# **ANNUAL REPORT OF THE**

# **DISABILITY COMMISSION**

# TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA



# **SENATE DOCUMENT NO. 37**

COMMONWEALTH OF VIRGINIA RICHMOND 1998

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# COMMONWEALTH of VIRGINIA

Office of the Lieutenant Governor Richmond 23219

John H. Hager

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April 16, 1998

TO:

The Honorable James S. Gilmore, III

and

The General Assembly of Virginia

In my capacity as Chair of the Disability Commission, I am pleased to submit the 1997 Annual Report pursuant to House Joint Resolution 274, agreed to by the 1994 General Assembly.

This report conveys the findings and recommendations resulting from the Commission's work during the 1997 interim.

Respectfully Submitted,

John H Hager

Lieutenant Governor

### 1997 Annual Report of the Disability Commission

#### **Introduction**

Since 1990, the year that the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities was established, thousands of Virginians with disabilities have benefited from the legislation and funding initiatives that have been supported and put forward by its Members. This legislative Commission, today known as the Disability Commission, was established pursuant to House Joint Resolution 45 to assess the delivery of services to Virginia's citizens with physical and sensory disabilities. It is comprised of 16 members chaired traditionally by the Lieutenant Governor of the Commonwealth.

The 1992 Report of the Commission established a ten-year plan of action that formed a system of programs and services within an infrastructure designed to be consumer-focused and community-based. The General Assembly in 1994 passed House Joint Resolution 274 (HJR 274) which authorized the Commission to continue its work in developing and reviewing recommendations for service program changes and funding until the year 2000. HJR 274 also designated the Virginia Board for People with Disabilities as the agency to provide support to the Commission. Another House Joint Resolution passed in 1994 by the General Assembly was HJR 83, which requested the Secretary of Health and Human Resources to evaluate the implementation of the recommendations, made in the Commissions 1992 Report. This evaluation, completed in the summer of 1995, provided an overview of accomplishments to date, as well as identified the continuing gaps in services affecting individuals with physical and sensory disabilities.

Each year, the Commission continues to examine the progress made in regard to the legislative priorities it forwards to the General Assembly. These recommendations result in study resolutions, budget amendments, and bills patroned by members of the Commission. The report which follows presents the major outcomes that resulted from the 1997 Disability Commission proposals to the General Assembly and the Commission's legislative agenda presented to the 1998 Session.

#### MAJOR OUTCOMES OF THE 1997 DISABILITY COMMISSION PROPOSALS

The 1997 agenda of the Disability Commission targeted a single legislative issue, one that pertained to assistive technology. In addition, an Appropriation Act Amendment was put forward as well as 5 appropriation requests. The actions taken during the 1997 General Assembly Session are as follows.

#### Legislation

• Enact the Virginia Assistive Technology Device Warranties Act.

Senate Bill 983 was approved by the General Assembly with an enactment clause which would require the General Assembly to consider it again for approval in 1998. A group of consumers, representatives of the hearing aid industry, and manufacturers met with the Chief Patron over the summer and fall to address issues raised during the 1997 General Assembly Session. No compromise was reached during that time, but the Disability Commission did make a recommendation to the 1998 General Assembly for enactment of the Virginia Assistive Technology Device Warranties Act with changes recommended by the consumer group.

#### **Appropriation Act Amendments**

 Amend the Appropriations Act of 1996 with new budget language which authorizes the Department of Medical Assistance Services to promulgate emergency regulations for the purpose of initiating Medicaid funded consumerdirected personal assistance services in Virginia.

This Appropriations Act amendment was approved and emergency regulations were promulgated by the Department of Medical Assistance Services. Final regulations are ready to be submitted to HCFA, after which the Medicaid Consumer Directed Personal Assistance Services Program can be fully operational.

#### **Appropriation Requests**

Program	Additional Amount Requested	Additional Amount Allocated	
Interpreter Services for Persons who are Deaf and Hard of Hearing	\$ 85,000	\$ 50,000	

The Virginia Community College System was appropriated \$50,000 to enhance the skill of interpreters for the deaf and hard of hearing and to enable them to achieve higher levels of expertise.

#### **Specialized Transportation Services**

\$ 500,000

\$ 400,000

The General Assembly appropriated \$400,000 to the Virginia Department of Rail and Public Transportation to replace high mileage vehicles used for specialized transportation. Eleven transportation providers received funds to purchase vehicles to provide transportation for people with disabilities and older Virginians.

#### **Rehabilitative Services Incentive Fund**

\$ 500,000

\$ 250,000

The current appropriation is divided by the 41 Disability Services Boards based on the population of people with disabilities in their locality. The increase of \$250,000 to the previous allocation has allowed for individual board allocations to range from a low of \$1,500 to \$108,085. All funds in this program are used to meet needs identified by the DSBs with no funds allocated to administer the RSIF.

#### **Disability Services Boards**

\$ 100,000

\$ 0

Although no increase in funds were appropriated for the operating expenses of the 41 DSBs, existing funds were used for board member training, purchasing computer software to pilot a DSB communication network, 2 statewide training meetings, as well as for general operating expenses.

# Youth with Disabilities Transitioning to Self-Sufficiency

\$ 960,000

\$ 500,000

A new appropriation of \$500,000 was received by the 10 CILS for services to, and advocacy with students and young adults with disabilities who are in transition from school to work. During the first quarter of FY98, each CIL hired direct service staff to work with students and their families. Additionally, the CILS began to forge alliances with local schools and parent groups to enhance community integration of young adults who are beginning to access employment and independent living opportunities.

# ISSUES CONSIDERED BY THE DISABILITY COMMISSION DURING ITS 1997 INTERIM

During the 1997 interim, the Disability Commission met twice: October 20, 1997 and December 15, 1997. Both meetings were held in Richmond. At the October 20th meeting, the majority of the time was devoted to receiving updated information on the status of the 1997 legislation and appropriations.

Issues which were presented by individuals with disabilities, advocates for individuals with disabilities, and service providers covered topics that included:

- There are no state funds or specialized staff to serve the growing blind and elderly population.
- The Assistive Technology Loan Fund should include interest buydown to a rate lower than market value as was originally intended with the legislation.
- Opposition to the DMAS decision to decrease hours/funding for individuals on ventilators who receive services through the Technology Medicaid Waiver.
- There are insufficient services and health care quality assurance for people with spinal cord injury receiving personal assistance services. Woodrow Wilson Rehabilitation Center had funding reduced last year and no longer has a hospital unit that previously provided health care for people with SCI. Nurses are paid \$5-6 per hour, but their nursing agency charges \$31-36 per hour.
- Federal grant funding is ending that covers cost of care of services for the elderly blind population. State funding is needed to replace the lost federal dollars.

In addition to public comment, the Disability Commission was presented with information on the status of the initiatives from previous years, those in its 1997 legislative agenda, and other issues for consideration for inclusion in the Commission's 1998 legislative agenda.

#### **Disability Consortium**

One of the original initiatives put forward by the Disability Commission was a proposal for the creation of a university-based consortium to look at training special classroom educators, regular classroom educators, and staff who service individuals with disabilities. The plan for this initiative was developed through the Virginia Institute for Developmental Disabilities and introduced to the General Assembly in 1993. This proposal was never funded.

#### Virginia Assistive Technology Device Warranties Act

As previously discussed in this report, this legislation, commonly known as the Assistive Technology Lemon Law, was passed but not enacted by the 1997 General

Assembly. Meetings were held in the summer and fall of 1997 to try and address issues raised by consumers, manufacturers and the hearing aid industry. It was strongly supported by a coalition of consumers led by the Virginia Council on Assistive Technology to put hearing aids back into the legislation, as they were included when it was first introduced in January, 1997. Also, the consumer group stood behind the issue of removing the \$250 threshold that eliminates coverage of low devices. Recommendations were made to change language in the Act so that there was a clearer understanding of what "non-conformity" meant.

#### Centers for Independent Living (CILS)

In its 1995-1998 Three-Year State Plan, the Statewide Independent Living Council has a primary goal of establishing 6 new CILS. To date, 5 satellite CILS have been established and are now ready to become full-fledged Centers. Besides funding for these programs, additional funding is needed for existing CILS and for the Transitioning Services for Youth with Disabilities program that received partial funding through a Commission supported budget amendment in 1997.

#### **Educational Needs of Medically Fragile Children**

It was reported that it is extremely difficult to find a single source of information about children in long-term care facilities. Because of the difficulty in getting accurate numbers, and locating exactly where these children are, a plan is in place to survey nursing homes, the school divisions of where children are thought to reside, and the school divisions of where their parents reside. The goal is to create a tracking system to maintain information on the educational needs of children who are residing in nursing facilities. After the tracking system is in place, then the issue of educational funding responsibility for these children will be addressed.

#### **Interpreter Training and Quality Assurance**

The findings in House Document 89 supports the recommendation that the funding initiative for increasing the number of qualified deaf interpreters and improving the quality of the interpreters who graduate from Virginia's community colleges needs to continue for several years. In 1997, funds were appropriated by the General Assembly to jump start this initiative, but continued funding needs to occur.

#### Specialized Transportation Needs in Virginia

In addition to funds needed to develop and support new vehicle purchase, there is a need for interagency coordination among the state agency funded programs, which offer transportation services so that transpiration to special populations can be maximized. Another issue presented to the Disability Commission is the need for liability relief for volunteer drivers who transport individuals with disabilities and those who are older.

#### **Disability Services Boards**

In conjunction with the Disability Services Council, the Disability Services Boards conducted a needs assessment in 1997 which identified the following top 5 needs as placed within 13 priorities. The needs prioritized were: transportation, employment services, housing, assistive technology, and case management. The other needs/issues from the survey and presented to the Commission included insufficient qualified sign language interpreters, lack of housing options, funding and eligibility for personal assistance services (PAS), cost of prescription medications, family support, and accessibility issues, especially those surrounding public transportation. Information was also presented on how the RSIF funds have been used and the need for additional dollars to go to the localities for innovative projects.

#### Community-Based Brain Injury Services

There are 7 current areas of service needs of people with brain injury in Virginia:

1) need for increased availability of case management services; 2) additional funding is needed to expand cognitive rehabilitation services; 3) club house services, a type of service delivery which traditionally serves individuals with mental illness, are needed for people with brain injury; 4) a statewide plan for the delivery of day services for people with brain injury is needed; 5) personal assistance services need to be expanded to be able to serve people with brain injury; and 6) supported employment funds need to be increased. Also presented was information regarding the plan for Western State Hospital to establish a separate program for survivors of brain injury who are hospitalized and are Transitioning into community group home. Finally, a request was also presented for increased funds for contract services.

#### Access to Buildings and Services by People with Disabilities in Virginia (SJR 353)

The Virginia Board for People with Disabilities conducted a study of the physical accessibility of state and local government buildings as requested by SJR 353, passed by the 1997 General Assembly. The study found that many state government buildings and facilities are physically accessible and that accommodations are being made when barriers are identified. It was also found that there is no consistent monitoring or reporting of accessibility barriers. In a survey conducted as part of the study, 20% of consumers contacted had encountered physically inaccessible state and local government buildings. From these findings, recommendations were made in the report that was distributed to Commission members.

#### Commonwealth Neurotrauma Initiative

Information was presented to the Commission regarding a plan to fund future initiatives of the Commonwealth Neurotrauma program. Support was requested of the Commission for an initiative that would take a portion of the fee collected when a driver's license is re-instated and match the amount with state general fund dollars.

#### Assistive Technology Loan Fund Authority (ATLFA)

The 1996 General Assembly appropriated a one-year allocation of \$500,000 to initiate an assistive technology loan fund. The ATLFA signed an agreement with Central Fidelity National Bank in July, 1997 and as of 9/30/97, the bank has approved 5 loans without guarantees and the ATLFA has guaranteed an additional 3 loans. It is estimated that the ATLFA will obligate its full \$500,000 appropriation in the next 10 months through loan guarantees. The ATLFA does not support its administrative expenses, and continues to depend on the Department of Rehabilitative Services for staff support. An appropriation is needed to meet documented unmet need and long term funding is needed to meet staffing needs.

#### **Disability Commission Study Resolution**

One of the original recommendations, which came from the Disability Commission's 1992 Report, was the need to evaluate its accomplishments and impact by the year 2000. Information was presented and a timeline discussed as to how this could happen through a legislative study resolution.

#### 1998 DISABILITY COMMISSION PROPOSALS

After discussion at the second meeting of the Commission during the interim, it was decided to put forward the following recommendations as a legislative agenda for introduction to the 1998 General Assembly.

#### **Summary of Recommendations**

#### **Legislation**

To reenact the Virginia Assistive Technology Device Warranties Act with the following revisions:

- Add hearing aids to Section 59.1-467. Definitions
- Modify in Section 59.1-467 the existing definition of non-conformity to include (iv)unrealistic consumer expectations or (v) routine maintenance. Define "unrealistic consumer expectations."
- Eliminate from Section 59.1-468 the phrase "having a retail value of at least \$250."

To support specialized transportation legislative initiatives in the following areas:

- Liability relief of drivers.
- Require coordination of agencies as a condition of receipt of state funds for specialized transportation.

To require that the fee for the reinstatement of drivers licenses be increased by \$30 to support the Commonwealth Neurotrauma Initiative and that these funds be matched by general fund dollars.

To recommend the amendment of the Assistive Technology Loan Fund Authority legislation to enable the Authority legislation to issue tax-free bonds.

#### Legislative Studies

To propose that a joint resolution be introduced to the 1998 General Assembly which calls for a two-year study to include an evaluation of the implementation of the Disability Commission recommendations during the past ten years and which makes recommendations for future activities of the Commission.

#### **Appropriation Act Amendments**

To require the Housing Study Commission to hold a summit in 1998 for housing for people with disabilities.

### Recommendations

To send a letter to the Department of Medical Assistance Services requesting the Department to host a small subcommittee comprised of Disability Commission members, consumers, and representatives from the Healthcare Financing Administration to develop better procedures for adequate health care coverage for ventilator-dependent participants of the healthcare program.

## **Appropriation Requests**

Program Priorities	Amount Requested
Personal Assistance Services	\$3,162,857 (biennium)
Personal Assistance Services Pilot for Brain Injury	\$ 260,000
Disability Services Boards	\$ 300,000
Rehabilitation Services Incentive Fund	\$ 470,000
Centers for Independent Living - Satellites	\$ 460,000
Transition Services for Youth with Disabilities	\$ 750,000
Specialized Transportation	\$2,500,000

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### **ATTACHMENTS**

Attachment #1 -- HJR 45

Attachment #2 – HJR 274

Attachment #3 - SJR 276

Attachment #4 - Members of the Disability Commission

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## GENERAL ASSEMBLY OF VIRGINIA-1990 SESSION

HOUSE JOINT RESOLUTION NO. 45

Creating a Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support for Persons with Physical and Sensory Disabilities in the Commonwealth.

Agreed to by the House of Delegates, March 9, 1990 Agreed to by the Senate, March 7, 1990

WHEREAS, 350,961 citizens in the Commonwealth are affected by physically disabling conditions; and

WHEREAS, it is appropriate that the goals, responsibilities, and desired outcomes of the public and private sector regarding persons with disabilities receive legislative review to facilitate the availability, accessibility, and coordination of essential services and to ensure the participation of the consumers of such services in the review process; and

WHEREAS, categorical funding sources and current performance standards often circumscribe interagency coordination in meeting the needs of such persons for individualized services; and

WHEREAS, identification and implementation of a regionalized service continuum throughout the Commonwealth requires the development of a meaningful system for the coordination and delivery of services and consistent interpretation of the concept, "least restrictive environment"; and

WHEREAS, goals and processes are required to ensure persons with physical and sensory disabilities access to appropriate levels of care and opportunities for optimum self-sufficiency and employment; and

WHEREAS, the needs of persons with physical and sensory disabilities frequently exceed the program, services, and resources configuration of public agencies; and

WHEREAS, eligibility criteria, exclusions, waiting periods, and gaps in benefits and services in public and private third-party health insurance coverage leave many such persons without resources to pay for medical and rehabilitative services; and

WHEREAS, there is the need to better integrate the role and responsibilities of public education in providing special education as required under P. L. 94-142, as amended, and Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1 of the Code of Virginia, with human service and economic development agencies to enhance special education programs and to facilitate transition programs for handicapped and disabled children and youth: and

WHEREAS, fragmentation and perceived inadequacies in public programs and involvement of the private sector in selected service areas can result in competitive, duplicative, and expensive public services; and

WHEREAS, an accountable and integrated service delivery system for persons with physical and sensory disabilities should be established congruently with the development and enhancement of public and private rehabilitative agencies and programs, these issues requiring immediate attention; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring. That a Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support for Persons with Physical and Sensory Disabilities in the Commonwealth be created. The Commission shall be composed of sixteen members to be appointed as follows: two members each of the House Committees on Health, Welfare and Institutions and on Appropriations, one member of the House Committee on Education, and one member of the House of Delegates at large to be appointed by the Speaker of the House; one member each of the Senate Committees on Education and Health, on Rehabilitation and Social Services, and on Finance to be appointed by the Senate Committee on Privileges and Elections; and one member each of the business community, the health insurance industry, and the health care industry, one educator certified in special education, one licensed practicing physician who shall have expertise in emergency medicine and trauma care or neurosurgery, the Lieutenant Governor, and one citizen at-large to be appointed by the Governor.

For the purposes of this study, physical and sensory disability shall include temporary and permanent motoric impairment sustained by disease of or injury to the central nervous system, traumatic brain injury, and disabilities resulting from disease or injury to the sensory system. The Commission shall review and consider the findings and recommendations referred to it for action in the report of the Joint Subcommittee Studying the Needs of Head and Spinal Cord Injured Citizens, the Need for Research and the Needs of All Physically Handicapped Persons. The Commission shall, among other activities: (i) review and determine the measures and incentives that provide for accountability and support coordinated services for persons with physical and sensory disabilities. (ii) develop

strategies for optimum use of public and private fiscal resources and insurance, (ili) determine methods to address the gaps in eligibility criteria for services and the service delivery system that inhibit access to needed services and employment opportunities. (iv) develop human resource models to facilitate rehabilitation-oriented case management and other professional support for persons with physical and sensory disabilities. (v) evaluate the need for and recommend strategies for research and a system to provide post-acute and long-term rehabilitation for traumatic injury and specified disability groups. (vi) identify and develop service delivery models to address the multifaceted and long-term needs for treatment, community support, transportation, housing, employment, job training, vocational and career counseling, and job placement services, and (vii) determine ways to promote coordination and cost-sharing of programs and services between public and private rehabilitative and educational entities.

The Secretary of Health and Human Resources shall ensure that the Commission is appropriately staffed. All agencies shall provide assistance upon request in the manner

deemed appropriate by the Commission.

The Commission shall submit an interim report on the actions taken in 1990 to the 1991 Session of the General Assembly, and pursuant to procedures of the Division of Legislative Automated Systems for the processing of legislative documents, shall submit a final report by October 31, 1991, in order to provide data for the preparation of the Governor's 1992-94 budget recommendations to the General Assembly.

The direct costs of this study shall not exceed \$17,280.

#### GENERAL ASSEMBLY OF VIRGINIA -- 1994 SESSION

#### HOUSE JOINT RESOLUTION NO. 274

Continuing the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities. hereafter to be known as the Disability Commission.

Agreed to by the House of Delegates, February 11, 1994

Agreed to by the Senate, February 28, 1994

WHEREAS, in 1990, the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support for Persons with Physical and Sensory Disabilities, hereafter to be known as the Disability Commission, was established to assess the delivery of services to persons with physical and sensory disabilities; and

WHEREAS, the Disability Commission issued its final report to the Governor and the 1992 Session of the General Assembly, including its comprehensive 10-year plan for addressing the identified service needs, legislative initiatives and budget amendments in response to its findings and recommendations; and

WHEREAS, in its 1994 Report to the Governor and General Assembly, the Disability Commission continues to assess service needs and barriers to service delivery and has

proposed a number of service initiatives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Disability Commission be continued to provide review and oversight of the implementation of its recommendations, including those that have not been funded, and any recommendations that may arise during the course of implementing its 10-year plan. In addition, the Disability Commission shall receive, evaluate and make recommendations based upon the report by the Consumer/Interagency Task Force on Individual and Family Support Services.

Disability Commission members appointed pursuant to House Joint Resolution No. 257 of 1992 shall continue to serve as members with full voting privileges. Vacancies in the membership of the Commission shall be filled in the manner provided in the original resolution. The membership of the Disability Commission shall be expanded by one member who shall be from the Senate to be appointed by the Senate Committee on Privileges and Elections.

The direct costs of this study shall not exceed \$7,350 each year. An estimated \$3,400 is allocated for the printing of documents and such expenses shall be funded from the operational budget of the Clerk of the House of Delegates.

The Virginia Board for People with Disabilities shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Disability Commission shall submit its findings and recommendations annually to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Disability Commission shall complete its study and submit a comprehensive report on the status of services for persons with physical and sensory disabilities to the Governor and the 2000 Session of the General Assembly.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

**ENROLLED** 

#### **SENATE JOINT RESOLUTION NO. 276**

Providing for the membership on the Disability Commission.

Agreed to by the Senate, January 30, 1997 Agreed to by the House of Delegates, February 20, 1997

WHEREAS, in 1990, a Blue Ribbon Commission was established to assess the delivery of services to persons with physical and sensory disabilities; and

WHEREAS, the Commission issued a comprehensive 10-year plan for addressing the identified service needs, legislative initiatives, and budget amendments and expanded that plan in 1994; and

WHEREAS, the Disability Commission has been continued until the year 2000 in order to oversee the implementation and evaluation of that 10-year plan, with staffing being provided by the Virginia Board for People with Disabilities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the legislative members of the Disability Commission shall continue to serve pursuant to House Joint Resolution No. 257 (1992). In addition, the Lieutenant Governor, a former member of the Senate and a former member of the House of Delegates shall also serve as members with full voting privileges.

All requirements for reporting and annual costs shall be as provided in House Joint Resolution No. 274 (1994).

#### **Disability Commission Membership** 1997 Interim

Chairman:

Donald S. Bever, Jr., Lieutenant Governor

House of Delegates (Appointed by Speaker):

Health, Welfare & Institutions:

Kenneth R. Melvin

Appropriations:

Marian VanLandingham

Education:

Alan A. Diamondstein

House-At-Large:

Joyce K. Crouch

Former House Member:

Alan E. Mayer

Senate (Appointed by Chairman, Privileges & Elections):

Finance:

Joseph V. Gartlan, Jr.

Education & Health:

Richard L. Saslaw

Rehabilitation & Social Services: Yvonne B. Miller

Senate-At-Large:

Jane H. Woods

Former Senate Member:

Frank W. Nolen

Citizen Members (Appointed by Governor):

Educator Certified in Special Education:

Brenda T. Williams

Physician with Expertise in ER/Trauma:

Worthington G. Schenck, III, M.D.

Health Care Industry Representative:

Richard C. Craven

Health Insurance Industry Representative: Joan M. Gardner

Citizen-At-Large:

Charles H. Bonner, Jr.

Staff: Virginia Board for People with Disabilities (Brian S. Parsons, Director; Barbara Ettner, Policy

Analyst)

Committee Operations: Barbara Regen (786-7681).

Pursuant to: HJR 45 (1990), HJR 257(1992), HJR 274 (1994), SJR 276(1997)

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