

**REPORT OF THE  
SPECIAL TASK FORCE**

**STUDYING THE WAYS  
FAITH-BASED COMMUNITY  
SERVICE GROUPS MAY  
PROVIDE ASSISTANCE TO  
MEET SOCIAL NEEDS**

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



**HOUSE DOCUMENT NO. 103**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2000**





# COMMONWEALTH of VIRGINIA

Office of the Lieutenant Governor  
Richmond 23219

John H. Hager  
Lieutenant Governor

(804) 786-2078  
FAX: (804) 786-7514  
TTY/TDD: 1-800-828-1120  
EMAIL: ltgov@ltgov.state.va.us

May 1, 2000

The Honorable James S. Gilmore, III  
Governor  
State Capitol, Third Floor  
Richmond, VA 23219

Dear Governor Gilmore,

The need for greater involvement by private, community and faith-based groups to reach out to our young people, our families, single mothers or fathers who've lost their sense of responsibility could not be more apparent than it is today. The ability to establish community, faith-based solutions to social pathologies such as teen violence, teen pregnancy, alcoholism, family break up and spousal abuse is crucial to the future well being of all Virginians. The underutilized resource of faith based groups can make a significant difference as we progress to build a better life for all Virginians.

For this reason, a Special Task Force charged with studying the ways that faith-based community service groups may provide assistance to meet social needs was formed after the passage of HJR 764 in 1999. The mission for this study is well along to being accomplished and as Chairman of this Task Force, I am proud to present our findings and recommendations to you and the Virginia General Assembly.

It is important to note the existing controversy over faith-based programs and their role in partnering with the government. There has been a history of reluctance for many faith-based organizations to participate in government programs for fear of having to compromise their religious integrity due to questions of constitutionality or excessive regulation. Government is cautious, as well.

This, of course, was the biggest issue faced by our task force. While this will be an ongoing challenge, it is important to note the following statement from U.S. Senator John Ashcroft, who proposed the charitable choice amendment to the welfare reform law:

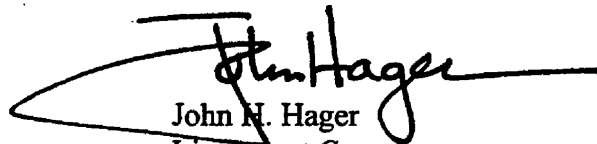
***"The charitable choice provision embodies U.S. Supreme Court case precedents to clarify what is constitutionally permissible when states and local governments cooperate with the religious and charitable sector of society. The provision***

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May 1, 2000  
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*protects the rights of faith-based providers as well as the religious liberty of the individuals they may serve.”*

Operating from this premise, this Task Force has put forth many recommendations that I believe will foster positive working relationships between faith-based organizations and State government. The General Assembly has acted in a very supportive and positive fashion on the several specific proposals outlined in the report. We also recommended extending the life of this task force to monitor the progress made and action taken on our proposals and to examine other areas with potential for expansion of the Charitable Choice provision. We are energized by the potential uncovered by this outstanding group of General Assembly members and representatives of the private sector.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hager", with a large, sweeping underline that extends to the left and then curves back under the signature.

John N. Hager  
Lieutenant Governor  
Chairman, Faith Based Community Services  
Task Force



## MEMBERS OF THE SPECIAL TASK FORCE

Lieutenant Governor John H. Hager, Chairman  
Delegate Robert F. McDonnell, Vice Chairman  
Delegate Eric I. Cantor  
Delegate Clinton Jones  
Delegate A. Donald McEachin  
Senator Emmett Hanger, Jr.  
Senator Stephen H. Martin  
Senator Yvonne B. Miller  
Carolyn Lincoln  
Rabbi Lawrence Forman  
Reverend Jacqueline McClenney-Neal  
John Horejsi  
David Caprara

### STAFF

*Division of Legislative Services*  
Gayle Nowell Vergara, Research Associate  
Amy Marschean, Staff Attorney

*House of Delegates*  
Kimberly Rockhold, Committee Clerk



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# ***Special Task Force to Study Ways Faith-Based Community Service Groups May Provide Assistance to Meet Social Needs***

## **I. Executive Summary**

The Special Task Force held several meetings during the interim to determine the best method to accomplish its goal of enhancing the implementation of the Charitable Choice provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, known as the Welfare Reform Act. The Task Force heard from a variety of persons and groups interested in the charitable choice provision and had an opportunity to examine the inherent constitutional problems that accompany the legislation and that have not to date been clarified. The Task Force was energized by the knowledge of the high level of current cooperation between the Department of Social Services and private, charitable and faith-based organizations and the quantity and quality of services currently being provided by faith-based groups. Many of the roadblocks to group participation may come from perceptual problems and lack of information. For this reason, the Task Force made a number of recommendations regarding (i) creating a better working relationship between the state and private, charitable and faith-based organizations, (ii) removing any impediments in current regulation, if any are found, which would deter participation by these groups, (iii) encouraging private donations to eligible groups providing services to welfare recipients, (iv) expanding current programs which would allow individual choice of programs and program content, and (v) continuing the Task Force for an additional year to review the accomplishments from these recommendations and examine other areas with potential for expansion of the Charitable Choice provision.

## **II. Background**

### **Authority for Study**

Citing the tremendous flow of dollars in the United States to social programs over the past 30 years and the efforts to change the traditional welfare system into something meaningful and long-lasting for the client, House Joint Resolution No. 764, adopted by the 1999 Session of the General Assembly, authorized this task force to examine the opportunities provided to the states through the "charitable choice" option provided in the 1996 federal welfare reform initiative, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The Task Force, among other things deemed appropriate, was directed to (i) survey the Commonwealth's legal and regulatory landscape to identify obstacles to the participation of faith-based groups in the welfare reform effort and (ii) recommend ways Virginia can create an environment in which these groups can be given full opportunity to participate in the delivery of services necessary to make welfare reform a success. The Task Force held meetings throughout the interim and heard from numerous organizations that currently provide these services as well as those interested in participating. The Task Force also endeavored to be inclusive of those individuals and organizations that oppose such a move on the part of the Commonwealth. These public hearing and open meetings offered great assistance and thoughtful insight to the process of the work of the Task Force.

## **A. Goal of the Study**

To guide them in their work, the Task Force adopted the following goal for this study:

*The mission of this Task Force is to maximize the legally permissible participation of churches, synagogues and faith-based organizations in their unique manner in utilizing government funding through the "charitable choice" provision in welfare reform and other sources in meeting the needs of people receiving TANF benefits and others in need of services.*

## **B. Welfare Reform and Charitable Choice**

The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) eliminated welfare as we have known it for many years. Since the 1960s America has spent more than five trillion dollars on human service programs. There has been great concern that the system has served to entrap many people in a cycle of government dependence rather than to assist them in times of emergencies and provide ways for them to achieve self-sufficiency. With the new law, states now receive block grants and mandates for programs that stress work first, with educational and other forms of secondary assistance such as child care to enable persons to get and maintain work. States are now under a mandate to place large numbers of individuals in work situations and clients are restricted in the number of months they remain eligible for public assistance. Many of these clients, generally those with stronger work backgrounds, have been placed in jobs, but a critical element of success is long-term job stability. This is especially difficult to achieve when many clients face problems such as low skills, substance abuse, domestic violence and various health problems. The "hard-to-serve" clients are the ones with whom many states are now having to deal, and this is crucial because, by the year 2002, states must demonstrate that 50 percent of TANF families are working.

Congress included in this legislation a "charitable choice" provision, which was intended to encourage states to contract with faith-based social service providers in the delivery of these welfare services while protecting the religious character of the organizations and the religious freedom of clients. The effects of charitable choice are to expand the range of organizations eligible for contracts and to codify the rights of religious organizations regarding the maintenance of their religious character. State and federal governments have long worked with religiously affiliated organizations for the delivery of public services, especially through contracts for services, but there have been restrictions on the religious displays and indoctrination offered by the groups. Their efforts were to be of a strictly social, non-secular nature. According to federal law, the purpose of the law is "to allow [s]tates to contract with religious organizations, or to allow religious organizations to accept certificates vouchers, or other forms of disbursement under any program . . . on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funding under such program."<sup>1</sup> Renewed interest in recent years about the reform of welfare programs and outcomes have looked to many types of organizations to provide services because of the uniqueness of

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<sup>1</sup> Section 104. Services Provided by Charitable, Religious or Private Organizations, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-725.

their backgrounds and their holistic approach to the problems encountered by welfare recipients. Many churches and synagogues have long cared for the poor through job training, food services, medical care and mentoring programs. Recent studies done by the Urban Institute and the University of Pennsylvania School of Social Work indicate that among congregations of all faiths, almost all provide some sort of social service but only a small percentage (5%) report receipt of government funds.<sup>2</sup>

### **C. Current Practices and New Protections**

Charitable Choice, in many ways, provides a new way of doing old business. States have long worked with religiously affiliated organizations to achieve social goals. This provision is seen to provide new protections to these organizations by:

- Protecting religious organizations from discrimination in contracting with the government. Previously, churches needed to set up non-profit subsidiaries in order to contract with the government, but the provision would require states to offer religious organizations equal opportunity in grant making when federal funds are available to other organizations.
- Enabling religious organizations to retain control of the development and practice of their mission, organizational structure, and choice of directors and officers. Providers are also free to operate programs by principles of their faith as long as a public purpose is served. However, these funds cannot be used for worship services, proselytization, or sectarian instruction.
- Codifying faith-based organizations' right to maintain a religious environment, including symbols, scripture and art.
- Protecting beneficiaries by prohibiting discrimination on the basis of religious belief or refusal to participate in a religious activity.

Some examples of services which may be subject to charitable choice are work in the form of subsidized jobs or community service, job-search and -readiness preparation, vocational education, or GED programs; food such as subsidized food programs, food pantries, and nutritional, shopping and budgeting skills; maternity or adult-supervised adult care homes; drug and alcohol treatment programs and health clinics. Charitable choice also applies to the Supplementary Security Income (SSI), food stamps, and Medicaid programs and has been proposed to several other programs.<sup>3</sup>

Some examples of the law's provisions and possible questions about its applicability are:

- Public money can be used for the provision of services by a private, faith-based or charitable organization.
- As religious freedom of beneficiaries shall not be diminished neither shall it be promoted if the client objects to the organization's religious character. Alternative, equal

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<sup>2</sup> *Services and Capacity of Religious congregations in the Metropolitan Area*, Washington, DC: Center on Nonprofits and Philanthropy, The Urban Institute, April 1998.

<sup>3</sup> Carlson-Theis, Stanley. *A Guide to Charitable Choice: The Rules of Section 104 of the 1996 Federal Welfare Law Governing State Cooperation with Faith-Based Social Service Providers*. Washington, D.C.: The Center for Public Justice and the Christian Legal Society's Center for Law and Religious Freedom. January 1997, p. 16-17.

providers, though not necessarily of the client's religious tenet, would need to be provided. A question arises here if there are no alternative providers.

- A faith-based organization can discriminate based on religion in hiring personnel for programs under its exemption under Title II of the Civil Rights Act.
- Faith-based organizations cannot discriminate in providing assistance under these programs on the basis of religion.
- Faith-based providers are subject to the same rules as other contractors to account for the use of funds provided under the program.
- No funds provided to faith-based organizations to administer programs or provide services shall be spent for sectarian worship, instruction or proselytization.
- Public funds for contracted services are subject to both financial and performance audits.

In a letter of introduction about the provisions of the law, U.S. Senator John Ashcroft, who proposed the charitable choice amendment to the welfare reform law, states that: "In the past, many successful faith-based organizations have not participated in government programs for fear of having to compromise their religious integrity or being hobbled by excessive government regulation and intrusion. The confusing array of legal precedents has often led government officials to conclude mistakenly that constitutional law requires that faith-based organizations be excluded from the mix of private service providers, or that entities accepting government funds must forego their religious character."

Senator Ashcroft goes on to say that "One of [his] goals . . . was to encourage faith-based organizations to expand their involvement in the welfare reform effort by providing assurances that their religious integrity would be protected. The charitable choice provision embodies U.S. Supreme Court case precedents to clarify what is constitutionally permissible when states and local governments cooperate with the religious and charitable sector of society. The provision protects the rights of faith-based providers as well as the religious liberty of the individuals they may serve."

#### **D. Constitutional Issues**

Churches and faith-based organizations have long been recognized for their unique contribution to social programs and their special ability to deal with some of today's most pressing problems. Faith-based groups provide strong social support because they are located in the community in which they provide the services, mainly residential areas; are familiar with the needs of the residents, many on an individual basis; have ministers who command significant influence in the community and provide a locus for guidance and information; are able to influence and entice people to volunteer their time and services; have developed efficient programs to generate donations through fundraising; provide the support system and act as the go-between for employers and clients; and take the holistic approach in dealing with client problems.<sup>4</sup>

The charitable choice provision clearly states that no state program initiated under it shall violate the Establishment Clause of the U.S. Constitution nor shall it "be construed to preempt any provision of a State Constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations." The First Amendment to the United States

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<sup>4</sup> Claussen, Lorraine. *Options for Partnership: State Legislatures, Religious Organizations and Welfare Reform: The National Conference of State Legislatures*. July 1998.



Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the government for a redress of grievances.” Under the 14<sup>th</sup> Amendment, these restraints apply not only to the federal government but to local and state governments as well. The courts have long been unclear and inconsistent in decisions regarding issues such as this. While a number of “tests” have been applied, the Supreme Court has traditionally applied a three-part test known as the *Lemon* test in making determinations in cases involving the Establishment Clause. The *Lemon* test requires that the action must (i) have a secular legislative purpose, (ii) must have a principal or primary effect that neither advances nor inhibits religion, and (iii) must not foster an excessive government entanglement with religion.

An additional concern is that a number of states, including Virginia, have constitutions that are seemingly more stringent than the U.S. Constitution. Article I, Section 16 of the Virginia Constitution provides:

***16. Free exercise of religion; no establishment of religion.***

*That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination, or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or for the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.*

In Virginia, as on the federal level, the theme of “neutrality” has taken on a new meaning in case law on the Establishment Clause. The case of *Forest Hills Early Learning Ctr. V. Lukhard* (540 F. Supp. 1046) found that there is room somewhere in between the extremes of establishment of religion and interference with religion by meeting a test of “benevolent neutrality,” and that a statute is not unconstitutional simply because it results in an incidental benefit to religion. The key seems to be the ability of the religious organization to provide services that serve a legitimate secular purpose and the religious intent does not overwhelm the secular.<sup>5</sup>

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<sup>5</sup> Claassen, NCSL, 1998.

Federal courts have also applied the “neutrality” standard in deciding many recent cases. In the case of *Bowen v. Kendrick* ( 487 U.S. 589), 1988), the courts applied the *Lemon* test in a case involving a state that gave grant money to organizations including religious organizations to sponsor programs to reduce teenage pregnancy. The Court found no violation of the Establishment Clause since funds were distributed in a neutral fashion to both religious and non-religious organizations. Government programs that provide for individual choice, such as the use of vouchers where the recipient takes the funds and selects the programs personally or where funds are paid directly to providers of services, such as health care, do not appear to be as vulnerable to constitutional attack simply because the state does not directly give funds to the faith-based organization.<sup>6</sup>

As on most highly emotional issues that address our basic freedoms, there is a great deal of conflict between perspectives. Groups such as the Center for Public Justice state that the First Amendment merely forbids a government to establish a religion or faith. They point out that “the U.S. Supreme Court has never interpreted the passage to mean that religious groups must censor or forgo their spiritual identity to participate.”<sup>7</sup> Others such as the Americans United for the Separation of Church and State, the American Civil Liberties Union, and other groups contend that government promotes the religion of a faith-based charity when it gives money to such an organization and thereby violates the Establishment Clause, especially since the law does not prohibit the promotion of religion in the provision of services. To add to this, the U.S. Department of Justice, in a letter to Congressman William F. Goodling during the course of hearings which would have applied the charitable choice to other programs, writes that “the Court, *in Kendrick*, confirmed that, even though religious organizations may participate in government-funded social welfare programs, the government must ensure that government aid is not used to advance “specifically religious” activit[ies] in an otherwise substantially secular setting. Indeed, in *Kendrick*, all nine Justices accepted the principle that government funding of religious activities would be impermissible.”<sup>8</sup>

Not all religious organizations want to partner with the government to provide social services for a variety of reasons including:

- Many religious groups continue to protest welfare reform and lobby for changes.
- Some representative church groups argue that responsibility for assisting the poor lies with the government, not churches.
- Some view the charitable choice option as blurring the distinction between church and state.
- Some organizations do not want the government intrusion which they see as accompanying the funds.
- Organizations fear that restrictions could cap creativity in the programs and carry too much paperwork.
- Many worry that either programs will be established and then funding cut off or that the organization might become too dependent on government funding.

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<sup>6</sup> Taylor, Ashley L., Jr. *Memorandum of Legal Principles Related to the Participation of Faith-Based Groups in the Welfare Reform Process*. Office of the Attorney General, December 1999.

<sup>7</sup> *Ibid*, Claassen.

<sup>8</sup> *Congressional Record*, House. October 8, 1998, p. H10204.

In addition, a number of faith-based groups have publicly opposed the charitable choice provision, including the Baptist Joint Convention, the Church of the Brethren Annual Conference, Women of Reform Judaism, the Presbyterian Church USA, the National Council of Jewish Women, and the General Board of Church and Society of the United Methodist Church.

### **III. Current Programs**

#### **A. National**

Across the country, states have been developing a number of social programs in concert with private, charitable and faith-based organizations to address the social needs of our times.

**Maryland** has instituted a program that allows churches to “adopt” willing welfare recipients and assume control of their benefits and in turn helps the family use the assistance to get back on its feet. They receive no administrative fee so volunteers manage the program. They also refer clients to church-run job training programs.

**North Carolina** has Jobs Partnership of Raleigh, consisting of 53 churches and 48 businesses, which provides job seekers with training and employment. Mentoring by businesses and the churches is included. There was a conference Winston-Salem to help mobilize the faith community's efforts and featured programs dealing with child care, transportation, employment and training, mentoring and other issues.

**Texas** has passed several pieces of legislation that encourage faith-based organizations to participate in state-funded job training, childcare, and prison counseling efforts. Other legislation allows for private accreditation for religious child care providers and exemption of counseling and support services provided by drug and alcohol treatment centers run by religious organizations from state registration (medical care is excluded).

**Michigan** approved “welfare mentors” to counsel welfare recipients and compensates them for their services but requires that they have a “nonjudgmental attitude.”

**Ohio** developed the “Habitat for Children,” which is a collaborative effort between the government and the church. Church volunteers participate in child protective activities by facilitating and supervising visitation, transporting children and families to appointments, mentoring families involved with the child protection system, and other types of supportive services.

**Vermont** has the Good News Garage where the Lutheran Social Services of New England helps low income residents with affordable transportation. The Garage also offers auto repairs at affordable rates and van pooling connecting bus routes and job sites.

(For a more complete listing of state initiatives, please refer to Appendix C.)

#### **B. Virginia Initiatives**

Virginia has a long history of working with faith-based organizations in a variety of different areas. The first welfare reform conference in Fredericksburg in 1995, the Governor's Summit on Community Responses to Welfare Reform, was centered around faith-based organizations, providing participants with information about Virginia's welfare reform efforts and offering technical assistance and examples of best practices. The Department of Social Services envisions that this type of technical assistance will continue to be offered at future annual welfare reform conferences.

It is difficult to delineate the extent to which the state engages faith-based organizations to participate in social welfare programs because all social services are provided locally and each local department of social services has its own programs and contacts. There is no master list of all of the projects ongoing in the state at the present time. On the state level, there are several programs that work with faith-based groups, including the Division of Family Services, in their provision of placements for minority children in adoptive homes, and respite child care for homeless individuals while they search for employment. Currently, the Department contracts with six churches for child care services under the Child Care Development Fund and there is no prohibition that would prohibit an individual from contracting on an individual basis for child care with a religious organization. Faith-based organizations have historically been an integral part of the refugee resettlement program in the Commonwealth, which ranks about tenth in the nation for refugees' settlement. Five of the seven groups, which receive funding to carry out the initial reception and placement of refugees for the first ninety days in the state, are faith-based. The Community Action Agency Network administers the Community Services Block Grant Program and has the mission to address the issues of poverty and to increase the self-sufficiency of low-income families. To enhance this, the Neighborhood Assistance Program approves projects which are 501 (c) (3) or (4), whose primary function is providing services to low income individuals to receive tax credits to use as an incentive to businesses for donations. This fund is capped by statute by the General Assembly, but in recent years not all of its allocations have been used.

Local efforts around the state are as varied as the geography and the needs of clients.

ALIVE! is a program in Alexandria that provides family mentors from congregations, community groups and businesses to low-income individuals who are making the transition to work. The program works with the city's Office of Employment Training and local community-based service providers.

C-CHASM, the Chesterfield-Colonial Heights Alliance for Social Ministry, is a group of churches that works together to meet emergency services and to streamline efforts so as not to duplicate services. This coalition is a way to effectively use resources such as food closets and the use of community block grant money to set up a mentoring program.

In Fairfax, the Faith Communities in Action (FCIA) has gathered information on community services offered by individual congregations and grouped them into a directory by the type of service offered and geographic area of the congregation. FCIA recently held its second conference, which featured innovative ways the faith community can respond to welfare reform, speakers from governmental, non-profit, and religious communities, and workshops that gave participants a model case and challenged them to find ways to help the "family" through county, non-profit and congregational resources.

The Jeremiah Project in Portsmouth is a citywide ministry developing different ways to work in conjunction with social services by providing mentoring, child care, literacy programs, job retention help and work in other areas to help adjust attitudes to a more positive outlook. Participating churches provide vans for transportation and *pro bono* legal aid for certain low-income individuals. Pastors and lay leaders from over twenty different churches meet regularly to coordinate and share ideas.

(For additional information on local programs, please refer to Appendix D. Since these are mostly local programs, a complete listing of all state programs is not available.)

#### **IV. Recommendations of the Task Force**

The Task Force met on several occasions to hear testimony from a variety of sources about what the state could do to enhance its relationship with private, charitable and faith-based organizations in order to provide the necessary assistance needed by welfare recipients to transition out of the public assistance system. The interest and participation of many individuals who are vitally interested in this issue and contributed their time and thoughts to this process encouraged the Task Force. Although this is not an exhaustive list, the Task Force would like to thank the following individuals for their input:

- Stanley Carlson-Theis and Steven Lazarus, Center for Public Justice
- Linda Forstmann, participant in the Box Project
- Phil Grasty, Federation of Virginia Second Harvest Food Banks
- Trudy Brisendine, Fairfax County Department of Family Services
- Reverend Jerry Gould, Operation Breaking Through
- Ed Olson, Community Ministry of Northern Virginia
- Bill Emery, Director, God's Gangsters
- Barry Lynn, Executive Director, and Bob Alley, Americans United for the Separation of Church and State
- Lyle Thomas, Christian Ministries United
- Martin Luther King, Jr. Family Life Institute
- Rev. Fletcher Lowe, Virginia Interfaith Center for Public Policy
- Skip Henderson, Extension Agent
- Bonnie Inge Bell, Welfare Reform Coordinator, Chesterfield County
- Stephanie Byrd, Director of Government Affairs, ROCCO, Inc.
- John E. Dooley, Ph.D., Associate Director 4-H and Family and Consumer Services, VPISU

The Task Force was pleased to find that the Commonwealth currently has an abundance of working relationships with faith-based organizations that are providing social services to those in need. Many states appear to be approaching the charitable choice cautiously since the controversy over the constitutional issues has yet to be resolved and the specter of potential court challenges that might overturn the federal law looms. With all of these factors in mind, the Task Force made the following recommendations:

**RECOMMENDATION 1:** *That there should be established, either within the Office of the Governor or the Secretary of Health and Human Resources, an office or an individual designated to coordinate the work of a statewide network of local liaisons, perhaps in regional DSS offices, who will work to coordinate the efforts of faith-based, charitable, and private organizations that desire to provide social services to those in need. Among other things, this liaison network could:*

- *Provide outreach and a locus for faith-based, charitable and private organizations that need information regarding their participation in the provision of social services.*
- *Provide training and organizational skills needed by these organizations to skillfully navigate the system and enable them to meet the various requirements, such as standard financial and programmatic audits, of social programs.*
- *Act as a problem solver to help overcome barriers and find common ground.*
- *Encourage meetings, conferences, and other sources of mentoring among the service providers to learn from each other and help to establish some "best practices" in the provision of services.*
- *Make recommendations for possible funding for start-up costs for some local initiatives, such as printing resource manuals, information and referral directories, etc.*
- *Encourage the match-up of mentors from churches and other organizations with welfare recipients that will then assist the recipient in job training skills, job search and maintenance and other necessary skills for successful transition off of public assistance.*
- *Work with private corporations and businesses to encourage their participation in providing assistance, such as donation, volunteers (like the corporate teams that work on Habitat for Humanity projects), provision of jobs, and other appropriate services.*
- *Initiate technical assistance such as web pages, press releases, a toll-free number, or other sources of information sources.*
- *Act as an ombudsman to identify problems in the system.*
- *Set up an oversight process to measure change and success. This should probably come in the form of either an annual or biennial report to the Secretary to be published for public review. This would also require that state agencies report to this office their efforts and successes in meeting goals.*

**RECOMMENDATION 2:** *That state agencies shall be directed, either by letter, resolution or other form of direction, to review and evaluate all language in their rules and regulations to eliminate any references that may be interpreted to bar faith-based, charitable or private organizations from participating in eligible programs and insert new language that would meet the spirit of the "charitable choice" language. State agencies must also provide training to personnel on the requirements and spirit of the law and begin to change attitudes not consistent with statute and intent. All contracts must be reviewed to determine that language ensures both the rights of the provider and clients but yet meets constitutional muster.*

**RECOMMENDATION 3:** *That budget language should be supported that would provide some additional funding for food banks to defray the distribution costs now charged to churches and other organizations that supply food to those in need. The money would be used solely for expansion of food efforts and not used to supplant current efforts.*

**RECOMMENDATION 4:** *That the Department of Social Services evaluate the opportunities to expand its voucher program for the purchase of social services in a fiscally and programmatically responsible manner. Clients would be free to choose from among approved programs that meet general criteria for positive outcomes that can be measured.*

**RECOMMENDATION 5:** *That the Virginia Neighborhood Assistance Act Program (NAP) be expanded to include donations from individuals to programs, including faith-based organizations, that meet the criteria of the program. No budget appropriation is necessary because the program is currently budgeted \$8 million for tax credits, but last year used only \$5.8 million in response to requests for credits. The NAP currently allows donations by businesses and professionals. The minimum amount would likely be set at \$50 and the maximum at \$200. Services provided by NAP projects may include cash assistance, childcare, food, clothing, shelter, microenterprise efforts, Individual Development Accounts (IDAs), and efforts for responsible fatherhood*

**RECOMMENDATION 6:** *Extend the Special Task Force to Study Ways in Which Faith-Based Community Service Groups May Provide Assistance Through Their Programs to Meet Social Needs to continue to examine other areas in state government where there might be opportunities to use the charitable choice provision such as juvenile justice, housing, and corrections to bolster low-income families. The Task Force would also review the outcomes of recommendations made in this report and make adjustments as may be necessary.*





## **APPENDIX A**



# GENERAL ASSEMBLY OF VIRGINIA -- 1999 SESSION

## HOUSE JOINT RESOLUTION NO. 764

*Establishing a special task force to study ways in which faith-based community service groups may provide assistance through their programs to meet social needs.*

Agreed to by the House of Delegates, February 25, 1999

Agreed to by the Senate, February 23, 1999

WHEREAS, since the 1960s America has spent over five trillion dollars on human service programs; and

WHEREAS, although welfare reform, enacted in Virginia in 1995 through VIP/VIEW, which has the goal of self-sufficiency through work activity and positive assistance to enhance those goals, has begun with great promise and positive initial results, there is still some concern that the system has served instead to entrap many people in a cycle of government dependence; and

WHEREAS, the 1996 federal welfare reform initiative, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), increases the importance of government dependence on charitable and religious organizations to fill the gap in meeting the needs of many current and former recipients of public assistance, many of whom will be losing eligibility in the near future as their time limit expires; and

WHEREAS, the "charitable choice" provision of the federal welfare reform act invites states to utilize private and faith-based organizations in delivering welfare services to the poor and needy and, as a result, religious-based community groups are free to compete for contracts or participate in voucher programs on the same basis as any other nongovernmental provider; and

WHEREAS, the Commonwealth needs to look for ways to encourage churches, synagogues, and other faith-based groups and organizations to offer child care, job training, mentor programs, and other social services without jeopardizing the religious nature of their mission; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a task force be established to study ways in which faith-based community service groups may provide assistance through their programs to meet social needs. The task force shall be composed of 13 members which shall include legislative members and nonlegislative members as follows: the Lieutenant Governor to serve as chairman; 4 members of the House of Delegates to be appointed by the Speaker of the House in accordance with the principles of Rule 16 of the Rules of the House of Delegates; 3 members of the Senate to be appointed by the Senate Committee on Privileges and Elections; and 5 citizen members, three of whom shall be appointed by the Speaker of the House and two of whom shall be appointed by the Senate Committee on Privileges and Elections.

In conducting its study, the task force shall (i) survey the Commonwealth's legal and regulatory landscape to identify obstacles to the participation of faith-based groups in the welfare reform process, (ii) recommend ways Virginia can create an environment in which these groups can be given full opportunity to participate in the delivery of services necessary to make welfare reform a success, and (iii) consider such other matters as the task force may deem appropriate. The task force shall ensure that all denominational faiths, as express a desire to engage in the study, are provided opportunities to contribute to and participate in the deliberations of the task force.

The direct costs of this study shall not exceed \$10,250.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the task force, upon request.

The task force shall complete its work in time to submit its findings and recommendations by January 1, 2000, 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.

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.



## **APPENDIX B**





# COMMONWEALTH of VIRGINIA

Office of the Attorney General  
Richmond 23219

Mark L. Earley  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804 - 786 - 2071  
804 - 371 - 8946 TDD

## MEMORANDUM

**TO:** MEMBERS OF THE SPECIAL TASK FORCE STUDYING FAITH-BASED COMMUNITY SERVICE GROUPS WHO MAY PROVIDE ASSISTANCE TO MEET SOCIAL NEEDS – HJR 764 (1999)

**FROM:** *Ashley L. Taylor, Jr.*  
ASHLEY L. TAYLOR, JR.  
Deputy Attorney General

**DATE:** December 8, 1999

**SUBJECT:** *Memorandum of Legal Principles Related to the Participation of Faith-Based Groups in the Welfare Reform Process.*

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During its 1999 session, the General Assembly adopted House Joint Resolution No. 764, which established a task force “to study ways in which faith-based community service groups may provide assistance through their programs to meet social needs.” H.J. Res. 764 (1999). The task force was charged with, among other things, “[surveying] the Commonwealth’s legal and regulatory landscape to identify obstacles to the participation of faith-based groups in the welfare reform process.” *Id.* Pursuant to this mandate, the Chairman of the Task Force, at the September 14, 1999 meeting, asked the Office of the Attorney General to write a memorandum outlining the relevant state and federal constitutional principles that control this area of law. This is a response to that request.

This memorandum does not purport to provide definitive answers to all possible issues and varied fact scenarios that may arise in this context. Indeed, the United States Supreme Court has counseled against such an approach invariably cautioning that decisions in this area of law are keenly fact-sensitive. Nor does this memorandum address the constitutionality of any particular program or idea. It is meant instead to provide an overview of the state and federal constitutional principles that animate this area, and to apply those principles to a few basic models of programs that may arise in this context.

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**I. Controlling Constitutional Provisions**

**A. United States Constitution**

The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the government for a redress of grievances.”

The foregoing embodies fundamental restraints on the power of government. Under the 14<sup>th</sup> Amendment, these restraints apply not only to the “laws of Congress,” but also to the policies, practices and decisions of state and local government. *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

**B. Constitution of Virginia (1971)**

The Commonwealth of Virginia, through its own constitution, also guarantees the free exercise of religion and a corresponding prohibition on state and local government from becoming entangled in religious affairs:

Art. I, § 16. Free exercise of religion; no establishment of religion. – That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity towards each other. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and the same shall in nowise diminish, enlarge, or affect their civil capacities. And the General Assembly shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination or pass any law requiring or authorizing any religious society, or the people of any district within this Commonwealth, to levy on themselves or others, any tax for the erection or repair of any house of public worship, or the support of any church or ministry; but it shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.

The Virginia Constitution also contains a specific prohibition against appropriation to religious or charitable organizations.



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Art. IV, § 16. Appropriations to religious or charitable bodies. – The General Assembly shall not make any appropriation of public funds, personal property, or real estate to any church or sectarian society, or any association or institution of any kind whatever which is entirely or partly, directly or indirectly, controlled by any church or sectarian society. Nor shall the General Assembly make any like appropriation to any charitable institution which is not owned or controlled by the Commonwealth; the General Assembly may, however, make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association.

## II. The Conceptual Framework in Federal Law

There are no “bright lines” for determining whether governmental action has violated the Establishment Clause. In other words, each situation requires an independent factual and legal analysis. The United States Supreme Court itself has remarked that “the [Establishment] Clause erects a ‘blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship.’” *Lynch v. Donnelly*, 465 U.S. 668, 679 (1984).<sup>1</sup> While not confining itself to any particular test, the Court traditionally has applied a three-part test known as the *Lemon* test in assessing Establishment Clause cases. In brief, the *Lemon* test requires that governmental action:

- (1) must have a secular legislative purpose;
- (2) must have a principal or primary effect that neither advances nor inhibits religion;  
and,
- (3) must not foster an excessive government entanglement with religion.

*Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).<sup>2</sup>

In other words, governmental decisions motivated by purely religious goals will ordinarily be invalidated. Even when governmental action is animated by secular interests, it will nonetheless fail if its primary effect advances or inhibits religion or entangles government excessively in religious affairs or vice versa.

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<sup>1</sup> “Justice Jackson is reported to have quipped that Jefferson’s ‘wall of separation’ was in danger of becoming as ‘serpentine’ as the wall Jefferson had built at the University of Virginia.” A.E. Dick Howard, *Commentaries on the Constitution of Virginia* at 302-303, n.84 (1974) (citation omitted).

<sup>2</sup> Although the *Lemon* test has often been criticized and sometimes ignored, it has not been overruled and remains the basic conceptual framework through which all Establishment Clause cases are analyzed. See *Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 394, n.7 (1993).

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A theme that has gained importance in recent Establishment Clause jurisprudence is neutrality. While religious institutions may not receive favored treatment by the state, they may also not be disfavored in relation to other groups. See *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 16 (1947) (cautioning that the courts must be sure not to “inadvertently prohibit [the government] from extending its general state law benefits to all its citizens without regard to their religious belief.”). The courts have held that where government creates a public forum, it cannot ban certain speech merely because it may express a religious viewpoint. *Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 392-393 (1993). Moreover, where governmental facilities are generally open for public use, religious organizations must be granted equal access. See, e.g., *Lamb’s Chapel*, 508 U.S. at 393 (“[I]t discriminates on the basis of viewpoint to permit school property to be used for the presentation of all views about family issues and child rearing except those dealing with the subject matter from a religious standpoint.”); see also *Bd. of Educ. of Westside Community Schools v. Mergens*, 496 U.S. 226 (1990) (high school that permits student clubs may not prohibit religious clubs from operating at the school); *Widmar v. Vincent*, 454 U.S. 263 (1981) (if university permits open access to school facilities, it cannot deny use of facilities to religious organizations).

In one recent case, the Supreme Court extended this neutrality principle to a case involving public funds. In *Rosenberger v. Rector and Visitors of the Univ. of Virginia*, 515 U.S. 819 (1995), the Supreme Court held that if the University of Virginia gave money to groups that wished to form a student newspaper, the University could not refuse to give money to a religious group merely because of the religious content of the publication. The court held that “a significant factor in upholding government programs in the face of Establishment Clause attack is their neutrality towards religion.” *Id.* at 839. The Court held it was not unconstitutional for the University to provide funds to religious organizations since, “[t]he program neutrality distinguish[ed] the student fees...from a tax levied for the direct support of a church or group of churches.” *Id.* at 840.<sup>3</sup>

The theme of neutrality was also important in *Bowen v. Kendrick*, 487 U.S. 589 (1988), the seminal case involving whether public funds may be given to religious institutions for purposes of providing welfare benefits or other social services. In *Bowen*, the United States Supreme Court applied the *Lemon* test in a case involving a challenge to the Adolescent Family Life Act, which gave grant money to organizations including religious organizations to sponsor programs to reduce teenage pregnancy. The Court found no violation of the Establishment Clause since the grants were distributed in a neutral fashion *vis a vis* religious and non-religious institutions and religious affiliation was not a criterion for selection as a grantee. *Id.* at 608

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<sup>3</sup> The Court also found it significant that University funds did not go directly to the religious organization but rather to the printer who printed the student newspapers. The Court explained, “[t]here is no difference in logic or principle, and no difference of constitutional significance, between a school using its funds to operate a facility to which students have access, and a school paying a third-party contractor to operate the facility on its behalf.” *Id.* at 843.

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“[R]eligious institutions need not be quarantined from public benefits that are neutrally available to all.” *Roemer v. Maryland Bd. of Public Works*, 426 U.S. 736, 746 (1976).

Courts remain sensitive, however, to whether the population affected by the governmental program contains a “captive audience” such that the government’s endorsement of religion could be viewed as coercive. The cases that explore this theme have generally arisen in the public school context. See *Lee v. Weisman*, 505 U.S. 577 (1992) (striking down government policy of permitting prayer at public middle school commencement ceremony); *School Dist. v. Ball*, 473 U.S. 373, 390 (1985) (“The symbolism of a union between church and state is most likely to influence children of tender years, whose experience is limited and whose beliefs consequently are the function of environment as much as of free voluntary choice.”). Although governments must be aware of this danger in the welfare context as well, it would not appear that a mere symbolic union would be sufficient to suggest government endorsement of religion. See *Bowen*, 487 U.S. at 613-14; see also, *Bd. of Educ. of the Westside Community Schools v. Mergens*, 496 U.S. 226, 250 (1990).<sup>4</sup>

Government programs that provide for individual choice are not as vulnerable to constitutional attack. It is now a well-established axiom that the First and Fourteenth Amendments do not preclude a state from granting aid which may flow to a religious institution “only as a result of a genuinely independent and private choices of aid recipients.” *Witters v. Washington Dept. of Servs. for the Blind*, 474 U.S. 481, 487 (1986).<sup>5</sup> Thus, the concept of

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<sup>4</sup> The Supreme Court has recognized the ability of both college and high school students to understand that governments do not endorse everything they fail to censor. See *Widmar*, 454 U.S. at 274, n.14 (explaining that “University students are, of course, young adults. They are less impressionable than younger students and should be able to appreciate that the University’s policy [of permitting equal access to University facilities] is one of neutrality toward religion”); *Mergens*, 496 U.S. at 250 (high school); *Tinker v. Des Moines Indep. Community School Dist.*, 393 U.S. 503 (1969) (high school).

<sup>5</sup> In a case approving of a grant of vocational rehabilitation educational assistance to a blind person who used the grant to attend a Christian College in order to become a pastor, the Supreme Court pointed out the goal posts in this arena:

It is well settled that the Establishment Clause is not violated every time money previously in the possession of a State is conveyed to a religious institution. For example, a State may issue a paycheck to one of its employees, who may then donate all or part of that paycheck to a religious institution, all without constitutional barrier; and the State may do so even knowing that the employee so intends to dispose of his salary. It is equally well settled, on the other hand, that the State may not grant aid to a religious school, whether cash or in kind, where the effect of the aid is that of a direct subsidy to the religious school from the State. Aid may have that effect even though it takes the form of aid to students or parents. The question presented is whether, on the facts as they appear in the record before us, extension of aid to petitioner and the use of that aid by petitioner to support his religious education is a permissible transfer similar to the hypothetical salary donation described above, or is an impermissible direct subsidy.

*Witters v. Washington Dept. of Servs. for the Blind*, 474 U.S. 481, 486-87 (1986) (internal citations and quotation marks omitted).

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individual choice has surfaced as an important element in determining the constitutionality of a program. Courts consider individual choice to be important for at least five reasons. First, it cures any problem in having money go directly from the public coffers to a religious institution. See *Rosenberger*, 515 U.S. at 842 (“We do not confront a case where . . . the government is making direct money payments to an institution or group that is engaged in religious activity.”) Secondly, individual choice generally presupposes a neutral program. See *Board of Ed. Of Kiryas Joel Village School Dist. v. Grumet*, 512 U.S. 687, 704 (1994) (“[T]he principle is well grounded in our case law, [and] we have frequently relied explicitly on the general availability of any benefit provided religious groups or individuals in turning aside Establishment Clause challenges”). Third, the benefit of the program is generally for the individual, not the religious institution. The mere fact that a religious institution may obtain a benefit is more the by-product of individual choice rather than government policy. *Mueller*, 463 U.S. at 400 (characterizing as “attenuated” any financial benefit “that eventually flows to parochial schools” as a result of “private choices of individual parents”). Fourth, because of individual choice there is less likelihood that government will be seen to endorse the religious views of the institutions that are the beneficiaries of those choices. See *Rosenberger*, 515 U.S. at 841-42 (where University provided funds to student organizations on a neutral basis for them to publish student newspapers the University had not fostered “any mistaken impression that the student newspapers speak for the University” nor was there any “real likelihood that the speech in question [was] either endorsed or coerced by the State.”); *Mueller v. Allen*, 463 U.S. 388, 399 (1983) (finding that in a program where aid becomes available to a religious institution only as a result of decisions of individual parents no imprimatur of state approval, can be deemed to have been conferred on an particular religion, or on religion generally); *Witters*, 474 U.S. at 488-89 (“Nor does the mere circumstance that petitioner has chosen to use neutrally available state aid to help pay for his religious education confer any message of state endorsement of religion.”). Fifth, the risk of excessive entanglement would be greater if the government were to attempt to restrict individual choices to purely secular activities. See *Rosenberger*, 515 U.S. at 845 (explaining that even if the University were able to distinguish between permissible and impermissible discussions of religion in a student newspaper, “merely to draw the distinction would require the university – and ultimately the courts – to inquire into the significance of words and practices to different religious faiths, and in varying circumstances by the same faith. Such inquiries would tend inevitably to entangle the State with religion in a manner forbidden by our cases.”)

### III. State Constitutional Issues

The Virginia Constitution is not, however, identical to the United States Constitution. Since early in the history of the Commonwealth, the Virginia Constitution has contained restrictions against the use of state resources in support of religious institutions.

There is a dearth of cases interpreting Virginia’s Constitutional provisions regarding the separation of church and state. As observed by the noted constitutional commentator, A.E. Dick

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Howard, “[f]airly sparse case law has thrown only a bit of light on [Article IV, § 16] whose language and ambit are not the clearest.” A.E. Dick Howard, *Commentaries on the Constitution of Virginia* at 551 (1974). One of the few cases in Virginia involving the giving of public funds to religious institutions is *Almond v. Day*, 197 Va. 419 (1955). In *Almond*, the Virginia Supreme Court struck down a provision in the Appropriation Act of 1954 (“the Act”) that provided money for the education of children of veterans killed or disabled during World War II. The money provided payment of “tuition, institutional fees, board, room rent, books and supplies, at any education or training institution of collegiate or secondary grade in the State of Virginia.” Acts 1954, ch. 708, p. 970.

Since *Almond* arose in the context of schools, the section of the Virginia Constitution that was most applicable was the provision stating “[n]o appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the State or some political subdivision thereof.”<sup>6</sup> Since the Act’s “broad language made [the funds] available for use while such children are attending either sectarian or nonsectarian private schools,” the Court held it violated the Virginia Constitution. *Almond*, 197 Va. at 423.

In *Almond*, J. Lindsay Almond, Jr., the Attorney General of Virginia, argued on behalf of the Commonwealth that the Act was “not an appropriation directly to the institutions which the eligible children may attend, but [was] an appropriation to the parents or guardians of such children, [was] primarily for the benefit of such children, and only incidentally for the benefit of the selected private schools.” *Id.* at 424. The Court rejected General Almond’s “child benefit” theory argument, explaining that even if the individual students chose where they went to school the money was still ““for the benefit of” of that school.” *Id.* at 426. The Court determined that “the parent or guardian to whom the tuition fees are paid is merely the conduit or channel through whom the aid from the State to the school is transmitted.” *Id.* at 428. Such determination was based primarily upon the Court’s finding that “[a]s a matter of fact the record shows that from July 1950, through June 1954, payments of these appropriations have usually been made directly to the institutions.” *Id.* at 426. Thus, the narrow holding of *Almond* did not reach General Almond’s “child benefit” theory, but merely held that direct tuition payments to religious schools constituted a prohibited appropriation.

Most significantly, the decision in *Almond* was largely based on the Court’s view that “[t]he trend of recent U.S. Supreme Court decisions . . . strongly indicates” that the Act was violative of the First Amendment to the U.S. Constitution, and that there existed “the strong possibility that the provisions of the Virginia Constitution dealing with separation of Church and State would also be construed as prohibiting the type of appropriation here under consideration.” *Id.* at 427-28.<sup>7</sup>

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<sup>6</sup> At the time *Almond* was decided, this provision was found in section 141 of the Constitution of Virginia. It now appears as Art. VIII, § 10 of the Virginia Constitution of 1971.

<sup>7</sup> It does not appear that the Court’s view on this matter was challenged by the Attorney General during the case. See *Almond* at 430.

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In making that prediction in 1955, the *Almond* court failed to anticipate the substantial development of Establishment Clause jurisprudence that has occurred during the last forty-four years. As mentioned above, the Supreme Court has subsequently established that the Establishment Clause is not violated merely because state aid flows to religious institutions as a result of individual choice. *Witters*, 474 U.S. 481, 487 (1986); accord *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993) (quoting *Mueller v. Allen*, 463 U.S. 388, 389 (1983) (no violation of the Establishment Clause occurs when public funds become available to sectarian schools “only as a result of numerous private choices of individual parents of school-age children”). The Fourth Circuit has found *Almond* to be “outdated jurisprudentially in that the federal establishment clause permits more state assistance to religion than it was thought to allow in 1955 . . . .” See *Phan v. Virginia*, 806 F.2d 516, 524 (1986) (opining that Article IV, § 16 would not appear to bar voucher-type programs where the funds go for the benefit of the recipient and not the religious institution. A.E. Dick Howard also has suggested “[t]here is nothing in the language of [Article VIII, § 10], that would prevent the Virginia courts from adopting the ‘child benefit’ theory or some other approach that would allow given forms of aid to be extended to children in sectarian schools.” 2 A.E. “Dick” Howard, *Commentaries on the Constitution of Virginia* at 956 (1974). In light of these decisions treating the recipients of funds as independent decision makers rather than mere conduits between the government and the school, it is unclear how much viability *Almond* retains, even with respect to the Virginia Constitution.

#### IV. Relevant Models

Since the Task Force has not asked us to assess any particular program, this memorandum is necessarily general in nature; however, we hope this final section will keep this memorandum from being purely theoretical and enhance its usefulness to the task force in crafting any programs or policies it might wish to suggest. The following discusses two types of programs that involve the use of government funds by religious institutions for programs that do not have as a primary goal a religious purpose or effect.

##### A. Client Pick – No Religious Purpose or Effect

The first model involves situations in which government appropriates money for some legitimate secular function or service and allows individuals to choose the institution to provide that service thereby permitting some money to go to religious institutions that perform that secular, non-religious function.

The classic case involves the use of federal Medicaid dollars that are given to health care providers, including religiously owned hospitals, to reimburse the health care provider for care to Medicaid recipients. These types of programs are undoubtedly constitutional. This is primarily

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because the function performed is secular and not religious. *See Bradfield v. Roberts*, 175 U.S. 291 (1899) (finding that since religiously operated hospitals have an independent secular function, state funds may constitutionally be given to aid that secular function). Moreover, it is the patient that chooses where the money is spent.

If such a program were analyzed under the *Lemon* test, a court would undoubtedly find that: (1) such a program had a legitimate secular purpose; (2) a program that allowed patients to use either religious institutions or non-religious institutions did not have a primary effect that either advances or inhibits religion; and, (3) a program that permitted hospitals to be reimbursed for care to patients did not have an excessive entanglement between government and religious authority.

Under the neutrality theory, the Supreme Court would undoubtedly also hold that in programs such as these where government money is made available for the provision of legitimate secular services, it would be impermissible to deny access to such money to a hospital simply because it was a religious institution.

**B. Agency Pick – No Religious Purpose or Effect**

The second model involves programs in which the government directly contracts with or provides a grant to a religious institution for the provision of a secular function or service. In this case, there is no intermediate individual who makes the choice where the money goes; thus, for the program to be viable, the service provided by the religious institution must secure a secular purpose.

The case in which this model was tested was *Bowen*, 487 U.S. at 589. In *Bowen*, the Supreme Court upheld the constitutionality of the Adolescent Family Life Act (the “Act”) that gave grants to various organizations to provide teen pregnancy counseling. The Act specifically stated that religious organizations would be eligible for the grants. The Court held the Act did not violate the constitution on its face, although the application of the Act to particular programs may or may not be valid.

Under the first *Lemon* prong, *Bowen* found the statute “was motivated primarily, if not entirely, by a legitimate secular purpose, (ie. the elimination or reduction of social and economic problems caused by teenage sexuality, pregnancy, and parenthood).” *Id.* at 602. The mere fact that religious organizations were given a role to play did not vitiate the primarily secular purpose of the Act. “Nothing in our previous cases prevents Congress . . . from recognizing the important part that religion or religious organizations may play in resolving certain secular problems.” *Id.* at 606. Nor was the eligibility of religious organizations to receive grant money enough to render the Act unconstitutional, since the grants were distributed in a neutral fashion *vis a vis* religious and non-religious institutions and religious affiliation was not a criterion for selection as a grantee. *Id.* at 608. This is in line with the Court’s previous statement that

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“religious institutions need not be quarantined from public benefits that are neutrally available to all.” *Roemer*, 426 U.S. at 746. Indeed, the Supreme Court “has never held that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs.” *Bowen*, 487 U.S. at 609.

*Bowen* then analyzed the Act under the second *Lemon* prong to determine if the Act had the “primary effect of advancing religion.” *Id.* at 609. The Court observed that “[o]ne way in which direct government aid might have that effect is if the aid flows to institutions that are ‘pervasively sectarian.’” *Id.* at 610 (citing *Hunt v. McNair*, 413 U.S. 734, 743 (1973)). The Court recognized that it had invalidated programs where “there was a ‘substantial’ risk that aid to . . . religious institutions would, knowingly or unknowingly, result in religious indoctrination.” *Id.* at 612. However, the Court rejected the idea that a regulation that provided grant money to a religious institution for a primarily secular purpose would be unconstitutional merely because it created a modicum of interaction between government and religion. *Id.* at 613-14. After acknowledging that government must tread lightly in this area, the Court held the Act did not lead to “an excessive government entanglement with religion.” *Id.* at 615 (quoting *Lemon*, 403 U.S. at 613).

Again, the theme of neutrality and fairness is important. Although governments may not be required to set up certain programs where money is made available to eligible groups for the performance of a legitimate secular function or service, the government may not deny religious organizations the ability to apply for the money. The Supreme Court has “never said that ‘religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs.’” *Zobrest*, 509 U.S. at 6 (quoting *Bowen*, 487 U.S. at 609).

It appears that religious organizations are already involved in many projects such as this in Virginia. Consider, for example, the Department of Social Services’ (“DSS”) Office of Newcomer Services which currently contracts with faith-based organizations to provide refugee resettlement services. DSS also reimburses child care centers for child care provided to certain low-income individuals. Centers operated by religious organizations are eligible to receive this money. DSS’ “One Church, One Child” program uses churches to find adoptive homes for minority children. DSS also uses churches in a program to provide respite child care for homeless individuals while they search for employment. Moreover, twenty-nine community action agencies work closely with hundreds of faith-based organizations statewide that provide services and classroom space for head start and other programs.

## V. Recent Developments

On Wednesday, December 8, 1999, the United States Supreme Court heard arguments on the case of *Mitchell v. Helms*, 119 S. Ct. 2336. *Mitchell v. Helms* originated in Louisiana when a group of taxpayers of a local public school district challenged the school district’s decision to



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provide instructional materials and equipment, including hardware, to religious schools. The materials and equipment were made available to the religious schools under Chapter 2 of Title 1 of the Elementary and Secondary Education Act (“the Federal Education Act”). The case thus raises the issue of whether the Establishment Clause permits school districts to provide instructional materials to religious schools under the Federal Education Act. The decision in this case will provide courts and decision makers with additional guidance as to what criteria should be considered in determining whether certain governmental aid violates Establishment Clause principles.

**VI. CONCLUSION**

All of the foregoing necessitates careful consideration of all salient circumstances in fashioning any program involving faith-based community service groups in the welfare reform process. It is critical that policy makers and legislators understand the constitutional limitations in this area, while, at the same time, not adopting the blanket rule that any involvement by faith-based groups in the welfare reform process is impermissible.



## **APPENDIX C**



## Faith-Community Based Supportive Service Programs in Other States

### Maryland

Anne Arundel County, Maryland has instituted a program that allows churches to "adopt" willing welfare recipients and assume control of their benefits. The county has a program for recruiting houses of worship as sponsors of a family on welfare. The faith-based organization agrees to be a sponsor and receives a six-month lump sum of the family's cash assistance in place of what the family would ordinarily receive. The sponsor then helps the family use the assistance wisely to get back on the road to self-sufficiency. The sponsoring organization receives no fees to help cover administrative costs, so it is purely voluntary on the part of the organization.

Specifically, Anne Arundel County doesn't pay churches, but it allows them to use county money to help welfare recipients. Genesis Jobs, supported by the Episcopal Church of the Guardian Angel, has been successful in finding jobs for low-income workers. It has scrimped and scraped for funds from private donors, refusing to seek government money. Now for the first time, the state has been referring some job-seekers to Genesis Jobs and has asked Genesis Jobs to train some of its workers, using federal funds. "This new turn of events appears to allow us to be flexible and innovative. The doors have been opened," says Emily Thayer, Director of Genesis Jobs.

Time Magazine quotes Christine Poulson, Anne Arundel's special-programs manager as saying, "The people in the faith-based institutions are truly interested in the participants. The congregation becomes a mini-family for those enrolled." The results, reports Time magazine, have been impressive: 19 of the 26 welfare recipients who went through the program are now self-sufficient.

**Contact Name: Christine Poulson, Maryland Dept. of Social Services**  
**Telephone #: (401) 269-4460**

### North Carolina

The Jobs Partnership of Raleigh is a group of 53 churches and 48 local businesses to provide job seekers with training and employment. The program provides a 12-week training curriculum, combining basic skills with biblical teachings. The Wake Technical Community College's Human Resources Department program teaches participants interviewing techniques, how to prepare resumes, and other marketing strategies. The partnership teaches biblical principles concerning work, work habits, and proper attitude. A nine-week on the job co-op is also part of program. Once a program is completed, participants are evaluated and placed with a member business through the Jobs Partnership Clearing House. Businesses provide a mentor at the workplace and the partnership also provides mentors. Churches will do whatever is necessary to help participants complete training and get a job, including providing daily transportation.

**Contact Name: Skip Long, North Carolina Dept. of Social Services**  
**Telephone #: (919) 783-5700 ext. 135**

JUBILEE's Families First Program: JUBILEE (a project of the N.C. Council of Churches) is providing technical assistance to congregations who want to organize a mentoring program. Staff assist congregations in forming faith teams, contacting their local DSS offices and being matched up with Work First clients. The project has created a brief manual, "Families First: An Adopt-a-Work First Family Initiative." Project JUBILEE is also working with counties to help them hold community forums and "resource fairs," survey faith-based organizations on their services, and create faith community coordinator positions. (919) 460-7666; for the manual, (919) 489-5839. (A new manual on health care ministries will be published in 1999.)

In Forsyth County, Living Water Family Resource Center is a collaboration between First Start Inc. (a coalition of four churches) and Forsyth Early Childhood Partnership, this community's non-profit Smart

Start agency. Services include preschool, prenatal care, dental care and parent education. (336) 650-0633.

Forsyth County (Winston-Salem) held a "Faith Acts as Welfare Changes" conference to help mobilize the faith community's efforts in responding to welfare reform. While the county Department of Social Services provided logistical support, members of the steering committee that planned the conference were almost entirely from the faith community. The conference, held Nov. 5, 1998, featured innovative faith-based programs dealing with child care, transportation, employment and training, mentoring, and other issues. Workshops were held to help participants plan their own strategies and program ideas for their congregations. Contact WIN for more information, 202-628-5790, ext. 25.

## **Texas**

Governor George W. Bush introduced many bills in the legislature that would allow "faith-based" organizations to participate in state-funded job-training, child-care, and prison counseling programs. Two measures, recently signed by Governor Bush, make it easier for religious nonprofits to help the state's poor without violating prohibitions against mixing religious teaching with social services. Under one law, religious child care providers may receive accreditation from private organizations other than the state. A second law exempts drug and alcohol treatment centers, run by religious organizations, from state registration requirements. The exemption only covers counseling and support services, not medical care.

**Contact Name: Ron Lindsey, Policy Director for Health and Human Services, Governor's Office of the State of Texas.**

**Telephone #: (512) 463-2198.**

Family Pathfinders is a statewide program in Texas. Family Pathfinders is a partnership of community organizations, state government, and welfare families working together to make welfare reform a reality. Businesses, civic groups, and religious congregations join with families on public assistance to help the family realize self-sufficiency.

Family Pathfinders supplements essential services provided by the Texas Workforce Commission (TWC). TWC provides child care and skills-assessment job training, job placement, and some help with transportation. These services can help a family get off welfare, but often difficulties crop up unexpectedly. That's where the community organization fits in.

The faith-community based or civic organization forms a team of three-to-eight volunteers to work with the family. The team leader is selected and the Pathfinders staff schedules a four-hour session to train the team members. Pathfinders staff matches the organization to a family based on the needs of the family and the kinds of problems the organization can best address. The team leader brings in the volunteers to work with the family on an ongoing basis. Over time, the team leader calls regularly to check on the families' well-being and submits monthly reports on the families' successes and problems. Currently, the program has 217 applicants of which 134 have been matched 55 organizations.

**Contact Name: Martha Ward, The-Comptroller of Public Accounts**

**Telephone #: (512) 936-6218**

From the Food Research and Action Center: "The Greater Dallas Community of Churches has been a leader in a multi-year effort to expand access to and participation in the Summer Food Program through collaborating with such institutions as the Dallas schools, Dallas Parks and Recreation Department, churches, Boys and Girls Clubs, AmeriCorps, and local corporation volunteers."

## **Michigan**

Michigan has approved "welfare mentors" from faith-based organizations who counsel welfare recipients as they attempt to move off the public role. The state compensates religious groups for providing mentors, but the mentors must have a "nonjudgmental attitude."

**Contact Name: Lawrence Snippe (Ottawa County)**  
**Telephone #: (616) 394-7200**

**Contact Name: TANF Director's Office (Wayne County)**  
**Telephone #: (313) 256-1022**

### **Washington State**

In Washington, World Vision has helped spearhead an effort to bring faith-based groups together in order to come up with a strategy to propose to the state government. "Those who work in the trenches have learned that nonprofits generally, and faith-based groups especially, are better at solving social pathologies and problems like addiction," says Jim Wallis, executive director of Sojourners, a Washington-based Christian group. "We want government to provide guidelines and accountability, but we need more diversification." According to Mr. Wallis, federal involvement could help churches in disadvantaged neighborhoods better coordinate their service efforts and look within their own congregations for answers to the problem of joblessness.

Contact name not available at this time.

### **Mississippi**

Mississippi is at the forefront of the charitable choice trend. According to Don Taylor, executive director of the Mississippi Department of Human Services, the state's "Faith and Families" program has matched several hundred volunteer welfare recipients with local churches and synagogues, who then provide them with a variety of assistance, including finding a job. In 1994, Mississippi Governor Kirk Fordice unveiled an ambitious "Faith and Families" program, whose goal is to link each of Mississippi's 5,000 churches with welfare families. 338 churches in Mississippi have adopted 504 families, helping them with everything from studying for the high school equivalency exam to honing job-interview skills, finding jobs, and providing child care. "Churches create an environment where lives can be changed," says the Rev. Ronald K. Moore a Baptist minister who coordinates Mississippi's "Faith and Families Program." "Most of what we do comes from the heart."

**Contact Name: Don Taylor, Mississippi Dept. of Human Services**  
**Telephone #: (601) 359-4480**

### **Arkansas**

The Department of Human Services' Division of County Operations has established the Arkansas Mentors Program to link religious congregations with both current welfare recipients and those leaving the rolls. The DHS has held regional conferences to help congregations get started. The Arkansas DHS is emphasizing that the mentoring should focus on the development of "life skills" and working with the entire family, not just the head of household. Contact Carol Brown, DHS, Division of County Operations, Transitional Employment Assistance Support Sections, (501) 628-8251.

### **California**

Shasta County: FaithWORKS! has a \$125,000 TANF-based contract with the county to provide mentoring and post-employment support services to welfare recipients and welfare aid applicants. The program began operating mid-August, 1998. FaithWORKS! began as a coalition of congregations providing emergency food services. Last year, the coalition, businesses, county agencies, non-profits and others began meeting as the Welfare Reform Management Council to organize the county's response to welfare reform. The FaithWORKS! program is envisioned as a way to support transitions from welfare to work and support those who are diverted from applying for aid. Congregations are recruited to provide volunteers to mentor applicants and recipients, and FaithWORKS! coordinates the volunteer effort and publicizes the program's availability through presentations to job readiness classes, written material and other means. More than 30 congregations currently participate. For more information, contact Mike Evans at 530-242-1492 or by e-mail at [mikeevans@faith-works.org](mailto:mikeevans@faith-works.org)

Los Angeles County Department of Public Social Services held a conference in May 1998 for faith community outreach. The purpose of the meeting was both to inform religious congregations about welfare policies and programs, give the faith community an opportunity to ask questions and suggest ways that congregations and faith-based organizations could get involved. The county plans to issue RFPs later this year for the provision of support services. The faith community will be invited to respond to the RFPs.

## **Georgia**

Antioch Ministries in Augusta-Richmond County: According to HUD's "Spotlighting What Works," Vol. 2, No. 3, Antioch Ministries is assisting other non-profits in Georgia, Florida and Louisiana in establishing rental rehabilitation programs. The city is considering using Antioch as a "mentor" to other faith-based organizations getting involved in housing programs.

## **Illinois**

Partners for Hope - An Interfaith Welfare-to-Work Initiative. DHS recently kicked off Partners for Hope, its interfaith welfare-to-work initiative. The department is partnering with area churches and other faith communities to highlight a variety of programs that will help families move from welfare to work. For more information, contact the DHS automated information service line at 1-800-843-6154.

## **Minnesota**

Hennepin County's Congregations at Work initiative, part of the Children and Family Services Department, helped create the HopeMakers Program. HopeMakers, with support from World Vision and Twin Cities Urban Reconciliation Network, piloted in 1997. Volunteers from partner congregations work with low-income individuals through a Christian-based curriculum to provide meals and mentoring, pre-employment (instructional) services and child care. The county's Training and Employment Services and local employers work as partners in providing employment services. In addition to HopeMakers, the Congregations at Work initiative worked with community partners to publish an interfaith newsletter and metropolitan church directories to provide additional referral services and increased access to community resources. Consultation, information services and workshops are also being provided to congregations interested in working with community families and community development. The county provides in-kind services and some staff resources. For more information, contact Waverly Hanson, (612) 821-4522.

The St. Paul Area Council of Churches is working to educate area congregations and help them become involved in welfare reform and community need more generally. The Council recognizes model programs and facilitates congregations' mentoring one another in offering services. A current project of the Council is to publish a manual entitled "The Role of Churches in Support of Welfare Reform" and plans for workshops on congregational involvement later this year.

In Washington County, Minnesota, four churches, a non-profit and a business have started the "Rivertown Car Care Clinic," which uses volunteers to help repair the cars of low-income people for free. For more information, contact Margy Mattlin at Ascension Episcopal Church, 612-439-2609. Source: The McKnight Foundation's "Welfare to Work" newsletter, March 1998. Contact 612-333-4220 for the newsletter. Metropolitan Interfaith Council on Affordable Housing works to involve the religious community in housing issues by promoting awareness of the issue and by motivating people of faith to take direct action and advocate for public policies that maintain and increase the supply of decent, safe, and affordable housing. For additional information, please call (612) 871-8980, or e-mail at [info@micah.org](mailto:info@micah.org).

## **Ohio**

"Habitat for Children is a unique collaborative effort between the Lorain County Public Children Services Agency and Compassion Baptist church. Church volunteers participate in child protective activities by facilitating and supervising visitation, transporting children and families to appointments, mentoring families involved with the child protection systems, and other types of supportive services." Source: "101 Brilliant Ideas for Local Partnerships," by the Ohio Works First Linkages Committee, June 1998. Contact the Lorain County PCSA, (440) 329-5340, for more information.



## **Vermont**

The Good News Garage helps low income residents of Chittenden County and surrounding areas of Vermont with affordable transportation. A program of Lutheran Social Services of New England, it reconditions donated cars and gives them to people in need. Good News Garage also offers auto repairs at an affordable rate and van pooling connecting bus routes and job sites.

## **Washington**

The Christian Hope Association, a community development organization in Lynden, Washington, has implemented assistance, work experience, mentoring and other programs. See the organization's web site for more information.

Excerpts from the Welfare Information Network ([http://www.welfareinfo.org/faithbase.htm#Faith-Based Involvement](http://www.welfareinfo.org/faithbase.htm#Faith-Based%20Involvement)) and <http://www.calib.com/peerta/topics/faithcom.htm>.



## **APPENDIX D**



# **Department of Social Services**

## **Current Connections with Faith-Based Organizations**

The Department of Social Services works with faith-based organizations in a variety of different areas. The first welfare reform conference in Fredericksburg in 1995, the Governor's Summit on Community Responses to Welfare Reform, was centered around faith-based organizations, providing participants with information about Virginia's welfare reform efforts and offering technical assistance and examples of best practices. **Attachment 1** is a list of examples of faith-based organizations working within communities to provide support to families transitioning from welfare to self-sufficiency.

The Department has continued to provide technical assistance to faith-based, and other community organizations in developing programs and has made this assistance a key part of its annual welfare reform conferences.

The information below is intended to demonstrate the types of connections the Department has with faith-based organizations. It is not intended to include all on-going projects. In particular, collaborations and contractual relationships between faith-based organizations and local departments of social services are not included here. Additional information on those relationships can be obtained upon the committee's request.

### **Division of Family Services**

The Department has had a longstanding contractual relationship with "One Church, One Child" in Richmond, to place minority children in adoptive homes.

In accordance with a 1998 General Assembly appropriation, the department is developing a program working with churches to provide respite childcare for homeless individuals while they search for employment.

There are no contracts at the present time for childcare with organizations that are, to our knowledge, faith-based. However, these organizations are eligible to apply with all others whenever Requests for Proposals (RFP) are issued for childcare funds.

### **Office of Newcomer Services**

Faith-based organizations have historically been an integral part of the refugee resettlement program. At the national level, not-for-profit voluntary organizations (VOLAGS), many of which are faith-based, are the bodies that initiate response to refugee resettlement based on field work conducted by the United Nations

High Commission on Refugees. VOLAGS carry out initial reception and placement of refugees through cooperative agreements with the Bureau for Refugee Programs of the Department of State.

For each refugee resettled in Virginia, VOLAGS receive a set amount of money that is used, along with other cash and in-kind contributions from private sources, to provide services during the refugees' first ninety days in the United States. Affiliates of these VOLAGS carry out reception and placement activities at the local level. Five of the seven VOLAGS that resettle refugees in Virginia are faith-based. Those are:

- United State Catholic Conference
- Episcopal Migration Ministries
- Church World Services
- Hebrew Immigrant Aid Society
- Lutheran Immigration and Relief Committee

The Department of Social Services, through its Office of Newcomer Service contracts with the following faith-based organizations:

- **Catholic Diocese of Richmond**  
Offices in Richmond, Roanoke, and Norfolk
- **Virginia Council of Churches**  
Offices in Richmond, Harrisonburg, and Manassas
- **Commonwealth Catholic Charities - Richmond**  
Administers Refugee Unaccompanied Minors Program
- **Lutheran Social Services**  
Offices in Falls Church

### **Community Action Agency Network**

The Department of Social Services' Office of Community Services administers the Community Services Block Grant Program. This includes oversight for the network of 26 local community action agencies and three statewide community action organizations.

Community Action's mission is to address the issues of poverty and to increase the self-sufficiency of low-income families. They offer a broad range of anti-poverty programs and work collaboratively with other agencies to build a network of support for Virginia's most vulnerable populations.

Every agency in the network has a close relationship with the faith community. They are represented on the board of directors of each agency and are close partners in the provision of emergency services. In addition to emergency services, the network works in partnership with the faith community in a broad range of human service programs.

A good example of this is the STOP Organization in Norfolk. STOP reports at least 23 churches that help with emergency needs, a contractual relationship with the Norfolk Interfaith Partnership on their mentoring program for TANF clients, and numerous partnerships with faith-based organizations to provide classroom space for Head Start and other programs.

In Danville, Pittsylvania County Community Action Agency (PCCA) works with the Cherrystone Baptist Association and the Salvation Army to provide computer training classes. The churches provide space, PCCA provides the instructor and the computers, and the Salvation Army refers clients and helps PCCA locate jobs for the participants. PCCA also works with World Change of the Southern Baptist Association. World Change provides teenagers from around the country who work with PCCA's weatherization crews to rehabilitate 20-30 low-income homes each year.

This is a very small sampling of the hundreds of partnerships throughout the community action network. A quick survey of the community action agencies for collaborative relationships, brought responses from nine agencies that mentioned over 70 faith-based organizations by name. Many of these were associations and councils representing larger groups. Among these nine agencies there were seven contractual relationships.

**Neighborhood Assistance Program Projects – Faith-based Organizations  
FY1999-2000**

In order to participate in the Neighborhood Assistance Tax Credit Program, an organization must be a 501(c)(3) or (4) whose primary function is providing services to low-income individuals.

Approved projects receive an allocation of tax credits to use as an incentive to businesses for donations. This program is administered by the Department of Social Services' Office of Community Services.

<b>Name</b>	<b>City</b>	<b>Type</b>
Beth Sholom Home of Eastern Va.	Va. Beach	Health Care
Catholic Charities of Eastern Va.	Va. Beach	Family Planning
Christian Outreach Program, Inc.	Smithfield	Seniors & Health Care
Cross Over Ministry, Inc.	Richmond	Health Care

Fairfax Area Christian Emergency & Transitional Services, Inc.	Fairfax	Emergency Services
Habitat for Humanity – Fauquier	Warrenton	Housing
Habitat for Humanity – South Hampton Rds	Norfolk	Housing
Habitat for Humanity – Tri-Cities	Petersburg	Housing
Habitat for Humanity in the Roanoke Valley	Roanoke	Housing
Habitat for Humanity of Northern Va.	Arlington	Housing
Hanover Habitat for Humanity	Ashland	Housing
Jackson-Field Homes, Inc.	Jarratt	Residential Care
Jewish Family Services of Tidewater, Inc	Norfolk	Resettlement Services
Judeo-Christian Outreach Center, Inc.	Va. Beach	Homeless Shelter
Newport News Link,	Newport News	Emergency Services
Presbyterian Community Center, Inc.	Roanoke	Emergency Services
Prince William Interfaith Volunteer Caregivers	Manassas	Matching needs to resources
Refugee and Immigration Services of the Catholic Diocese	Richmond	Resettlement Services
Sacred Heart Center	Richmond	Child Care
Salvation Army – Alexandria	Alexandria	Emergency Services
Salvation Army – Peninsula Command	Hampton	Emergency Services
Salvation Army – Richmond	Richmond	Emergency Services
Salvation Army – Tidewater Area Command	Norfolk	Emergency Services
Salvation Army – Williamsburg	Williamsburg	Emergency Services
Salvation Army – Winchester	Winchester	Emergency Services
Salvation Army – Harrisonburg & Rockingham County	Harrisonburg	Emergency Services
Salvation Army – Loudoun County	Leesburg	Emergency Services
Urban Discovery Ministries	Norfolk	Youth/Family Services



## Examples of Faith-Based Supportive Service Programs in Virginia

### Alexandria

ALIVE! (ALexandrians InVolved Ecumenically) has a new Family Independence Program through which volunteer mentors from congregations, community groups and businesses are paired with low-income individuals struggling to make the transition to work. ALIVE!, a 28-year-old service organization, provides training for the volunteer mentors and conducts follow-up meetings with them. A full-time program director and case manager are available to provide back-up support, and those staff ensure that clients are referred to the appropriate city services. The program works with the city's Office of Employment Training and local community-based service providers. The program is funded by the Robert Wood Johnson Foundation, other local foundations, the United Way and the City of Alexandria.

**Contact (703) 548-6144 for more information.**

### Charlottesville

Trinity Presbyterian's JOB KEYS program. The success lies behind the fact that only 6 recipients can participate at a time, which ensures highly individualized attention. JOB KEYS provides computer literacy and job readiness training. Once participants reach a certain skills level, they are linked to a mentoring group. Mentors are from Trinity Presbyterian and other area churches. The mentor groups form a "friendship circle".

**Contact:** Dr. Amy L. Sherman (804) 293-5656

### Chesterfield/Colonial Heights

C-CHASM – Chesterfield – Colonial Heights Alliance for Social Ministry, is a group of churches who work together to meet emergency services and to streamline efforts so as not to duplicate services. This coalition is a way to effectively use resources such as food closets and the use of community block grant money to set up a mentoring program. The local social services agency helps match mentors.

**Contact:** Kathy Stevens (804) 796-3715

### Fairfax

A coalition of religious congregations, community-based non-profit agencies, the Fairfax County Board of Supervisors, and the county Department of Family Services began a partnership in 1996. That was the same year the state's welfare reform program began in the county, which has a population of more than 900,000. Faith Communities in Action (FCIA) gathered information on community services offered by individual congregations and grouped them in a directory by the type of service offered and the geographic area of the congregation. FCIA recently held its second conference, which featured innovative ways the faith community can respond to welfare reform, speakers from the governmental, non-profit and religious communities, and workshops that gave participants a made-up "family case" and challenged them to find ways to

help the "family" through county, non-profit and congregational resources. Leadership of FCIA alternates each year between a governmental official and a leader of the faith community.

**Contact:** FCIA at St. Matthew's United Methodist Church at (703) 978-3500 or Marilyn Bursch at the County Department of Family Services at (703) 324-5465.

### **Fauquier**

Beverly Butterfield, Fauquier County, Virginia, Cooperative Extension Service, has helped form a coalition of churches in the county to address welfare reform. They have started a mentoring initiative with the churches there and are planning a volunteer center to help churches "plug in" to the social service needs and resources in the county.

**Contact:** Beverly Butterfield, Virginia Cooperative Extension Service/Virginia Tech: (540) 341-7950 ext. 13.

### **Hanover**

Hanover Department of Social Services has a long-standing relationship with the faith community, particularly in providing crisis assistance. One of the churches in Hanover, Shady Grove United Methodist Church, has established the "Money Management for the Employed" program which focuses on goal-setting and long-range planning. The program shows participants how to control their money, how to achieve a better life for the family by deciding what is important to them, and enables them to see how today's actions influence their future situation. More than two dozen church members are involved in the two-day classes, serving as instructors and mentors as well as providing transportation and on-site child care.

**Contact:** Bill Short, Hanover County DSS (804) 752-4132.

### **Henrico**

Mount Olive Baptist Church formed a partnership with Henrico County Social Services and the Adult Learning Center with the objective of helping welfare recipients prepare for job markets. Mount Olive provides mentors, tutors, transportation and child care. The Adult Learning Center provides education and job readiness training specifically geared to the recipients. Henrico Social Services handles the referral process.

Interfaith Services of Henrico (ISH) provides funds and food in emergency situations. No donated funds are spent on administrative costs as these are contributed by the county and by volunteers. All applicants are screened for prior use of funds and/or food emergencies. ISH funds can only be received once per year.

### **Lynchburg**

As the need arises, the congregation of Heritage Baptist comes together to offer assistance to low-income individuals. Food, medications, and other items are

supplied directly to the individual through an arrangement with Kroger (grocery and pharmacy) to ensure that the assistance goes for what it is intended.

### **Norfolk**

Temple Baptist Church developed a literacy program over 5 years ago, which is now known as Project Light Literacy, to help both children and adults learn to read. Currently the project has 36 students. The church also sponsors a weekly food bank. Recently Temple Baptist worked with the Virginia Beach Employment Commission and other local civic programs to sponsor a job fair. Over 50 individuals applied for jobs with the participating businesses.

**Contact:** Rev. Mark Pullen (757) 622-2876

### **Portsmouth**

The Jeremiah Project is a city-wide ministry developing different ways to work in conjunction with social services by providing mentoring, child care, literacy programs, job retention help and work in other areas to help adjust attitudes to a more positive outlook. Participating churches are providing vans for transportation and pro bono legal aid for certain low-income individuals. Pastors and lay leaders from over twenty different churches meet regularly to coordinate and share ideas.

**Contact:** Sister Anna Mae Crane (757) 398-4900

### **Prince William**

Prince William Interfaith Caregivers Family to Family Mentoring has successfully matched a number of mentor teams with VIEW participants and families. Significant and lasting support systems are being established through the efforts of many faith focused adults.

**Contact:** Brenda Knowles (703) 392-4127

### **Richmond**

Charity Mission provides child care during regular business hours and will soon expand to provide infant care. Referrals are received from the YMCA and the Richmond Redevelopment and Housing Association. Transportation is available. An after-school program for the older children offers homework assistance, academic tutoring, and other activities.

**Contact:** Al Walker (804) 225-0402

Essex Village provides assistance and opportunity for low-income residents.

**Contact:** Rev. Joe Ellison (804) 321-6110

First Homes initiative helps families from various faith communities make long-term commitments to help low-income families become homeowners.

**Contact:** Wayne Swatowski, Holy Rosary Catholic Church (804) 222-8249  
Sacred Heart Catholic Center sponsors a family resource program for students ages 16-61. Most students are parents and can place their children in Sacred Heart daycare. Students attend Basic Literacy, Basic Math, and Life Skills

classes. GED preparation classes are also provided and the church pays for the cost of the test. Parents and children have lunch together and spend some time playing together.

**Contact:** Amy Strite (804) 230-4399

The STEP Academy is a jobs partnership program that networks churches and businesses in the Gilpin Court area. STEP offers a class based on specifically biblically-based work attitudes. STEP involves family friendship teams of 4-5 around a family, with twice monthly meetings, and group sponsored support and encouragement. The job partnership program helps to provide recipients with a reference and a resume. Mentoring programs are utilized.

**Contact:** Marci Nobles (804) 648-6851

### **Virginia Beach**

The Virginia Beach Neighbor to Neighbor Mentoring Program recruits adults to become mentors to VIEW participants.

**Contact:** Ofelia Watley (757) 437-3270



## **APPENDIX E**



2000 SESSION

003716576

HOUSE JOINT RESOLUTION NO. 291

Offered January 24, 2000

Continuing the Special Task Force to Study Ways Faith-Based Community Service Groups May Provide Assistance to Meet Social Needs.

Patrons—McDonnell, Cantor, Katzen and McEachin; Senators: Hanger, Martin, Miller, Y.B., Stolle and Stosch

Referred to Committee on Rules

WHEREAS, the Special Task Force was created by House Joint Resolution No. 764 in the 1999 Session of the General Assembly to identify obstacles to the participation of faith-based groups in the welfare reform effort and recommend ways in which these groups can be given greater opportunity to participate in the delivery of these services; and

WHEREAS, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) redefined welfare assistance and emphasizes work and time-limited benefits for recipients; and

WHEREAS, because of these new mandates, states are now required to place large numbers of individuals into work situations; and

WHEREAS, many of these individuals have a variety of problems, including low skills, substance abuse, domestic violence, and various health problems which present serious obstacles to placement in jobs and maintaining job security; and

WHEREAS, private, charitable, and faith-based groups have long been partners with the state in providing services to many of these clients and have a commendable success record since they tend to deal with the client in a holistic manner, addressing many problems simultaneously; and

WHEREAS, the PRWORA contained a "charitable choice" provision which intended to provide more incentive to private, charitable and faith-based organizations to collaborate with the state in the delivery of these services by placing them on equal status with all other nongovernmental providers of services when bidding for contracts; and

WHEREAS, the "charitable choice" provision contains stated safeguards to protect the religious character of the organization as well as the religious freedom of the client when services are provided by faith-based organizations; and

WHEREAS, there still remains much debate about the constitutionality of the provision and many states are moving cautiously to implement the law; and

WHEREAS, the Special Task Force made a number of recommendations which it felt to implement the spirit of the law while remaining conservative in its approach pending any constitutional challenge of the provision; and

WHEREAS, the Task Force felt that it was incumbent upon them to continue their review and expand the study in light of potential interpretations of the law; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Special Task Force to Study Ways Faith-Based Community Service Groups May Provide Assistance to Meet Social Needs be continued. The membership shall continue in the manner provided for in House Joint Resolution No. 764 and appointments made by the appropriate bodies.

The direct costs of this study shall not exceed \$10,000.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Department of Social Services and the Office of the Attorney General. All agencies of the Commonwealth shall provide assistance to the Task Force, upon request.

The Task Force shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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.

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2000 SESSION

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HOUSE JOINT RESOLUTION NO. 289

Offered January 24, 2000

Requesting the Secretary of Health and Human Resources to designate an individual within that office to coordinate the work of a statewide network of local liaisons who will work to coordinate the efforts of faith-based, charitable and private organizations that desire to provide social services to state clients.

Patrons—McDonnell, Cantor and Katzen; Senators: Hanger, Martin, Stolle and Stosch

Referred to Committee on Health, Welfare and Institutions

WHEREAS, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 eliminated the welfare system as we have known it for many years and replaced it with a system of time-limited benefits that emphasizes work as a priority; and

WHEREAS, states are now under a mandate to place large numbers of individuals in jobs and, by the year 2002, states must demonstrate that 50 percent of families receiving Temporary Assistance to Needy Families (TANF) funds are working; and

WHEREAS, many of these clients have already been placed in jobs but face the hurdle of long-term job stability while a number of other clients face additional problems such as low skills, substance abuse, domestic violence, and various health problems that complicate the process of job placement; and

WHEREAS, state and federal governments have long worked with religiously affiliated organizations for the delivery of public services, but there have been restrictions on the religious displays and indoctrination offered by these groups; and

WHEREAS, the 1996 PRWORA included a provision for "charitable choice" which, on its face, eliminates many of those secular restrictions on faith-based groups and was intended to encourage states to contract directly with faith-based social service providers in the delivery of these welfare services while protecting the religious character of the organizations and the religious freedom of clients; and

WHEREAS, while a great deal of concern has been expressed about the constitutionality of such provision and the potential for violating the Establishment Clause of both the Virginia State and the U.S. Constitutions, to date there have been no challenges on point from which to gain guidance; and

WHEREAS, for this reason and others, many states and faith-based organizations have moved slowly to commit to the concept of "charitable choice"; and

WHEREAS, a special task force convened by resolution of the 1999 General Assembly and chaired by the Lieutenant Governor examined the extent to which the "charitable choice" provision could be implemented in the Commonwealth in such a way that would meet constitutional scrutiny; and

WHEREAS, the task force agreed that providing assistance and information to faith-based, private, and charitable groups that want to provide social services to their clients would be one appropriate response to this issue at present; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the Secretary of Health and Human Resources be requested to designate a liaison person in that office to coordinate the work of a statewide network of local liaisons, perhaps in regional Department of Social Services offices, to coordinate the efforts of faith-based, charitable, and private organizations that desire to provide social services to those in need; and, be it

RESOLVED FURTHER, That this liaison network could, among other things (i) provide outreach and information on available programs to the various organizations; (ii) provide training and organizational skills necessary to meet the various requirements of social programs, such as programmatic and fiscal audits; (iii) encouraging meetings, conferences, and other types of mentoring activities for the groups to learn from each other; (iv) initiate some technical assistance such as a web page, an "800" number, or other means of access to information; and (v) provide oversight and make regular reports to the Secretary on the status of such program.

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2000 SESSION

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SENATE JOINT RESOLUTION NO. 250

Offered January 24, 2000

Requesting the Governor to direct all executive agencies to examine ways in which "charitable choice" provisions of federal law can be implemented in their work.

Patrons—Hanger, Martin, Stolle and Stosch; Delegates: Cantor and McDonnell

Referred to Committee on Rules

WHEREAS, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 included in its provisions a "charitable choice" provision to provide states the opportunity to expand their providers of social services to those in need; and

WHEREAS, although many state agencies have a long history of working with private, charitable or faith-based groups to accomplish their goals, there have been inherent inhibitions as a result of the potential problem invoked by the establishment clauses of the Virginia and U.S. Constitutions which have been interpreted as providing for the separation of church and state; and

WHEREAS, "charitable choice" was intended to encourage states to contract with faith-based social service providers, as well as private and charitable organizations, while protecting the religious character of the organizations and the religious freedom of the clients; and

WHEREAS, under the "charitable choice" provision, faith-based organizations are to be considered on equal ground with all other nongovernmental providers when the state offers a contract for bidding; and

WHEREAS, there is still much debate among various groups as to the extent of the implementation of the "charitable choice" provisions and whether they meet constitutional standards; now, therefore, be it

RESOLVED, by the Senate, the House of Delegates concurring, That the Governor be requested to direct all executive agencies to review their policies and procedures to ensure that the "charitable choice" provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 are being implemented in appropriate programs under their purview and that the implementation satisfies constitutional interpretation concerns.

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2000 SESSION

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SENATE JOINT RESOLUTION NO. 253

Offered January 24, 2000

Requesting the Department of Social Services to examine the social programs that it operates and to evaluate the expanded use of vouchers for payment of those services by clients.

Patrons—Hanger, Martin, Stolle and Stosch; Delegates: Cantor, McDonnell and McEachin

Referred to Committee on Rules

WHEREAS, the Department of Social Services has as its goal the provision of services that provide basic sustenance, protection, and skills for those persons in need to become self-sufficient individuals; and

WHEREAS, the Department collaborates with many agencies, organizations, groups, and individuals who contract to provide these services; and

WHEREAS, while the Department must ensure the health, safety, and welfare of its clients in the various programs where they are receiving services and while the Department must also meet fiscal and performance outcome measures in order to maintain a high quality of services, in many cases, the services are reimbursed through the use of vouchers presented by clients; and

WHEREAS, the use of vouchers provides a freedom of individual choice from among programs that meet certain criteria and promotes the development of responsibility and choice by the client; and

WHEREAS, in order to become self-sufficient, clients must become self-reliant, and the use of vouchers is a reliable method of training clients to choose and evaluate the programs best suited to them; and

WHEREAS, the federal Welfare Reform Reconciliation Act of 1996 has attempted to bring more service providers into the delivery system to provide more program choices to clients, and this concept is being expanded on the federal level to other social programs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Social Services review all programs and directives under its purview and evaluate those programs for the potential use of vouchers as payment for services.

The Department of Social Services shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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2000 SESSION

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SENATE BILL NO. 667

Offered January 24, 2000

A BILL to amend the Code of Virginia by adding in Chapter 19 of Title 63.1 a section numbered 63.1-325.2, relating to donations by individuals.

Patrons—Hanger, Martin and Stolle; Delegates: Cantor and McDonnell

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 19 of Title 63.1 a section numbered 63.1-325.2 as follows:

§ 63.1-325.2. Donations by individuals.

A. Notwithstanding any provision of this chapter limiting eligibility for tax credits, an individual making a cash donation to a neighborhood organization approved under this chapter shall be eligible for a credit against taxes imposed by § 58.1-320.

B. Notwithstanding any provision of this chapter specifying the amount of a tax credit, a tax credit issued to an individual making a cash donation to an approved project shall be equal to the amount of the cash donation and no tax credit for a donation of less than fifty dollars nor in excess of \$200 shall be granted per return per taxable year. Any tax credit not usable for the taxable year the donation was made may be carried over to the extent usable for the next five succeeding years or until the full credit has been utilized, whichever is sooner.

C. An individual shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization approved under this chapter are available.

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