the Governor and the secretaries. Secretaries would not be responsible for operating agencies. They could be clearly established as line managers of functional areas. In this capacity they would be held accountable for program and administrative performance within their areas.

Implementing this model in Virginia might require additional statutory authority for the Governor to hold agency heads accountable and specify related responsibilities in the secretarial statutes.

III. STRUCTURE OF THE SECRETARIAL SYSTEM

The secretarial system is generally consistent with the management orientation of State government, although other models for executive direction may be considered. If the current system is retained, its structure should be periodically assessed. Unique circumstances may require reconsideration by the Legislature of the configuration of functional areas or the organization within or among secretariats. Several areas appear to warrant attention at the present time. These areas include the organization of the administration and finance secretariat, the unique status of the Secretary of Education, the workloads and orientations of the transportation and commerce and resources secretariats, and the relationship of the Governor's chief of staff to the operations of the secretarial system.

Assessment of Secretarial Areas

The scope of the secretariats and the operating appropriations of the assigned agencies vary considerably (Table 2). Agencies are assigned to a particular secretariat by statute, but the Governor is authorized to assign additional agencies by executive order. Generally, the number of agencies and the volume of spending are partial indicators of workload in terms of the need for regular face-to-face contact between agency heads and secretaries.

The current number of secretariats appears to be consistent with the number of positions that can reasonably be expected to report to a chief executive. In fact, management literature indicates that the number could be expanded. Savings in salary and support costs and efficiencies in communication and direction would result from a smaller number of positions -- assuming workload can be effectively distributed.

Although various studies have differed in their conclusions about the number and configuration of secretariats, the rationale for decision-making appears to be similar. Key criteria include: (1) agencies in a functional area should serve reasonably related purposes; (2) agencies must require the supervision of a secretary; (3) the secretary should have a reasonable span of control and workload; and (4) the Governor requires independent coordination and advice regarding the governmental function. A common theme that runs through discussions and debate about the secretarial system adds another criteria. That is, (5) structural arrangements ought to be intended to be enduring, not simply convenient, expedient, or based solely on the abilities of the incumbent.

Table 2

SECRETARIAL AREA COMPARISONS
(June, 1983)

<u>Secretary</u>	<u>Independent Agencies</u>	<u>Employees*</u>	<u>Collegial Bodies</u>	<u>FY 84 Appropriations**</u>
Administration and Finance	16	2,734	14	\$ 223.1
Commerce and Resources	19	3,088	96	\$ 124.0
Education	23	39,992	74	\$2,664.9
Human Resources	14	19,759	37	\$1,576.1
Public Safety	7	12,074	9	\$ 580.2
Transportation	6	12,777	10	\$1,048.9

*Funded Employment Level.

**In millions.

Source: JLARC Inventory and Appropriations Act.

Based on these previous criteria a number of changes can be made to current secretarial configurations. This section outlines several alternatives which have been proposed, but it does not presume to include all the options that are available to the Legislature. A staff agenda of recommended actions is contained in the conclusion to this report.

ADMINISTRATION AND FINANCE SECRETARIAT

The Administration and Finance Secretariat is generally viewed as the most powerful of the six statutorily established secretariats. It encompasses central planning, budget, personnel, and procurement functions that are critical to achieving management efficiency in the Commonwealth. Due, however, to frequent alterations, the structure has been the least enduring among the secretariats. At present, organizational arrangements are not in compliance with statute. The Assistant Secretary for Financial Policy actually functions as a seventh secretary, and the budget office does not have a full time director. It appears, therefore, that both statutory provisions and the current organizational structure require reconsideration.

Rationale for the Current Structure

Primary objectives for organizing this secretariat have differed at various points in time. Apparent objectives were to provide a focal point for staff support to the Governor, consistently align administrative and fiscal agencies, achieve a focus for policy analysis, and increase the Governor's access to the budget office. Current structural problems stem, in part, from the difficulties associated with meeting multiple goals within a single secretariat.

Significant developments in meeting the need of Governors for high-level staff assistance were the creation of secretary positions and the merger of planning and budget activities into a single department. Prior to the secretarial system, a single Commissioner of Administration coordinated the seven agencies responsible for budgeting, personnel, planning, engineering, and data processing. In 1970, the Governor's management study concluded that the burden of the Commissioner had become almost intolerable because of the need to interface with the multitude of executive department and agencies.

When program area secretaries were created, the responsibilities of the Commissioner were assumed by a Secretary of Administration. The secretary was responsible for the same seven agencies, including budget. A separate Secretary of Finance was responsible for other fiscal agencies, including the Departments of Taxation, Treasury, Accounts, and the Virginia Supplemental Retirement System. This arrangement was later viewed as inadequate because agencies responsible for maintaining the fiscal condition of the Commonwealth were split between two secretariats.

Between 1974 and 1976, recommendations of the Commission on State Governmental Management resulted in a merger of the Administration and Finance Secretariats. The newly created Secretary of Administration and Finance became the principal coordinating executive for the Governor. This position was reinforced by changes in statutes to designate the Secretary, rather than the respective agency heads, as Deputy Personnel and Deputy Budget Officer under the Governor.

To provide the Secretary with staff support in the area of fiscal policy analysis, a position of Assistant Secretary for Financial Policy was created. The Assistant Secretary was not to serve as a line manager but to provide advice on such matters as revenue and economic forecasting, and bonding policies and procedures. The Commission made its recommendations based on the following premises:

- (1) the Departments of Accounts, Taxation, and Treasury were important financial activities that warranted direct access to the Secretary,
- (2) operational problems of the agencies were adequately handled by the agency heads, and

- (3) there should be an organizational distinction between the operation of the finance agencies by the agency heads and the formulation of financial policy by the Secretary.

A further structural modification was the merger of the separate agencies responsible for planning and budget into one department. Nationwide, planning and budgeting functions are viewed by governors as critical to achieving the goals of their administrations. Various organizational arrangements are adopted to give governors direct access to one or both functions or to assign these functions elsewhere in the chain of command.

In Virginia, the Department of Planning and Budget is placed by statute to report within the Administration and Finance Secretariat. It was merged to support a program budgeting process with planning, budgeting, and evaluative components. In addition to implementing program budgeting, it provides staff support to program secretaries and line agencies.

Current Practices

In practice, the current organization of the Secretariat differs considerably from the structure defined in statute. The finance and administration components function relatively autonomously. The Assistant Secretary, who also serves as the operating head of the Department of Planning and Budget, reports directly to the Governor. The salary for this position, which was specifically reviewed and authorized by the General Assembly, is equivalent to that of the other secretaries. The day to day responsibility for overseeing several other financial agencies has also been delegated by the Secretary of Administration and Finance to the Assistant Secretary.

Structural changes such as these can serve to enhance the direct relationship between the Governor and the budget function. In some states, the planning and budget functions, whether in one or separate agencies, are located as staff agencies reporting directly to the Governor. The rudiments for a similar relationship have been established by vesting responsibility for policy development and directorship of the Department of Planning and Budget in one individual.

Another departure from statute and from authorized practice is the appointment of the Governor's Senior Executive Assistant as chairperson of a Budget Steering Group. The Group assumes many of the budgetary functions assigned by statute to the Secretary of Administration and Finance and in practice to the Assistant Secretary. It is involved in every decision-making phase of the budget process. (A discussion of this position occurs later.)

There are some advantages to all of these arrangements from a management perspective. However, regardless of how well intended the purpose, present arrangements simply contradict existing statutes and create confusion because they are not enduring. The General Assembly should insist on compliance with existing statutes, revise the statutes to legitimize present arrangements, or give future governors the specific authority to assign roles as they wish in this secretariat.

Management of Department of Planning and Budget

Concerns must also be raised about the viability of one individual holding the role of both Director of the Department of Planning and Budget (DPB) and Assistant Secretary for Financial Policy. The dual role raises questions about the compatibility of policy and operations responsibilities and the need of DPB for a full-time director. The role also has the potential to affect the accessibility of DPB to support the other secretaries and line agencies.

Incompatible Roles. The Commission on State Governmental Management clearly saw the need for separation between operation of the finance agencies and formulation of financial policy. This still appears to be a valid concept. The Assistant Secretary must necessarily be oriented toward issues related to financial policy. The Director of DPB should have as a primary orientation the efficient and effective operation of the Department. Moreover, the recent establishment of another authoritative layer regarding budget policy indicates that current arrangements do not fully meet the expectations of the Governor.

An agency entrusted with the critical functions of the Department of Planning and Budget needs the attention of a full-time director. DPB is a large and complex State agency that requires strong and focused leadership. Intensive support and control by top management are important components in implementing reorganization and overcoming management problems.

DPB has recently undergone a management review by the Department of Management Analysis and Systems Development (MASD) at the request of DPB's Director and the Secretary of Administration and Finance. MASD recommended reorganization to address management problems found in each of the areas identified as concerns by the Director. The purposes of the review were to improve the ability of the staff to be highly responsive to the Governor, secretaries, and Legislature; sustain a high level of flexibility among management units; and improve staff accountability for carrying out diverse responsibilities and implementing program budgeting.

Previous management studies and the MASD report envision DPB as providing the secretaries with support in carrying out their responsibilities for overseeing agencies and compiling program budgets for

their functional areas. It appears that most secretaries do work closely with DPB analysts. However, in some instances, secretaries indicate that it is difficult to obtain timely information in a viable form. In addition, among secretaries and agencies there is a perceived contradiction in the budget control and support roles of DPB.

A perception also exists that a key program resource is under the direct control of a secretary and an agency with a fiscal rather than a program orientation. Centralized in this department are virtually all of the planning, information gathering, and programmatic analysis capacities of the central agencies. In practice, the secretarial program interests may be subordinated.

Options for the Secretarial Area. It is clear that this secretariat is of critical importance to the operations of State government and that there are significant differences between its current practices and statutory requirements. The fact that the established structure has not endured may indicate, on the one hand, that it does not work. On the other hand, the structure may not have had an opportunity to work.

Three options which seem logical have been advanced for this secretarial area. The Legislature could:

- (1) require the secretariat to conform to statute. This would provide for a high level of coordination between the line and staff functions of central agencies. It would focus attention on financial policy development. It would clearly concentrate authority and influence in a single secretary.
- (2) appoint a Budget Secretary who would head the Department of Planning and Budget and report directly to the Governor. This system would give the Governor direct access and control over the budget development process. However, it would single out the budget from all other administrative and financial activities, which would continue to be overseen by the Secretary of Administration and Finance.

This option would provide somewhat more independent sources of advice for the Governor. It would also maintain one supervisor for the operations of all other central agencies and provide coordination for their interrelated activities and policies.

- (3) Establish a separate Secretary of Administration and a Secretary of Finance. This option would create an administrative secretariat to oversee and coordinate existing activities such as personnel, data processing, and purchasing. The Secretary of Administration should

also be responsible for all program support services. Financial agencies, including the Department of Planning and Budget (with newly assigned revenue estimating responsibilities) would come under the Secretary of Finance.

EDUCATION SECRETARIAT

The role assigned to the education secretariat is the least supportable of all the substantive areas. When all secretaries occupied essentially staff positions, the status of the education secretary was compatible with the others. However, important distinctions were made in the powers and duties of this secretariat when secretarial management responsibilities were made more explicit in statute in 1976. The General Assembly appears not to have intended a managerial role for this position, given the unique constitutional and statutory position of educational institutions and boards in the Commonwealth. Nevertheless, in practice and through executive order, the role of the Secretary of Education has been brought closer to that of other secretaries.

Statutory Distinctions

The statutory powers and duties of the Secretary of Education indicate an advisory role without direct authority over educational entities. Unlike other secretaries, the Secretary of Education does not have authority to develop a comprehensive program budget. Instead, there is authorization to develop alternative proposals. The Secretary is also not responsible for transmitting agency reports to the Governor. In fact, many educational entities have their direct access to the Governor and General Assembly assured in statute.

A critical distinction is the omission of statutory language, provided for all other secretaries, that requires agencies to operate in accordance with the policies of the Governor and the Secretary. The Secretary of Education must negotiate rather than exert line authority over entities that have responsibilities assigned by the Constitution and/or defined explicitly by the General Assembly. Boards of visitors of higher education institutions, for example, are not listed in the *Code of Virginia* as under the jurisdiction of the Secretary.

Unique Status of Educational Entities

The statutory distinctions are further supported by the unique status of boards within the secretariat. All 23 boards are supervisory, which makes each the governing entity of its respective institution or agency. The Board of Education and its powers are constitutionally established, as is the position of the Superintendent

of Public Instruction. (The Governor, however, appoints the Superintendent). The Board is ultimately accountable to the General Assembly.

The responsibilities of the Board of Education and the Superintendent of Public Instruction are specified in Article VIII of the Constitution. Section 5 of that Article states that "subject to the ultimate authority of the General Assembly, the Board has primary responsibility and authority for effectuating the educational policy set out in the Constitution, and it has such other powers and duties as may be prescribed by law."

The authority of governing bodies of other educational institutions is also referenced in Article VIII. Section 9 states that the General Assembly may provide for establishment of other institutions and provide by law for their governance and the status and powers of their boards of visitors or other governing bodies. Statutes for the boards of higher education state that they are subject to the control of the General Assembly.

Discrete Budget Responsibilities

The discrete and somewhat fragmented assignment of budget and policy responsibilities also makes education an anomalous secretariat. The Governor is authorized to prepare a program budget. The Secretary of Education is authorized to prepare alternative budgets. The institutions and the Department of Planning and Budget prepare program budgets, and the State Council of Higher Education sets guidelines and formulas, and reviews and comments on budgets to the Governor and General Assembly.

The coordinative, programmatic, and budgeting responsibilities assigned to the Secretary are in many instances duplicative of those assigned to the State Council of Higher Education. It is not clear, therefore, exactly where executive responsibility for policy and budgetary decisions resides as far as the General Assembly is concerned. Budget development for the institutions of higher education shows conflicting areas of responsibility and obviously limits the management role of the Secretary of Education.

The institutions also have direct access to the Governor and Legislature. It is clearly stated in the Code that "nothing herein shall prevent any institution from appearing through its representatives or otherwise before the Governor and his advisory committee on the budget, the General Assembly or any committee thereof at any time."

Management Orientation of Executive Orders

The distinctions in statute and the unique aspects of education governance in the Commonwealth appear to indicate that the Secretary of Education is expected to serve in a policy development and

advisory role. However, by executive order the management orientation of the secretarial position has been increased and made similar to that of other secretaries.

Boards of visitors have been brought under the jurisdiction of the Secretary. Language authorizing policy direction is the same as for all secretaries. And, the Secretary of Education is provided with the authority to hold agency heads accountable for program, fiscal, and administrative performance, and also to transmit reports.

It appears questionable for executive orders to be used to make positions equivalent that are differentiated by the General Assembly. Moreover, because the General Assembly may vest particular responsibilities and authority directly in agencies or boards rather than the chief executive, the Governor's management authority over education may be viewed as ambiguous.

Considerations for the Education Secretariat

The Commission on State Governmental Management did not recommend that the Secretary of Education exercise the same responsibility as the other secretaries. The reason was the traditional reluctance in Virginia to centralize power with respect to educational matters for fear of "indoctrination" and other abuses. The traditional view also prevailed in the 1970's when the Commission on Higher Education rejected the concept of a super board or single administrative entity for higher education. Instead, the State Council of Higher Education was given extensive coordinative and oversight functions.

Because of these circumstances and the strong tradition of autonomy for education in Virginia, the Secretary's powers in statute are constrained. The Secretary's workload is also seen as unnecessarily high because of the many governmental units in the education area and the need to negotiate (since he or she can not require cooperation).

The primary need in the education area for gubernatorial assistance appears in matters of policy. The Secretary has been highly involved in equal opportunity planning, in facilitating coordination among educational providers, and in trying to obtain the cooperation of the private sector in support of high technology education. Meeting the challenges posed by recent national studies on the quality of education will also require high-level policy thought and attention.

Two considerations have been raised for this area:

- (1) The secretariat could be maintained as a focal point for guidance by the Governor. However, the executive orders regarding the secretarial role should be amended to reflect more limited authority assigned by statute.

- 2) Eliminate the secretariat and create the position of Special Assistant to the Governor for Education as a "policy advisor" position in the Office of the Governor. In this case, the head of the State Council of Higher Education and the Superintendent of Public Instruction would carry out their current coordinative and budgetary responsibilities with regard to their respective educational areas. Broad policy development and coordination among levels of education and with other public and private entities would be carried out by the Special Assistant.

TRANSPORTATION SECRETARIAT

Two circumstances warrant a close look at the transportation area: several agencies have purposes that are closely related to the public safety and commerce secretarial areas, and the major agency of the secretariat through its governing board, the Highway and Transportation Commission, has statutory authority to perform many of the Secretary's intended functions.

The six agencies under this secretariat include:

- Department of Aviation
- Department of Highways and Transportation
- Division of Motor Vehicles
- State Office of Emergency and Energy Services
- Virginia Port Authority
- Department of Military Affairs

Two agencies have functions that are more closely related to public safety than to transportation. The Department of Military Affairs is responsible for maintaining and equipping a military force to protect the citizenry and property in case of natural disaster or civil disturbance. The Office of Emergency and Energy Services is responsible for preparing and coordinating the responses of local, State, and federal agencies during an emergency such as a flood or nuclear disaster. It must work closely with the Department of Military Affairs and the State Police in many instances. (The energy conservation role of the agency is unrelated to public safety or transportation. It involves technical assistance to consumers and local governments.) Both of these agencies were originally assigned to the combined transportation and public safety secretariat. When the General Assembly split the areas, they were aligned under the Transportation Secretary.

The Virginia Port Authority was at one time located in the commerce and resources secretariat. It was moved to transportation based on a recommendation of the Commission on State Governmental

Management. The Commission believed that all elements of transportation should be integrated and that transportation should be viewed as a separate function rather than as a means to an economic end. This assumption is open to debate. But, even conceding the transportation linkage for the Port Authority, there is an equally strong link between economic development and the regulation, planning, and maintenance of transportation systems as a whole. Moreover, an important function of the Port Authority is market development and improving the State's competitive position with ports in other states.

The three remaining agencies have transportation functions, but three agencies may not collectively require supervision of a separate secretary. The Department of Aviation is a small agency that can be regarded as having a link with economic development. The Division of Motor Vehicles carries out a mixture of transportation-related and regulatory functions.

If any or all of the other agencies were to be realigned, the need for a separate Secretary of Transportation would be called into question. The Department of Highways and Transportation is managed by a Commission which has extensive powers in planning, policy development, and oversight that duplicate those of the Secretary. The Commission on State Governmental Management originally envisioned creation of a less comprehensive and powerful highway department (separate departments would have been created to handle urban highway matters and public transit) when the secretariat was created. At that time, however, the proposed realignment of agencies and responsibilities was not adopted even though a Secretary of Transportation was established.

At least three alternative arrangements are apparent in addition to the status quo:

- (1) The secretariat could be eliminated and the agencies, with the exception of the Port Authority, relocated in the public safety secretariat. This arrangement would provide for general oversight of the agencies at the secretarial level, but the total number of agencies involved would not be excessive. The Port Authority could be reassigned to the commerce area. The merged Secretariat, however, would contain agencies with dissimilar missions.
- (2) The secretariat could be eliminated and a new secretariat of commerce and transportation created. (This option assumes that commerce and resources would also be split into two secretariats as discussed under that secretariat, and that the Department of Military Affairs and the State Office of Emergency Services would still be moved to the public safety secretariat). Energy would move to the Secretariat composed of conservation agencies and activities.

This arrangement would take advantage of the strong link between commerce and transportation. However, a combination that would add transportation to the existing commerce and resources secretariat is not advisable. It would be an unmanageable workload and involve too many competing and differing interests.

- 3) The secretariat could be eliminated and a position of policy advisor for transportation could be established in the Governor's Office. This would maintain a focus for developing policy initiatives and coordinating with other secretariats. As in other options, the agencies would be reassigned to other secretariats.

COMMERCE AND RESOURCES SECRETARIAT

Consideration should be given to restructuring and dividing this secretariat. Concerns relate to the span of control of the Secretary, the diverse missions of the agencies, and the need to balance the sometimes competing goals of resource conservation and economic development. The enabling legislation for the secretariat also does not conform with other secretarial provisions in the *Code of Virginia*.

The original enabling legislation for the secretaries placed all of them in the Governor's Office. When the statutes were revised in 1976 to create separate chapters for each secretary, the old wording was retained for the Secretary of Commerce. Since no placement was specified for the others, they can be considered as having an organizational status different from that of the Secretary of Commerce and Resources. A unique distinction does not appear to be intended, however, because the responsibilities of the Secretary of Commerce parallel those of the others. An oversight during revision of the statutes may account for this disparity. Therefore, the General Assembly should amend the applicable *Code* provisions to specify the structural status of the secretarial offices.

The management of the secretariat is greatly affected by its size and diversity. The functional area is composed of 19 independent agencies and 104 other entities. Many of these entities are collegial bodies with oversight, policy, or advisory roles. Agencies within the secretariat are committed to conserving the State's natural resources, maximizing economic development, protecting workers and consumers, and managing and promoting scenic and historical attractions. A range of regulatory, management, and promotional activities are carried out to achieve these goals.

The goals are very important to the Commonwealth, but they are sometimes inherently incompatible and hotly debated by interest groups of various types. A proposed factory may, for example, repre-

sent new industry and jobs. Its effluents, however, may have adverse impacts on air or water quality and the livelihood of competing industries, such as seafood. For these reasons, various studies over the last decade have supported both consolidating agencies and splitting commerce and resource concerns. This arrangement would link related functions, maximize efficiency, and focus the energies of the Secretary.

Consolidation of agencies and activities can serve to make the secretarial area more manageable in terms of numbers of agencies and activities. However, the Secretary must still balance competing needs. Balancing commercial and natural resource needs at the secretarial level has the potential for ensuring full consideration of proposed projects. Conflicts may be resolved without the direct involvement of the Governor, unless there are exceptional circumstances.

Conversely, secretaries may be viewed as high-level managers and advocates for discrete functional areas. Under this concept, missions of agencies should be closely related. A new secretariat would be created in order to encompass agencies with a natural resource orientation in one secretariat and economic development and labor interests in another. Conflicts would need to be resolved above the secretarial level.

Several alternative configurations are available for consideration:

- (1) Maintain the dual orientation of the secretariat, but reorganize agencies to reduce their number and achieve stronger linkage of related functions through consolidation and other means. This option would reduce the Secretary's span of control and provide for increased supervision and coordination at the agency level. It would still require balancing competing environmental and economic issues.
- (2) Create separate secretariats for natural and cultural resources and for commerce. Under this option, each Secretary would deal with fewer agencies, but there would be a more common orientation.
- (3) Create a combined secretariat for commerce and transportation and a separate secretariat for natural and cultural resources. This alternative would create two more manageable secretariats, link all commercial activities for coordinated policy, and relate the natural resources, environmental, and recreational attractions.

PUBLIC SAFETY SECRETARIAT

The public safety secretariat appears to be structurally sound. The number of independent agencies (seven) and other entities (36) is neither too small nor too large, and all the agencies in this secretariat have a common purpose -- to maintain the safety of the citizens of the Commonwealth.

Agencies in this area are of various sizes. The small Commonwealth's Attorneys' Services and Training Council coordinates training and educational services to Commonwealth's Attorneys. The large Department of Corrections operates and supervises correctional institutions for offenders. Other public safety agencies train personnel from local fire departments, patrol the State's highways, investigate criminal activity, and regulate the manufacture, sale, and possession of alcoholic beverages.

The only modifications which should be considered for this secretarial area are to add two agencies from the transportation secretariat which are closely related to the public safety area. The Department of Military Affairs trains and manages the military units which protect citizens in case of natural disaster or civil disturbance. The emergency services activities of the Office of Emergency and Energy Services should also be transferred. This agency assists localities and State agencies in designing emergency plans and coordinates the responses of local, State, and federal agencies during emergencies. Coordination of budgeting and planning for and responding to emergencies could be enhanced if all agencies oriented toward public safety were aligned under the Public Safety Secretary.

HUMAN RESOURCES SECRETARIAT

The human resources secretariat should be maintained, but structural changes appear warranted at the agency level. The 14 independent agencies and 56 other bodies are oriented to the provision of services and financial assistance and to the treating of physical, rehabilitative, and social disabilities.

This area has the second highest number of employees of all the functional areas. Since it was created in 1972, eight independent agencies have been added to the area. It contains four very large agencies which provide services to clients directly (the Departments of Health, Mental Health and Mental Retardation, Rehabilitative Services, and Social Services), but also contains six agencies which have less than 20 employees each. These small agencies have a much narrower focus: they do research and advocate for the interests of special groups such as children and the deaf, review health costs, and promote volunteer activities.

The structure of this secretarial area could be made more efficient if one or more of these small agencies were merged with other related human resource agencies or provided with centralized administrative support. These possible changes are not discussed in this report, but rather in a companion document to this report entitled An Assessment of Structural Targets in The Executive Branch of Virginia.

CHIEF OF STAFF

A Governor clearly needs to achieve a management operation that suits his or her personal style and unique circumstances. However, it is not appropriate for the structure or assignment of responsibilities established in statute to be abrogated by either practice or executive order. Moreover, some arrangements raise questions of efficiency and appropriate delegation of authority. Addressing these concerns will require balancing the need for flexibility of various administrations and the definition of structure and responsibility which is the prerogative of the Legislature.

It is apparent that the powers and duties assigned to the Governor's direct staff, particularly with regard to the budget function, can have many ramifications. Numerous concerns appear in organizational literature and have been raised by former and current State officials. The role of the Governor's staff has been described as having the potential both to increase and to undercut the viability of the established structure, and to either enhance the Governor's control or create a separate power center. Not surprisingly, much attention in Virginia focuses on the role of the Governor's Chief of Staff and his delegation of authority and actual responsibility.

Chief of Staff Models

In the previous administration, the Secretary of Administration and Finance served as the Governor's Chief of Staff. The present administration employs another model. By executive order, the Governor's Senior Executive Assistant has been designated Chief of Staff and has been assigned specific budgetary, personnel, and planning responsibilities. The critical difference in the two models, however, is that the Senior Executive Assistant is not confirmed by the General Assembly; nor are such responsibilities vested in the position by law. In fact, the statutory authority for budget and personnel rests with the Secretary of Administration and Finance, and planning authority has been given all the secretaries.

Table 3, while it does not show specific powers, contrasts the Secretary of Administration and Finance and Senior Executive Assistant positions in terms of other related considerations. The figure shows that under the current arrangement, the Senior Executive Assistant appears to be in a position to more closely interact with the Governor.

Table 3

COMPARISON OF SECRETARY OF ADMINISTRATION AND FINANCE AND SENIOR EXECUTIVE ASSISTANT POSITIONS

<u>Model Chief of Staff Arrangement*</u>	<u>Senior Executive Assistant's Situation</u>	<u>Secretary of Administration and Finance's Situation</u>
Located in Governor's Office.	Located in Governor's Office	Located away with Cabinet.
Governor's closest intimate.	Governor's closest intimate.	Ready access as member of Cabinet and on request for specific subjects.
Controls Cabinet/Agency access to Governor.	Controls Cabinet/Agency access to Governor.	Generally no control.
Has knowledge of all Governor/ Cabinet/Agency contacts and therefore can participate as desired.	Has knowledge of all Governor/ Cabinet/Agency contacts and therefore can participate as desired.	Fragmentary knowledge. Ordinarily welcome in meetings if there is reason for attendance.
Receives orders from Governor and carries them out.	Receives orders from Governor and carries them out.	Receives a few orders from Governor but more from Senior Executive Assistant.
Has operating responsibility for Governor's personal staff.	Has operating responsibility for Governor's personal staff.	Operating responsibility for Administration and Finance.

*Based on the White House chief of staff model.

Source: Secretary of Administration and Finance.

Secretary of Administration as Chief of Staff

In the previous administration, the term "little Governor" was frequently used to refer to the Secretary of Administration and Finance. This term reflected the considerable authority inherent in statute and executive order for budgetary, personnel, and other administrative functions, as well as legislative coordination.

The Secretary saw the administration and finance position as implicitly elevated above the other secretaries because nearly every program or policy change could impact the budget. He therefore exercised review authority over the activities of other secretaries and served as the cabinet's liaison with the Governor and General Assembly.

Under this arrangement, the dual role of the Assistant Secretary for Financial Policy did not obscure traditional reporting relationships and lines of authority within the secretariat. The dual role was initially established to reduce potential conflict between the roles of the Director of the Department of Planning and Budget and the Assistant Secretary. It was seen as a way to enhance implementation in the budget of the Governor's priorities and policies. The Assistant Secretary continued to advise the Secretary of Administration and Finance on broad financial policies and to report to the Governor through the Secretary.

The Governor's direct relationship to the budget function was enhanced, however, because the Secretary served him as the statutorily designated Deputy Budget Officer. The Secretary also exercised broad informal authority to oversee the secretarial system and represent the Governor.

Executive Assistant as Chief of Staff

Designating a trusted assistant as Chief of Staff also enhances the Governor's relationships with critical central functions of government and establishes a focal point for the functional area secretaries. Nevertheless, assigning such powers to an individual who is not confirmed by the General Assembly has the potential to abrogate the Legislature's approval prerogative and the statutorily assigned responsibilities of the Secretary of Administration and Finance. It also does not conform with specific statutory provisions regarding delegation. The Chief of Staff's authority and possible duplication of effort are evidenced in the orders that have established the position and in the operations of the Budget Steering Group that he heads.

Authority of Senior Executive Assistant. Executive Order Number 36, issued in 1983, declares and confirms the following responsibilities for the Governor's Senior Executive Assistant:

- include but not limited to, the direction and supervision of the Governor's Office, as well as budgeting, personnel, and planning authority.
- act as Chief of Staff for cabinet secretaries, with whom each secretary will review all major budgeting, personnel, policy, and legislative matters which require the Governor's decision.
- resolve policy differences among or between secretaries.
- act as chief liaison officer with members of the General Assembly.

Budget Steering Group. The Budget Steering Group headed by the Senior Executive Assistant is an *ad hoc* committee formed to oversee the budget process. The group is understood to have the last word at each stage of the budget process. In addition to the Senior Executive Assistant, group members include the Secretary and Deputy Secretary of Administration and Finance, the Assistant Secretary for Financial Policy, the Secretary of Transportation, and the head of the Governor's Economic Advisory Council.

The Group is viewed as giving the Governor more direct control over the budget process and bringing together additional budgeting expertise. The Secretary of Transportation, for example, is a former director of the House Appropriations Committee staff. The Deputy Secretary of Administration and Finance is a former director of the Senate Finance Committee staff.

The Group adds, however, another level to the complex budget process and assumes many of the functions of the administration and finance secretariat. Three officials from two secretariats function as committee members rather than budget advisors representing their own assigned capacities. Perhaps just as important, four secretaries are not members of the group.

According to an August 8, 1983, memorandum on the budget process, the Budget Steering Group guides budget development and recommends budget policy to the Governor. It also makes recommendations to the Governor on appropriate responses to:

- changes in revenue;
- proposed changes in budget targets;
- proposed operating and capital budgets for
- each secretarial area; and
- proposed revenue bond projects

Each secretary makes recommendations to the Group for his or her secretarial area.

Statutory Issue. Many questions emerge with regard to the extent of authority delegated to the Governor's Senior Executive Assistant in Executive Order 36 and in the forming of the Budget Steering Group. It seems to be the clear intent of the General Assembly that budgetary, personnel, and planning authority in Virginia should be delegated to a secretary or an official confirmed by the General Assembly. The delegation to the Chief of Staff appears to contravene Section 2.1-39.1 of the *Code of Virginia*, which specifies to whom the Governor may delegate and the method to be used:

Delegation of powers. The Governor is authorized to designate and empower 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 without approval, ratification, or other action by the Governor any function which is vested in the Governor by law, or which such officer is required or authorized by law to perform only with or subject to the approval, ratification of the Governor; provided, however, that nothing contained herein shall relieve the Governor of his responsibility in office for the acts of any such secretary or officer designated by him to perform such functions. Any designation or authorization under this section shall be in the form of a written executive order, shall be subject to such terms, conditions, and limitations as the Governor may deem advisable, and shall be revocable in whole or in part at any time by the Governor. [emphasis added]

This section permits the Governor to delegate, but only by executive order, and then only those functions vested in him by law. Further, the functions can only be delegated to a secretary or other officer in the executive branch who is required to be confirmed by the General Assembly. The current Chief of Staff is not confirmed and does not always function under the direct supervision of the Governor. He may need to act, for example, when the Governor is out of the State.

The Governor's office has indicated that the intent of Executive Order 36 is not to delegate authority but to clarify relationships. The order was issued upon informal consultation with the Attorney General. The authority is intended to apply only to the Governor's office and new language is being prepared to make this clear. Nevertheless, the perception of hierarchial authority is created. It is further buttressed by the creation of the *ad hoc* budget steering group. In this context, the executive order must be viewed as giving the Chief of Staff potential command of administrative and fiscal processes which are assigned in statute to others.

A Governor obviously needs flexibility in order to obtain the level of staff assistance that is determined to be necessary. Nevertheless, powers and duties must be delegated in accordance with the law. The Governor should reassess the appropriateness of Executive Order 36, which gives the Senior Executive Assistant budget, planning, and personnel authority.

It appears that under current law, key aspects of the Chief of Staff's functions are inherent in the responsibilities of the Secretary of Administration and Finance. If it is desired by the Governor to permit another staff member to assist him in overseeing other executive officials, the Governor should request that the General Assembly establish a new position of Chief of Staff and provide for confirmation of the appointee. Alternatively, the delegation statute may be amended to permit the Governor to delegate to other specifically named positions.

IV. STAFFING THE SECRETARIAL SYSTEM

The staff resources of the secretarial system encompass both direct and indirect staff. The direct staff assigned to the secretaries have the greatest visibility, and their number has fluctuated over time. Secretaries also have access to the resources of central staff agencies and may use supplementary staff from agencies within the secretariat.

Determining the appropriate level and type of staff resources involves more than consideration of numbers of staff and associated costs, although these are important considerations. The system's resources should be commensurate with the role and responsibilities determined to be appropriate for the Governor's high-level assistants. Moreover, the resources may be provided in a variety of ways depending upon the purpose, objectivity, and accessibility desired for staff support.

CURRENT STAFF RESOURCES

Currently, including the Secretaries, 26 FTE positions are directly assigned to the secretarial offices (Table 4). During 1982, supplemental staff support was provided by over 38 additional FTE positions carrying out special studies and activities. Staff costs for both types of positions exceeded \$2 million. An additional 6 positions are routinely available to the secretaries to provide a variety of programmatic and analytical services. Direct staff are similarly allocated among secretariats. In contrast, use of indirect staff is variable.

Allocation of Direct Staff

Each secretary has a Deputy and clerical staff. The administration and finance secretariat also has a unique position of Assistant Secretary for Financial Policy. This is a high-level position with responsibilities similar to that of a secretary. The Secretary of Human Resources has supplemented the standard staff allotment by filling a temporary staff position. The same individual has served in the temporary slot since the beginning of 1982.

Included in the 26 direct positions is a "core clerical group" which was established in May of 1982 to provide pooled clerical assistance to all secretaries. The group, which is supervised by the Secretary of Administration and Finance, consists of:

Table 4

STAFFING OF THE SECRETARIAL SYSTEM
June, 1983

	Secretary	Deputy Secretary	Assistant Secretary for Financial Policy	Clerical	Other	Supplemental Staffing*	Available from Service Agency**	Total
Administration & Finance	1	1	1	2	-	2	-	7
Commerce & Resources	1	1	-	1	-	16	-	19
Education	1	1	-	1	-	5	-	8
Human Resources	1	1	-	1	1	7	-	11
Public Safety	1	1	-	1	-	6	-	9
Transportation	1	1	-	1	-	2	-	5
All Secretaries	-	-	-	5	-	-	6	11
Total	6	6	1	12	1	38	6	70

*Supplemental staff assistance provided to secretaries by agencies and consultants from January - October, 1982.

**Represents the Evaluation Section of the Department of Planning and Budget which is available to secretaries for research.

Source: Appropriations Act, JLARC Supplemental Staffing Review, Deputy Secretary of Administration and Finance.

- Two telephone operators from the Department of Telecommunications. (Administration and Finance reimburses Telecommunications for their salaries.)
- One messenger from the Department of General Services who works exclusively for the secretaries. (His salary is paid by General Services.)
- Two clerical positions. (With the Governor's authorization and General Assembly approval, these two positions were transferred from DPB and appropriated under the Secretary of Administration and Finance.)

At current rates, annual costs of direct staffing for the secretarial system total \$918,242.

Fewer direct staff positions are now allocated to the secretaries than in previous administrations. Over time, the number of

funded positions in the secretarial offices has fluctuated from a low of 15 in 1972 to a high of 72 in 1978 (Table 5). During the first year of the system, the staff included the six secretaries, an assistant to the Secretary of Administration, and eight clerks. Appropriations to fund these positions totalled \$250,000.

Table 5

STAFFING LEVELS FOR THE SECRETARIAL SYSTEM
1972-1982

<u>Year</u>	<u>Number of Funded Positions</u>	<u>Appropriations</u>
1972	15	\$ 250,000
1974	NA	\$ 380,330
1978	72	\$2,602,308
1980	46	\$1,727,870
1982	22	\$1,435,900

Source: Appropriations Acts, Previous studies of the secretarial system.

For the period 1974 to 1978 the number of positions grew to 72 with the addition of positions that had formerly been in the Division of State Planning and Community Affairs. Dividing the planning staff among the secretaries provided resources for addressing issues within functional areas. When the Department of Planning and Budget was created, planning positions were reallocated to that Department. However, the resources of the Department were to be available for secretarial support.

The number of direct staff positions totalled 46 in 1980. Twelve of these staff were in the administration and finance area. The other secretaries had staff levels of seven, with the exception of the transportation area, which had six. The staff were assigned research, policy, and evaluation responsibilities.

Indirect Staff Support

Secretaries are permitted by the Governor to supplement their direct staff by a variety of methods (Table 6). Generally, personnel from line agencies are used to conduct studies and provide information required by the secretary or the General Assembly; and central agency staff are used for budget and management-related purposes. While supplemental staffing is permissible, current reporting mechanisms make it difficult to determine the total costs of staffing the secretarial system or the amount of staff support required by the secretaries.

Table 6

SUPPLEMENTAL STAFF POLICY

Permissible Ways To Supplement Secretarial Staff:

Assigning work to agencies

Engaging Governor's fellows or other interns on free (or nominal) pay basis

Assigning work to support staff in the Governor's Office

Engaging volunteer help

Engaging faculty members through Faculty Executive Exchange program

Contracting for research with Virginia educational institutions

Engaging contract personnel financed from grants.

The Following Are Listed As Prohibited Supplements:

Transferring employees from agencies to the secretary's office

Hiring wage hourly employees, except for short work peaks, planned special tasks, and vacation replacements

Engaging consultants or other contractors for ongoing administrative work.

Source: 1982 Governor's Office Directive.

The General Assembly has required monitoring of temporary personnel transfers to ensure that approved staff levels for executive agencies are not bypassed. Personnel transferred for a two-week period or more must be reported. However, supplemental staff almost always remain in agencies, and their time is not regularly recorded.

Use of Agency Staff and Consultants. Because data on supplemental staffing is not routinely collected by the secretaries or executive agencies, JLARC staff requested all the secretaries to identify

projects and assignments being carried out for them by agencies and indirect staff. JLARC then asked the agencies and, in appropriate cases, consultants to determine hours spent and salary costs of providing supplemental staff support for those specific projects or assignments.

Supplemental staffing was defined as staff work by agency staff and others on projects and assignments requested by a secretary where the end product, if one was produced, went to the secretary.

This method indicated that at least 38 FTE positions were called upon by the secretaries over a 10-month period from January-October 1982 (Table 7). Staff supplementation ranged from slightly more than two persons in two secretarial areas to almost 16 in another. Overall, at least \$1 million was added to the cost of staffing the secretarial system. This can be viewed as a conservative figure since staff are also drawn upon for other purposes, such as supporting task forces. The current Secretary of Commerce and Resources has noted, however, that in many instances assignments are closely related to the mission of an agency, and it is difficult to define a clear line of demarcation.

Table 7

SUPPLEMENTAL STAFF ASSISTANCE PROVIDED TO SECRETARIES
January - October, 1982

<u>Secretary</u>	<u>Estimated Hours</u>	<u>Full-Time Equivalent</u>	<u>Estimated Salary Cost</u>	<u>No. of Agencies</u>
Administration & Finance	4,744	2.3	\$ 60,887	12
Commerce & Resources	33,103	15.9	365,441	12
Education	10,937	5.3	172,852	14
Human Resources	13,717	6.6	262,060	13
Public Safety	11,856	5.7	120,909	3
Transportation	<u>4,810</u>	<u>2.3</u>	<u>70,888</u>	<u>8</u>
Total	79,167	38.1	\$1,053,037	62

Note: Estimates were gathered from the agencies and consultants who provided major types of assistance and are intended to serve as an estimate of assistance provided. The total figures are conservative because data on minor types of assistance were not collected.

Generally supplemental staffing is for executive branch purposes. About 35 FTEs participated in projects initiated by a secretary. The following examples are illustrative:

At the request of the Secretary of Public Safety in 1982, the Department of Corrections carried out a comparative study of prison staffing and construction costs. While approximately 30 employees were involved, only four contributed significant amounts of time toward the study. Approximately 613 hours were expended by the four employees on the project, with a salary cost of \$5,500 .

** * **

A personnel consultant from the VCU Center for Public Affairs was employed by the Secretary of Commerce and Resources in 1982 to handle personnel problems in two agencies. The consultant audited the director position in each agency, and assisted in the recruitment and selection of individuals to fill the positions. Between January and October of 1982 the specialist spent 402 hours on the projects with a salary cost of \$5,284.

In some cases agency staff are also obtained to do assignments or studies required by the General Assembly. Approximately 3 FTEs, at an estimated cost of \$185,816, participated in 11 separate activities assigned to the secretaries by the 1982-84 Appropriations Act, other 1982 Acts of Assembly, and by resolution (Table 8). Most of these assignments involved studies that the secretaries did not feel could be carried out by direct staff. For example:

The Secretary of Transportation is assigned responsibility in statute for compiling a Statewide Transportation Plan. To carry out this responsibility, at least 11 representatives from five transportation agencies were appointed to a committee to compile the plan. Committee members estimate that a total of 1,442 hours were spent compiling the plan, with an associated salary cost of \$27,859.

** * **

During the 1982 session of the General Assembly, the Secretary of Administration and Finance was directed by Senate Joint Resolution 42 to study the costs of administering the State's employee health care programs. This study, along with five

Table 8

SECRETARIAL ACTIVITIES ASSIGNED BY THE GENERAL ASSEMBLY
1982

	<u>Total Number of Requirements</u>	<u>Total Staff Hours</u>	<u>Total Staff Salary</u>
Administration and Finance	4	938+*	\$ 13,117+*
Commerce and Resources	0	0	0
Education	0	0	0
Human Resources	6	4,208	144,840
Public Safety	0	0	0
Transportation	<u>1</u>	<u>1,442</u>	<u>27,859</u>
Total	11	6,588 (3.2FTE)	\$185,816

*Hour and salary figures for two activities not available.

Source: Executive Department Actions and JLARC Review of Supplemental Staffing.

other personnel-related studies assigned to the Secretary or the Governor, were funneled through the Secretary to the Department of Personnel and Training (DPT). DPT estimates that approximately 3,700 staff hours (approximately 1.8 FTE's) with an associated salary cost of about \$45,000 were devoted by agency staff toward the projects over a 10-month period.

While such uses of staff may be appropriate, the costs and staff capacity represented by such use are not accounted for by existing processes. The General Assembly may wish to specify in statute or in the Appropriations Act that each secretary monitor and report all uses of indirect staff for defined projects.

Access to Staff Resources

Secretaries also have access to existing pools of staff resources within their secretariats and in central agencies (Table 9). Some secretaries have within their secretariats staff-type agencies with planning, analysis, and coordinative responsibilities that can be channeled to support secretarial missions. Budget and evaluative assistance can be drawn from the Department of Planning and Budget and the Department of Management Analysis and Systems Development.

Table 9

SECRETARIAL ACCESS TO SOURCES OF STAFF SUPPORT

<u>Source</u>	<u>Total Staff</u>	<u>Secretary Served</u>
Council on the Environment	11	Commerce and Resources
Department of Criminal Justice Services	50	Public Safety
State Council of Higher Education	58	Education
Department of Planning and Budget	100	Administration and Finance plus all others
Department of Management Analysis and Systems Development	<u>157</u>	All secretaries
Total	376	

Potential Support Within Secretariats. Because staff-type agencies generally pre-date the secretarial system, comparable resources are not available within each secretariat; nor are existing resources specifically assigned to serve as secretarial staff. Some form of resource, however, appears to be available within each secretariat.

The Department of Criminal Justice Services and the Council on the Environment both have general planning and coordinative roles. These agencies carry out major portions of their work at the direction of their respective secretaries. For example, the Council on the Environment has a very broad planning and coordinating mission which is closely related to that of the Secretary of Commerce and Resources. In fact, at one time the Commission on State Governmental Management suggested that the Council might be designated as staff to the Secretary.

The human resources secretariat does not contain an agency with broad analytical focus. However, a major coordinative problem for the Secretary is to ensure that the needs of particular client groups are not overlooked. The small single-purpose agencies, such as the Division for Children, that cut across agency lines have the potential for assisting the Secretary in exercising this responsibility. Moreover, large human service agencies with multiple client groups or services frequently have analytical or planning capacity that can be tapped by the Secretary.

Although not listed as having an analytic agency within the secretariat, the transportation area does have such support available. The Highway and Transportation Research Council is available for special project assignments.

As presently constituted, these analytical agencies are independent of the secretaries. For secretaries to direct major portions of their workload can be construed as having the potential for usurping their independent judgements or choice of emphasis. Nevertheless, their responsibilities parallel those of the secretaries and they report to and advise the Governor through their respective secretary.

Central Agency Resources. Over time, secretaries have not been regarded as needing extensive direct staff resources. They are viewed as executive officers with access to the central staff resources of the State. Data are not available on the availability or use of central agency staff in previous administrations. The current secretaries make extensive use of such staff, as does the Governor.

Two staff agencies are heavily involved in working with the secretaries: the Department of Planning and Budget and the Department of Management Analysis and Systems Development (MASD). MASD, for example, was requested by secretaries to conduct seven studies of agency operations in 1982.

The Department of Planning and Budget works with the secretaries in the course of its regular budget development process. Contacts of this type are not documented. Both secretaries and DPB staff indicate that budget analysts were also involved in the negotiation of executive agreements because of their extensive knowledge of agency programs and activities.

A major objective of the Director of DPB is to improve the agency's capacity to support the secretaries. A newly created Evaluation Division within the Department was primarily designed to provide policy, research, and evaluation support to the Governor and the secretaries. The division supplements the extensive support provided by regular budget analysts. The new division is, in effect, a staff pool assigned the same functions as direct staff in the previous administration. According to the Division's director, all activities are intended to support the secretaries.

There is considerable potential for secretarial functions to be efficiently and effectively supported by pooled resources. However, careful consideration should be given to placement of the resources in order to ensure the access of secretaries to comprehensive and timely information. Currently, DPB resources are directly managed by a secretary equal in position to the functional area secretaries. This condition may limit the access of other secretaries. Location within DPB may also contribute to a fiscal or budget orientation for the staff work of these resources. Secretaries responsible for functional areas also have other programmatic staffing needs.

STAFFING ALTERNATIVES

Several factors need to be taken into account in determining the nature and level of future staff support for the secretaries. Primary factors include the role and responsibilities of the system and of individual secretaries, the functions assigned to direct staffs, and the accessibility of various types of external resources.

Considerations Related to Secretarial Role

Within the present structure of the system, the roles of all secretaries or of individual secretaries may be modified to emphasize policy advice to the Governor or stronger management of functional areas. Policy advisors may function relatively independently or as part of a collegial body or task force. They can generate ideas, assess options, and stimulate agency coordination. For this role, direct staff needs may be limited.

In contrast, a stronger managerial role may require a higher level of direct staff support. Contacts with multiple agencies within a secretariat would need to be frequent. Often a product such as an executive agreement or a budget must be produced. While agencies should be expected to provide the baseline detail, secretarial staff will need to assimilate, validate, and propose alternatives to agency concepts. Since some secretaries may have a more comprehensive management role than others, direct staffing could also be differentiated among secretaries.

Considerations Related to Staff Functions

The functions assigned to staff will also affect their number and placement. There are multiple and highly different functions and combinations of functions that could be assigned to secretarial staff. These include administering the office, substituting for the secretary in management tasks, representing the secretary or Governor, dealing with client or political groups, and conducting independent research or evaluation.

If staff are to function primarily as administrative or clerical assistants, then the number of direct staff could be limited and some clerical support provided by a pool. If staff are to substitute for the secretary or represent the Governor, their qualifications must, to some extent, replicate or complement those of the secretary. The number of staff should be commensurate with the workload of the secretariat.

Other factors should be considered if staff are to conduct independent research. Not only must their qualifications be relevant,

they must also have sufficient resources and direction. The quality and economy of such staff support might be enhanced by placement outside of an individual secretariat in a central staff agency.

Considerations Related to Accessibility and Objectivity

The location of staff resources should be closely related to two factors: accessibility and objectivity. Direct staff are, of course, most accessible to meet the immediate needs of a secretary. They are often selected by a secretary based on his or her assessment of necessary qualifications, compatibility of style or personality, and an estimate of trust. They may assist a secretary in absorbing and relaying information and in carrying out activities related to agencies within the secretariat.

Staff in line or central agencies are less accessible to a secretary. They have other roles and responsibilities. Moreover, they may tend to approach issues from an agency rather than a high-level management point of view. They may also tend to reflect the fiscal or programmatic orientation of their agency or its director. Information that goes to the secretary may be filtered at one or more points in its development.

The advantage of pooled staff, however, is the convergence of staff resources to deal with a major issue. The highest level of objective and directed support for the system might be provided by pooled staff in an agency established particularly to meet secretarial needs.

Options for Secretarial Support

Numerous options are available for providing secretaries with resources that reflect their assigned roles and responsibilities. The options presented here are not mutually exclusive; nor do they represent the full range of possibilities.

● Maintain the Status Quo

Secretaries could continue to be staffed by a deputy and one clerical position. A clerical pool would continue to provide supplementary clerical resources. Significant amounts of staff resources would continue to reside in the Department of Planning and Budget and in independent agencies within secretariats. Secretaries would be required to record and report on the use of supplemental staff resources in agencies.

● Staff Differentially

Direct staff could be assigned to secretarial offices based on the role assigned to the individual secretary and criteria that

measure workload. For example, a secretary with primarily policy responsibilities would have fewer staff than a secretary with a managerial role.

- Create a Central Staff Office to Serve the Secretaries

Under this option, staff resources of the central agencies that currently provide support to the secretaries could be merged in a new agency. Included would be the research, policy, and evaluation sections of the Department of Planning and Budget, and the current management consulting section of the Department of Management Analysis and Systems Development. Units may also be drawn from other central agencies.

This option would provide the secretaries with equitable access to a pool of staff resources that they would not have to personally supervise. The agency would have a permanent, professional staff. A full-time director would ensure the quality and objectivity of staff work. Creation of such a central office would establish a staff resource for the secretaries that is separate from financial policy assistance rendered by the Department of Planning and Budget.

V. CONCLUSION AND RECOMMENDATIONS

This study has reviewed the concept, responsibilities, structure, and resources of the secretarial system in Virginia. The study was requested as part of a larger effort to assess the efficiency and effectiveness of the structure of State government. The secretarial system is a particularly important part of that structure. The system was proposed as a means of enabling the Governor to guide and gain control of the many State agencies that carry out governmental programs.

The major purposes of the secretarial system are to enhance the cohesive direction of the functional areas of State government, strengthen administrative and financial support and control, and improve the capacity of government to deal with issues of immediate and long-range concern. Periodically, it has been necessary to reassess the structure of executive direction to ensure that it is meeting those purposes as efficiently and effectively as possible.

The results of this study may be useful to the Governor as well as to the General Assembly. As chief executive officer of the Commonwealth, the Governor defines the role of the system by delegating his own powers and interpreting as may be required those assigned by the General Assembly. The General Assembly, however, has the sole constitutional authority to create the components of the executive branch, and has first responsibility to assign authority and responsibility to the appointed leaders within the branch.

Generally, this study concludes that the structure and operations of the secretarial system are consistent with the management needs of the Commonwealth. There simply is 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. It also does not seem necessary to undertake the massive reorganization that would be required to create a cabinet-type system. In that system, relatively few large multipurpose agencies would be headed by officials who would also serve as advisors to the Governor in a formal cabinet. The question of whether or not some other system of leadership and policy advisement would work better is not possible to answer.

Nevertheless, a number of areas should be addressed in order to make certain that the secretarial system balances the constitutional authorities of the Governor and the General Assembly, and takes into account differences in the roles and responsibilities assigned to high-level executive assistants and to agency directors and boards and commissions. Moreover, if the system is to achieve its intended objectives, the system itself must be manageable.

The basic assumptions for this review have been that an efficient and effective structure would (1) adhere to constitutional and statutory parameters, (2) have lines of authority, responsibilities and levels of activity that are clearly defined and appropriately implemented; and (3) organize agencies and assign resources to each secretariat that are commensurate with the intended purpose of the agencies and levels of responsibility assigned to the secretaries.

Problem areas were identified by comparing actual practice with requirements in the Constitution and in statute, and by reviewing the historical record. To address each identified concern, the most plausible options were presented. When all of the elements of the system and the identified concerns were viewed together, the following proposal was developed for legislative and executive consideration. Above all, the structural results of this proposal are expected to be enduring beyond a single administration and beyond the alterations that might result from differences in style or personality of the incumbents involved.

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

Executive power has become more concentrated in the Commonwealth. This is not incompatible, however, with the General Assembly's actions, over time, to provide for more cohesive direction to the functional areas of government. The secretarial system appears to offer a reasonable structure for maintaining the integrity of the individual agencies that carry out programs while providing this direction.

The balance of authority between the Governor and the General Assembly does not appear to have been seriously impaired. The General Assembly still has responsibility for prescribing structure, responsibilities, and broad policies of executive entities. It confirms appointments and modifies, changes, and directs through enactment or amendment of statutes.

The current Governor and all future governors require the assistance of executive officers with sufficient authority to ensure that the laws are faithfully executed and that budgets and programs for each functional area reflect important statewide priorities.

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

The executive authority of the Governor is not sufficiently defined in the *Constitution* to close off debate about its scope and

nature, but must be determined in conjunction with consideration of statutory assignment of responsibility and tradition. Nevertheless, governors exercise considerable discretionary authority over executive branch agencies because of the authority that they hold as the chief elected officer in the Commonwealth and as a constitutional chief executive.

Any ambiguity in the role of the Governor regarding agencies is reflected in ambiguity and concern regarding the activities of secretaries. The General Assembly has not chosen to make explicit in statute the authority of the Governor or his secretaries to hold agency heads responsible for their performance. This responsibility, however, is a critical management component. It would be desirable at this time to make that responsibility explicit in statute. The only exception would be the Secretary of Education, because of unique constitutional and statutory circumstances regarding educational entities.

It should be clearly stated in statute that the mission of the secretarial system is to provide overall policy direction and to monitor performance for a functional area of government. However, the responsibility for operating an agency and administering its programs should remain clearly vested in the appointed and confirmed agency head or supervisory board.

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

This proposal would recognize current practice and the fact that the fiscal affairs of the Commonwealth require high-level attention on a full-time basis. Current statutes designate the Secretary of Administration and Finance as Deputy Budget and Personnel Officer and assign all the central administrative and financial agencies to report to the Governor through the Secretary. Nevertheless, in practice the Assistant Secretary for Financial Policy has received equal status and serves as a seventh secretary.

Secretary of Finance. Two major factors for consideration are the apparent desire of recent governors to have a more direct relationship with the budget function, and the implicit dominance of the administration and finance secretariat over the program secretariats. Dominance has been derived by combining administrative and budgetary authority in one secretariat. Separation would continue the strong relationship with the Governor of the budget function. It would also strengthen the program-area secretaries, because all administrative and fiscal functions would not be concentrated in one secretarial area. Creating a Secretary of Finance would also recognize that the workload of the secretariat appears, in practice, to warrant two secretaries.

Agencies assigned to the Secretary of Finance should include only those with budget and fiscal policy orientations. They would include the Department of Planning and Budget, the Virginia Supplemental Retirement System, the Department of the Treasury, the Department of Taxation, the Department of Accounts, and State Loan Authorities. (Appendix A lists the agencies that would be contained in this and other proposed secretarial areas.)

The revenue forecasting functions of several departments should be transferred to the Department of Planning and Budget. The department should retain its complete range of program budgeting responsibilities, including the responsibility to evaluate performance related to the budget and to develop program plans. However, the separate sections that carry out policy, research, and evaluation should be reassigned to a newly created Department of Analytical and Administrative Services under the Secretary of Administration.

Secretary of Administration. The central agencies of State government concerned with general administration should continue to report to the Governor through the Secretary of Administration (Appendix A). In addition to overseeing the central agencies, the Secretary of Administration could serve as the administrative coordinator of the secretarial system and as a provider of resources for all of the secretaries. The Secretary should continue his designation as Chief Personnel Officer of the Commonwealth.

In order to facilitate the functioning of the secretarial system, a new Department of Analytical and Administrative Services should be created within the secretariat to provide centralized staff resources to the secretaries. The department would have three divisions, one of which would consist of research, policy, and evaluation staff for the secretaries. A second division would provide management consultation to agencies as well as assistance to the secretaries. It would consist of the existing management consultation section of the Department of Management Analysis and Systems Development and the State Internal Auditor.

A third division would provide overhead and support services to the numerous small agencies that are spread among the various secretariats. These small agencies with fewer than 20 personnel generally have a single-purpose orientation. JLARC has found as part of related reviews that such agencies need to devote an inordinate amount of staff resources to administrative tasks such as payroll, accounting, and other overhead functions. Each agency would retain its statutory autonomy and receive program direction from its respective secretary. Administrative services, however, would be provided from the Department of Analytical and Administrative Services. This division should also house a clerical pool that could be drawn upon by the other secretaries.

The secretariat would then have within it all of the resources necessary to support the Governor and the other secretaries for

program purposes. The Secretary would also carry out the functions necessary to arrange for and carry out meetings of the Governor's secretaries.

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

Currently, the Assistant Secretary for Financial Policy holds an additional responsibility as director of the Department of Planning and Budget. This dual role raises questions about the compatibility of policy and operations responsibilities, the need of the Department of Planning and Budget for a full-time director, and the accessibility of the Department to support the secretaries and agencies in functional areas.

The Assistant Secretary must be oriented toward issues of financial policy. The director of the Department of Planning and Budget should have as his or her primary orientation the efficient and effective operation of the department. An agency entrusted with the critical budget functions needs the attention of a full-time manager.

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.

Designating a trusted assistant as Chief of Staff can enhance the Governor's relationship with critical central functions of government, establish a focal point for contact with functional-area secretaries, and provide coordinative support for the political responsibilities held by the Governor. Nevertheless, assigning powers to particular individuals can also abrogate the Legislature's approval prerogative and the responsibilities that are statutorily assigned to other secretaries.

Executive Order Number 36, issued in 1983, declares and confirms the Senior Executive Assistant as having budgetary, personnel, and planning authority. This executive order must be viewed as giving this position command of these processes. It in practice assigns responsibilities to the Senior Executive Assistant which are assigned in statute to other parties. The Senior Executive Assistant also heads the Budget Steering Group, which is an *ad hoc* committee formed to oversee the budget process and make final recommendations to the Governor on the budget.

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. Alternatively, an amendment may be submitted to the delegation of powers statute to identify other individuals to whom a Governor can delegate.

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.

Creation of a high-level assistant for education is posed as a positive step to focus executive energy and attention on the critical issues regarding educational policy, high technology, and equal opportunity. It would allow this focus to be accomplished while maintaining traditional distinctions between the role of the Secretary and the prerogatives of Boards of Visitors and the State Board of Education.

Redesignation of the position responsible for education is particularly critical now that the secretarial system has moved toward a stronger management orientation. The General Assembly appears not to have intended a managerial role for this secretariat, and has assigned it considerably less statutory power than other secretariats. In the budgetary area, for example, only preparation of alternative budget proposals was authorized. Further, language requiring agencies to operate in accordance with the policies of the Governor and Secretary was included for the other secretariats but omitted for education.

These distinctions are further supported by the unique status of boards within the secretariat and the discrete and somewhat fragmented assignment of budget and policy responsibilities to the Governor, the Secretary, and the State Council of Higher Education. The institutions of higher education are governed by boards of visitors under the control of the General Assembly. The State Council of Higher Education sets guidelines for formulas, and reviews budgets, as well as commenting to the Governor and General Assembly on those budgets. Public education is supervised by the Superintendent of Public Instruction serving under a Board of Education with constitutional powers.

Nevertheless, executive orders have been issued which increase the management responsibilities of the Secretary. This appears to be a questionable use of executive orders. Given current constitutional and statutory constraints, a secretary is not an appropriate position for coordination and management control. A policy advisor to the Governor, however, is needed. The coordinative responsibilities for higher education could be carried out by the State Council of Higher Education. The Superintendent of Public Instruction could coordinate at the elementary and secondary level.

Staff Recommendation 7: The General Assembly should separate the emergency and energy divisions 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 OEES to the Public Safety secretariat.

In order for the functional area groupings headed by secretaries to be effective, all related agencies should be grouped within the same secretariat. These two agencies currently in the transportation secretariat have functions that are more closely related to public safety. The Department of Military Affairs is responsible for maintaining and equipping a military force to protect the citizenry and property in case of a natural disaster or civil disturbance. The Office of Emergency and Energy Services is responsible for preparing and coordinating the responses of local, State and federal agencies during an emergency such as a flood or a nuclear disaster. It must work closely with the Department of Military Affairs and the State Police.

Staff Recommendation 8: Eliminate the transportation secretariat.

The need for a Secretary of Transportation position can be questioned given the functional basis for the alignment of agencies and the workload assigned to the position. A relatively small number of agencies would exist in this area if functional alignment were strictly adhered to.

Two agencies -- the State Office of Emergency and Energy Services and the Department of Military Affairs -- have been recommended for transfer to the public safety secretariat, with which they appear to be more closely aligned. This would leave the Department of Aviation, the Division of Motor Vehicles, the Department of Highways and Transportation, and the Virginia Port Authority within the transportation secretariat. Another agency, the Virginia Port Authority, was at one time located in the commerce and resources secretariat and could be considered for relocation in that area.

Moreover, the extensive planning, policy development, and oversight responsibilities of the Highway and Transportation Commission duplicate those of the Secretary. At one time, a less comprehensive highway department and a coordinative transportation secretary were envisioned. However, the proposed realignment of agencies was not adopted; only the secretarial position was created.

It is not recommended that a policy advisor position for transportation be created in the Governor's Office. Realignment of these agencies within other secretariats would provide for supervision and policy direction by an appropriate secretary (Appendix A).

Proposal 9: Create a Secretary of Commerce and Transportation.

This proposal assumes that the current commerce and resources secretariat would be separated and a new Secretary for Natural and

Cultural Resources created. The new secretariat of commerce and transportation would take advantage of the strong link between commerce and transportation and would allow for transportation agencies such as the Virginia Port Authority and the Department of Aviation to be brought under the supervision and policy direction of a Secretary of Commerce and Transportation (Appendix A). There is a strong relationship between strengthening the transportation infrastructure and economic development.

The workload of the Secretary of Commerce and Transportation would not appear to be inordinately large. The major new agency to be accommodated within the secretariat is already under the supervision of a powerful commission with various specific responsibilities. Moreover, since secretaries perform high-level coordinative functions, integrated planning for commercial development and maintenance and construction of roads could be accommodated within the secretariat.

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

The current commerce and resources secretariat encompasses a large number of agencies and collegial bodies with diverse missions. The functional area is composed of 19 independent agencies and 104 other entities. Agencies within the secretariat are responsible for conserving the State's natural resources, maximizing economic development, protecting workers and consumers, and managing and promoting scenic and historic attractions.

These functions are often not inherently compatible and are hotly debated by interest groups of various types. Balancing commercial and environmental needs at the secretarial level does have the potential for ensuring full consideration of proposed projects for their benefits in terms of jobs as well as their potential impact on the environment. However, these competing needs would derive further benefit from separate consideration at a very high level.

The knowledge and the orientation of a secretary responsible solely for the conservation and protection of natural resources and historic attractions would be quite different from that of a Secretary with a sole commitment to maximum development of the State's commercial potential. 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 (Appendix A). 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.

Staff Recommendation 11: Appropriately staff the secretariats. Place at least one deputy secretary position in each secretariat and create a central staff agency within the administration secretariat.

A specific staffing recommendation will be made after the final configuration of the secretariats is determined. If a Department of Analytical and Administrative Services is formed, then minimum direct staffing of the individual secretaries in favor of a larger pooled resource will be recommended. Specific restrictions on agency supplementation will also be recommended.

If the Department is not established, at least one deputy secretary position for each secretariat will be recommended. A recommendation will also be made to monitor, record, and report all types of agency supplementation.

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APPENDIX A

PROPOSED COMPOSITION OF SECRETARIAL AREAS

Administration (12)

Department of Telecommunications
Department of Computer Services
Department of General Services
Department of Management Analysis and Systems Development
Department of Personnel and Training
Office of Employee Relations Counselors
Secretary of the Commonwealth - Division of Records
Division of Volunteerism
State Board of Elections
Commission on Local Government
Office of Commonwealth - Federal Relations
Department of Analytical and Administrative Services (New)
Compensation Board

Finance (5)

Department of the Treasury
Department of Planning and Budget (with new revenue estimating unit)
Virginia Supplemental Retirement System
Department of Taxation (possibly in Administration secretariat)
(Plus approximately 6 public authorities with financial orientations)
Department of Accounts

Natural and Cultural Resources (14)

Air Pollution Control Board
State Water Control Board
Virginia Historic Landmarks Commission
Virginia Soil and Water Conservation Commission
Jamestown - Yorktown Foundation
Virginia State Library
Virginia Marine Resources Commission
Gunston Hall
Commission of Game and Inland Fisheries
Department of Conservation and Economic Development
Council on the Environment
Science Museum of Virginia
Virginia Museum of Fine Arts
Commission for the Arts

Commerce and Transportation (14)

Department of Housing and Community Development
Department of Labor and Industry

Division of Industrial Development
State Office of Minority Business Enterprise
Virginia Marine Products Commission
Milk Commission
Department of Agriculture and Consumer Services
Department of Commerce
Virginia Employment Commission
Governor's Employment and Training Division
Department of Aviation
Department of Highways and Transportation
Division of Motor Vehicles (could be assigned to Administration or
Finance, also)
Virginia Port Authority

Human Resources (12)

Commission on the Status of Women
Department of Health
Department of Health Regulatory Boards
Department of Mental Health and Mental Retardation
Department of Rehabilitative Services
Department of Social Services
Division for Children
Department for the Aging
State Advocacy Office for the Developmentally Disabled
Department for the Visually Handicapped
Virginia Council for the Deaf
Virginia Health Services Cost Review Commission

Public Safety (9)

Commonwealth's Attorneys' Services and Training Council
Department of Alcoholic Beverage Control
Department of Corrections
Department of State Police
Department of Criminal Justice Services
Rehabilitative School Authority
Department of Fire Programs
Department of Military Affairs
State Office of Emergency Services

NOTE: This appendix reflects the composition of secretariats with principal agencies currently in existence (except where noted). Various recommendations in this and the companion studies recommend a number of mergers, consolidations, etc. that would affect this basic composition. Especially important are (1) mergers of small agencies, and (2) transfer of whole or part of agencies which are referenced in the text of the companion studies.

APPENDIX B

TECHNICAL APPENDIX SUMMARY

JLARC policy and sound research practice require a technical explanation of research methodology. The full technical appendix for this report is available upon request from JLARC, Suite 1100, 910 Capitol Street, Richmond, Virginia 23219.

The technical appendix includes a detailed explanation of special methods and research employed in conducting the study. The following areas are covered:

1. Interviews with Governor's Secretaries. A series of structured and unstructured personal interviews were conducted with the six secretaries, the Assistant Secretary for Financial Policy and a number of deputy secretaries. Information was collected regarding secretarial roles, responsibilities, activities, special projects and studies, staffing and other areas. Interviews were also conducted with nine former secretaries covering similar topics.
2. Supplemental Staffing Estimates. The Governor's secretaries were asked during interviews to identify projects and studies being carried out for them by State agencies. Based on this information, approximately 125 individuals in 65 agencies plus a number of consultants were interviewed by telephone and asked to provide estimates of staff time and salaries for special projects and studies carried out for the Governor's secretaries. This data was used to estimate the amount of supplemental staffing provided to the Governor's secretaries from January 1, 1982 through October 31, 1982.
3. Document and Code Reviews. Documentation from 35 previous studies, the *Code of Virginia*, *Constitution of Virginia*, *Commentaries on the Constitution*, proceedings and debates of the Senate and House of Delegates pertaining to amendment of the Constitution, and other documents were systematically reviewed to: (1) identify management concerns since 1924 leading to the establishment of the secretarial system, (2) assess the authority of the Governor over agencies and boards in the executive branch, and (3) trace the evolution of responsibilities assigned by statute or executive order to the Governor's secretaries.

4. Telephone Surveys of Other States. Two separate efforts were undertaken to gather information on high level management structures in other states. First, structured telephone interviews were conducted with officials in nine selected states to gather information on "cabinet" and other organizational configurations to identify alternative management structures. Second, officials in ten selected states were interviewed to gather information regarding their organization and oversight of educational agencies and entities.

APPENDIX C

AGENCY RESPONSES

As part of an extensive data validation process, the Governor, the Governor's secretaries, executive agencies and other individuals with an interest in JLARC's review and evaluation effort were given an opportunity to comment on an exposure draft of this report.

Comments were solicited two ways. First, findings and recommendations from the exposure draft were presented to agency heads, board members, and other individuals attending the Governor's Critical Reevaluation Conference in September 1983. Second, copies of the exposure draft were distributed to the Governor and the Governor's secretaries. In each case written comments were requested.

Written responses were received from the Governor's secretaries, 66 agencies and institutions of higher education, and 58 other individuals. The responses from the Governor's secretaries are included in the appendixes of a companion volume to this report, entitled Organization of the Executive Branch in Virginia: A Summary Report. The written responses of agencies, institutions, and others are on file in the JLARC staff offices and may be inspected on request.

Appropriate technical corrections resulting from the responses have been made in this final report.

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