

**2003 ANNUAL REPORT OF THE  
DISABILITY COMMISSION**

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

**HOUSE DOCUMENT NO. 14**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2004**



# COMMONWEALTH of VIRGINIA

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February 11, 2004

To: The Honorable Mark R. Warner and Members of the General Assembly of Virginia

As Chairman of the Disability Commission, I am pleased to submit the 2003 Annual Report of the Disability Commission pursuant to House Joint Resolution 34, agreed to by the 2000 General Assembly.

Five meetings of the Virginia Disability Commission were held in the interim prior to the 2004 Virginia General Assembly session. The Commission has continued its focus in four priority areas: the review and maintenance of the Commission's community services initiatives, employment, transportation, and housing concerns. Our work, aimed at developing community services infrastructure for Virginians with disabilities, was carefully interwoven this year with the work of the Commonwealth's Olmstead Task Force which focused on ensuring appropriate community living options, choices, and supports for persons with disabilities who are institutionalized or at risk of institutionalization.

The Commission also analyzed the need and appropriateness of continuing the Commission itself, which was due to sunset in 2004 according to the House Joint Resolution 34, passed in 2000. Throughout the interim, the Commission received public testimony as well as considerable follow up input validating the need for the Commission as the *primary forum where the issues of people with disabilities can be addressed and brought to attention of the legislature, the Lieutenant Governor, the Governor's appointees and the agencies of the Executive branch.* There was unanimous agreement by members to submit legislation to the General Assembly to continue the Disability Commission (SB 381 and HB 817).

Three work groups now also report to the Disability Commission regarding issues of great concern for Virginians with disabilities. These are:

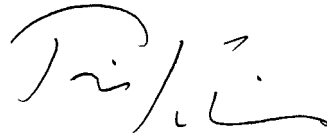
- ◆ The Medicaid Infrastructure Grant, Stakeholder Advisory Committee involved in developing an 1115 Research Waiver proposal to Centers for Medicare and Medicaid Services (CMS) pursuant to the 2003 legislation (HB 1822), originally initiated by the Disability Commission. This was legislation that, *Require(d) the Board of Medical Assistance Services to prepare and seek a § 1115 waiver to implement one of the options for a Medicaid Buy-In program for up to 200 working families with disabilities.* A Medicaid Buy-In will allow

people to finally earn higher incomes and reserve some savings while ensuring continuation of needed health care coverage, thus providing opportunities and incentives for all Virginians to seek gainful employment.

- ◆ The new Interagency Specialized Transportation Work Group, which includes one of your Commission appointees, James McDonald, a business owner from the Tidewater Area. Mr. McDonald has volunteered to serve on this work group with the key agency representatives in order to ensure that the business community was involved in the expansion and furthering of public and alternative transportation options for all Virginians with disabilities throughout the Commonwealth.
- ◆ The Disability Housing Work Group, formed by the Disability Commission and my office, to enhance intergovernmental and interagency coordination, as well as to gain stakeholder input on critical disability housing issues and decisions. This year, outstanding demonstrations in collaboration and coordinated strategic planning have been accomplished and are included in this report.

On behalf of the Disability Commission and all Virginians with disabilities, I thank you for consideration of this report and for your commitment to analysis of complex disability issues through the Commission's work process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tim Kaine', with a stylized flourish at the end.

Timothy M. Kaine  
Lieutenant Governor  
Commonwealth of Virginia

Attachments

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## 2003 ANNUAL REPORT OF THE DISABILITY COMMISSION

### INTRODUCTION

The Virginia Disability Commission was formed thirteen years ago under House Joint Resolution 45 to identify legislative priorities for the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities. The Commission is the primary forum within the legislature where the needs and issues of people with physical, sensory, and other disabilities can be addressed through the cooperation of the legislature, the Lieutenant Governor, the Governor's appointees, and the agencies of the Executive branch. With the Lieutenant Governor as the Chair, the Commission has been carefully composed to plan and facilitate development of a coordinated, community-based, and consumer-driven system of services for individuals with disabilities across the State. Initially focused on physical and sensory disabilities, over the last five years, the Commission has become instrumental in the growth and oversight of services to other disability populations and has initiated a strong focus on those groups that traditionally have been underserved in Virginia by state agencies, including persons with brain injury and those with autism.

As a legislative entity, the Virginia Disability Commission:

- ◆ Provides an important forum for planning and review of critical services across underserved disability populations who do not have a primary service providing agency that addresses their needs, including persons with sensory and physical disabilities and disabilities in the cognitive, mental, or neurologically-based realm;
- ◆ Represents the primary entity within the legislature concerned with the development of a coordinated, community-based, and consumer-driven system of services for individuals with disabilities;
- ◆ Has emerged as an important review and service development body for disability groups that traditionally have been underserved in Virginia (such as persons with brain injury and/or autism);
- ◆ Reviews targeted state planning efforts (e.g., the Olmstead Task Force, HB813, JLARC studies, etc.) and incorporates appropriate recommendations within comprehensive planning for disability populations;
- ◆ Ensures General Assembly input into and review of across the full spectrum of community disability services in Virginia;
- ◆ Supplies an effective forum for coordinated legislative and executive branch planning on critical disability issues which may not be addressed elsewhere and provides a forum for development and implementation of creative and innovative initiatives which might otherwise not be funded.;
- ◆ Offers the only existing regular public forum, four to five times a year, for persons with disabilities and their families to speak directly with the Lieutenant Governor, General Assembly members, and influential gubernatorial appointees on disability issues;
- ◆ Ensures that new programs and resources that are developed and funded maximize the self-sufficiency and quality of life of Virginians with disabilities; and
- ◆ Accelerates effective state system change by requiring intergovernmental and interagency coordination, including stakeholder input on critical issues.

Thousands of Virginians with disabilities have benefited from legislation and funding initiatives that have been initiated and endorsed by the Disability Commission since 1990. The Commission has directly developed and/or strengthened 16 programs and services for people with disabilities.

### **This Year**

The work plan this year was built on 2003 legislation efforts and other key achievements from 2002-2003, which included:

- ◆ Sponsored legislation to modify §51.5-31 to specify that at least one member of the Virginia Board for People with Disabilities be a representative of a service provider organization by replacing the term “agency concerned with services” with the term “agency that provides services” in the listing of the Board’s composition. (Patron: Delegate Bloxom)
- ◆ Sponsored legislation to require the Department of Medical Assistance Services to apply for a Section 1115 Waiver from the federal Centers for Medicare and Medicaid Services to implement a Medicaid Buy-In program for those working persons with disabilities whose earnings are too high to qualify for traditional Medicaid comprehensive health care services. (Original Patrons: Puller and Van Landingham with final legislation patroned by Morgan.)
- ◆ Worked in collaboration with Virginia Housing Development Authority (VHDA) to make a change in a Virginia housing policy that will lead to the development of needed accessible housing for hundreds of Virginians who are aging or have disabilities. The change involves a simple modification of the competitive LIHTC bid, scoring system, which gives provides every developer of LIHTC housing with a strong incentive to include accessible units in their development plan.
- ◆ Monitored the plans to renovate the state Capitol and accelerated the schedule to make the restrooms in GAB fully accessible.
- ◆ Identified strategic planning foci for future Commission work in three (3) primary life areas: Employment, Housing, and Transportation (Also, the Commission plans to continue and expand the Commission’s 16 community service initiatives developed since 1990);

### **Leadership Role**

The foundation of the Disability Commission is its critical role in advocacy on behalf of Virginians with disabilities. This year, the Commission performed that role with its support of an amicus curiae brief in a critical case in the United States Supreme Court regarding the Americans with Disability Act (ADA).

Early in this interim session, Commissioner Michalski-Karney directed the Commission's attention to **the *State of Tennessee v. Lane, et. al.***, in which Tennessee asserted that Title II of the Americans with Disabilities Act (ADA), requiring fair treatment of disabled citizens in the provision of governmental services, was unconstitutional. In the case that gave rise to this

appeal, the parties challenged their own state for the failure to provide courthouses and courtrooms that were accessible to everyone.

The district court and the 6<sup>th</sup> Circuit Court of Appeals both ruled in favor of the citizens with disabilities of Tennessee.

The Chairman's letter to the Governor and the Attorney General is included in Appendix 1.

## Meeting Plan

Five meetings of the Disability Commission were held in the interim period prior to the 2004 Virginia General Assembly session. The Commission continued its focus in four priority areas: review and maintenance of community services, employment, transportation, and housing initiatives, with careful consideration of interface with the Commonwealth's Olmstead planning. Three work groups now also report to the Disability Commission on these issues of great concern for Virginians with disabilities. The general meeting plan is provided below, however, additional topics, reports, and updates from previous meetings were freely discussed and included at any given meeting.

Meeting Dates	Primary Topics
August 11, 2003	Continuation of the Commission and its Community Service initiatives
September 30, 2003	Interface with Olmstead Task Force planning Informing the Governor's Budget
October 24, 2003	Employment Transportation
November 19, 2003	Housing
January 15, 2004	Finalizing Legislative Agenda

## Continuation of the Commission after 2004

The Commission's most recent reauthorization, by the 2000 General Assembly, expires June 30, 2004. At Former Senator Nolen's request, the Commission received public testimony during its August meeting as well as considerable follow up communication regarding the need to reauthorize the Commission. The information provided from the public validated the need for the Commission, described by advocates *as the primary, if not sole, legislative forum* where the issues of people with all types of disabilities can be addressed and brought to attention of the legislature, the Lieutenant Governor, the Governor's appointees and the agencies of the Executive branch. Those supporting continuing the Commission were:



- ◆ Brain Injury Community (individuals, families, advocates, providers, etc.);
- ◆ Parents and advocates for persons with autism;
- ◆ Persons served by Centers for Independent Living;
- ◆ Assistive Technology advocates;
- ◆ People with vision and hearing impairments;
- ◆ Employment, housing and residential service providers; and
- ◆ Local planning advocates and Disability Services Boards.

Because of the positive impact of the Commission's work, as documented by consumer outcomes and critical systems change efforts recognized by the public, there was unanimous agreement by members to submit legislation to the General Assembly to continue the Commission (Appendix 2)

## COMMISSION'S FOUR PRIORITY AREAS

### I. CONTINUING COMMISSION COMMUNITY SERVICE INITIATIVES

Given budget planning deadlines and the economic constraints this year, the Commission reviewed the budget needs across all established and highest priority programs early in the interim session. Financial benchmarks were reviewed on Commission initiatives and disability programs that may have suffered budget reductions over the last two biennia.

#### **Overview of Commission's Community Services Initiatives**

Community programs have placed a focus on those population groups that traditionally have been *underserved* in Virginia by state agencies. Hallmarks of Commission initiatives are consumer-directed emphasis that has been emulated in many other state agency programs, and maximizing much-needed federal funds for Virginians with disabilities.

Three programs that illustrate the positive impact on consumer directedness and maximizing federal dollars for both the taxpayers and persons with disabilities are the Assistive Technology Loan Fund Authority (ATLFA), the Department of Education's State Autism Planning Council, and Medicaid Waiver programs for home and community services.

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

Historically, the Commission has encouraged the ATLFA to apply for federal grants, which provide a 3:1 or 4:1 return on state dollars. This year, the Commission learned of the ATLFA's recent success in a major federal grant competition. The Authority received a \$5 million dollar federal grant for assistive technology and another \$2.5 million federal grant to advance telework and telecommuting for Virginians with disabilities. This brings an additional \$7.5 million in federal dollars for loans to Virginians with disabilities into the state. This success was due to the unprecedented collaboration with DRS, the Commonwealth Neurotrauma Initiative (CNI), Virginian Housing Development Authority (VHDA), and Children's Hospital, which provided cash match for the federal grants. Commission involvement encouraged VHDA's provision of match resources (\$500,000) to ATLFA just two days prior to the grant deadline. ATLFA total resources were reported to be \$12.5 million, only \$900,000 of which came through state general fund appropriations.

G.E. Financial Services developed a Public Service Announcement (PSA) for the Assistive Technology Loan Fund Authority at no cost to the Commonwealth. The PSA features the Chairman of the Disability Commission as the spokesman.

#### **Autism Spectrum Disorders**

Through the Commission's leadership, state agencies were asked to work with and support the development of the State Autism Planning Council. As a result, private and public autism experts have collaborated to bring about cost efficient training opportunities to improve the knowledge

and skill base of professionals/waiver providers in Autism in the state of Virginia. State agencies, especially the Virginia Department of Education, have contributed significant resources to empower the Council to:

- ◆ Finalize an Autism Awareness Level training curriculum,
- ◆ Conduct Autism Provider and new Teacher Training throughout the state,
- ◆ Develop an on-line web course with this curriculum through George Mason University,
- ◆ Develop a special autism training website, and
- ◆ Continue the development of advanced-level Provider and Teacher Training.

### **Other Disabilities**

The Disability Commission has been supportive of efforts by the Department of Medical Assistance Services (DMAS) to leverage federal funds into Virginia with a 50% return rate on state dollars. DMAS currently has 323 individuals enrolled in the Developmental Disability Home and Community Based Medicaid Waiver, and is developing a plan for a Brain Injury Services Home and Community Based Medicaid Waiver.

### **Olmstead Task Force Teams Look to Commission Initiatives**

This year, the Disability Commission worked to ensure that the Commission's work groups and members collaborated effectively with Olmstead Task Force issues teams. The Olmstead Task Force has shown great interest in the types of services that the Disability Commission has developed over the last 13 years (e.g., Personal Assistance, AT services, consumer-directed services, etc.) and the Task Force efforts have benefited from strong collaboration with the Disability Commission. Formal interface was arranged to enhance collaboration between the Commission and the Task Force .

The Commission recognizes that enormous state resources would be required to provide adequate community services to eliminate, waiting lists in Virginia and to shift resources toward community infrastructure building. The Governor is forming a team of state agencies to consider the recommendations in the Report and that team would be announced in early 2004. The funding recommendations will then be forwarded to the Governor, the House Appropriations and Senate Finance Committees, and the Joint Commission on Health Care.

The Commission believes that cost neutral priorities should be implemented first as well as those that advance consumer-directed service options and community services, rather than more costly facility-based services.

## COMMISSION'S FOUR PRIORITY AREAS

### II. EMPLOYMENT

The Disability Commission recognized Virginia businesses that had made special efforts to serve disabled Virginians through the 2003 Disability Friendly Business Awards. The Commission also began planning four regional meetings with businesses and employers throughout Virginia in 2004 regarding changes in the law that reduce most work disincentives for people with disabilities. These forums will include employers as active participants in sharing the advantages of maximizing the employment of people with disabilities for both employers and the employees.

For three years, the Disability Commission has advocated the development of a Medicaid Buy-In program for Virginia, which will allow working people with disabilities to pay a premium to participate in the State's Medicaid program, as though they were purchasing private health care coverage. Because people with disabilities sometimes need more than typical employer-provided health insurance, fear of losing the comprehensive Medicaid health care can be a serious disincentive to full employment. A Medicaid Buy-In program could eliminate that disincentive in Virginia.

Pursuant to the 2003 legislation (HB 1822), originally initiated by the Disability Commission, DMAS, DRS, and VOPA, have been working on a Section 1115 Waiver application. DMAS worked closely with stakeholders on the technical design of the project and the federal Centers for Medicare and Medicaid Services (CMS) provided initial input on the plan to help establish the parameters for the Research Project involving VA's Buy-In model in advance of finalizing the research protocol.

The Waiver program will serve a maximum of 200 participants, with an estimated cost to the State of \$396,965 GF and \$396,965 NGF after various offsets. The Commission determined that only half that amount would be needed for FY 2005 due to start up time.

Four additional Employer Leadership Forums throughout the State are planned for the Spring 2004. The Forums will be a collaborative effort between VABLN and the Commission, sponsored in part by the Medicaid (Buy-In) Infrastructure Grant (MIG) and a grant from the Virginia Board for People with Disabilities. The goal is to educate and empower employers about the changes in the law that now allow many people with disabilities to work, earn, and save money, yet retain Medicaid health care if needed.

The Disability Commission has been interested in launching training regarding law and policy changes that reduce work disincentives for many years. One of the MIG Subcommittees has taken on interagency coordination and policy clarification and training, aimed first at the School-to-Work Transition area. Many teachers, students and families still think that most people with disabilities should not even attempt work because they will always lose hard-fought benefits. While the laws have changed, agencies and consumers have not caught up with the changes.

Consumers have also requested a full Medicaid Buy-In Program for the state, to eliminate this final, daunting barrier to employment--loss of Medicaid health care due to employment earnings.

## COMMISSION'S FOUR PRIORITY AREAS

### III. SPECIALIZED TRANSPORTATION

The Commission has long viewed transportation as one of the greatest areas of unmet need for Virginians with disabilities. This year, the Commission conducted a review of transportation services and current issues during the interim with the assistance of state agencies, private providers, and stakeholder presentations.

The Department of Rail and Public Transit (DRPT) reported concerns with:

- Regionalization in public transportation, when local and regional services do not connect;
- Limited capacity in alternative services.

DRPT is leading an interagency committee developed to improve collaboration and planning across agencies for public and specialized transportation. The goal is to improve the accessibility of all transportation systems so that all people can utilize regular transportation systems.

The Commission supports flexibility in alternative specialized systems in route deviation if needed by some customers with disabilities. DRPT allows local providers to use their judgment in providing what is necessary.

DMAS' Medicaid Non-Emergency Transportation Program (NET) Brokered Transportation System was instituted in 2001, due to fraud and high costs in the prior system, and in order to increase efficiencies and better monitor Medicaid funded transportation providers. DMAS developed a contract to use a *statewide broker* to manage the hundreds of Medicaid transportation providers and payments throughout the State. The NET provides transportation services for fee-for-service Medicaid clients to/from covered services (e.g., doctor visits, hospital services, outpatient treatment, MH/MR services, etc.) through taxi, wheelchair van, stretcher van, ambulance, and public transit. NET services were managed through a transportation "broker."

The transition to a brokered system has been challenging, but DMAS reports that the agency has accrued massive cost savings from the transportation broker system.

The Commission asked DMAS to consider increasing the flexibility for door-to-door services when mobility is an issue.

The Commission also heard concerns that improvements were still needed in improving the communications between the providers and the broker system. The Commission requested that the testimony be shared with DMAS and with the interagency coordination committee being formed by DRPT.

The Commission determined that it would address these issues by working closely with the Interagency Transportation Council appointed Commissioner James McDonald to serve on the council.

## COMMISSION'S FOUR PRIORITY AREAS

### IV. HOUSING

In 2002-2003, housing was designated as the Commission's top priority. With the backdrop of the Olmstead compliance, House Bill 813<sup>1</sup> and Disability Commission Housing Action Plan, the mandate for intergovernmental and interagency collaboration to improve housing opportunities for Virginians with disabilities was clear.

In 2003, DHCD, VHDA and DRS awarded a competitive contract to national housing consultants, the National Disability Institute, NCB Development Corporation, and Boston-based Technical Assistance Collaborative, Inc., to help the Commonwealth finalize a state housing strategy. The lead consultant, Michael Morris, NCB, provided the Commission with a report entitled Review and Recommendations for State Housing Strategy (2003). This report is available to the public on the Lieutenant Governor's website:

<http://www.ltgov.virginia.gov/VADisabilityHousing9-15-03.pdf>

The report shows that for housing in Virginia:

- ◆ No single, simple housing solution exists to better serve persons with disabilities;
- ◆ There is a statewide lack of affordable accessible housing;
- ◆ Accessible housing does not always exist in conjunction with supportive services;
- ◆ Increasing housing costs statewide is a problem for people on SSI; and
- ◆ Olmstead efforts will create new opportunities to reexamine where funds were spent and to improve collaboration.

The Consultant's report provided five primary categories of recommendations for the Commonwealth's Housing Strategy:

1. Re-examine the allocation of resources /new funding initiatives (e.g., set aside a percentage of Section 8 vouchers for people on the Medicaid Waivers);
2. Pursue Legislative Initiatives (Amend State fair housing laws to include source of income as a protected class from discrimination);
3. Improve compliance monitoring and oversight (accessibility requirements of FFH laws);
4. Build capacity, education and training (Landlord outreach, self advocates leadership, Public Housing Administration (PHA) training and awareness campaign); and
5. Build more collaboration (create lead housing specialists at state and local levels and a DHCD/VHDA workgroup to develop a voucher homeownership program).

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<sup>1</sup> HB813 was 2002 legislation requiring Department of Housing and Community Development (DHCD) to develop a plan to improve housing opportunities and related services for Virginians with disabilities and the elderly.

## Collaboration Across Service and Housing Agencies

Several coordination efforts exist across the housing agencies, disability agencies and with the Olmstead Housing Team. Three major efforts demonstrate this outstanding collaboration:

- ◆ The Department of Housing and Community Development will craft a state response to HB813. The recommendations of both the Olmstead Task Force and NCB/TAC report were combined and certain recommendations will be prioritized for immediate implementation and while others will be pursued when the economy recovers.
- ◆ Last year's change in the Low Income Housing Tax Credit program, recommended by the Disability Commission, has had a positive impact on the development of more accessible housing units in Virginia. Builders can more easily rent units and persons with disabilities and seniors are able to find accessible units. VHDA has reserved a Specialized Pool (3%) of Tax Credits for builders interested in accessible housing projects this year.
- ◆ There was an additional recent positive collaboration between VHDA and the Assistive Technology Loan Fund Authority (ATLFA) that has been achieved to: 1) provide loans to modify homes, 2) initiate efforts to fund demonstration programs so that the agency can show new developers how accessibility housing can be accomplished within budget, and 3) use of Section 8 vouchers for home ownership. This collaboration was assisted by two Disability Commission members, James McDonald (Tidewater Business Owner) and Dr. Fred Orelove (VCU Institute Director), and will help VHDA in efforts to advance accessible housing stock.

At the urging of the Disability Commission, VHDA also successfully applied for a Virginia Board for People with Disabilities grant to develop a pilot for an *automated Housing Registry*, which will provide incentives to building owners to advertise the availability of accessible units to people who need them before the units are released to the public at large.

The Disability Commission agreed, at the prompting of the both consumers and agencies, that Disability Commission Housing Work Group should be continued next year. The Chairman of the Disability Commission also named a new chairperson for the work group: Denise Goode, Special Assistant to DRS Commissioner.

Consumer goals for the Commission's Housing Work Group next year are: 1) to maximize use of Section 8 vouchers; 2) to monitor implementation of the visitability report; 3) to establish housing assessment fund; and 4) to initiate effective training to help housing and disability communities work together more effectively.

## **2004 FINAL LEGISLATIVE AGENDA**

### **Informing the Governor's Budget Planning**

As in previous years, the Disability Commission sought to proactively inform budget planning by providing the Governor with bipartisan recommendations early in the budget planning process.

The Disability Commission developed a letter to the Governor with recommendations for his budget planning including the following key suggestions to:

- ◆ Focus on immediate progress toward on core Olmstead compliance issues, rather than the broader goals of Olmstead Task force;
- ◆ Preserve existing community programs;
- ◆ Fund two smaller community initiatives, which when fully implemented will save dollars by allowing Virginians with disabilities greater self-sufficiency and community inclusion (i.e., the Medicaid Buy-In Waiver (\$200,000), and Brain Injury Home and Community Based Services Waiver).

The Chairman's final letter to Governor Mark Warner, with a prioritized service matrix, is included in Appendix 5. Most of the Commission's budgetary recommendations were included in the Governor's Budget.

The Commission's 2004 Legislative Agenda included the following items:

### **Legislation for Reauthorization of the Disability Commission**

The most recent reauthorization of the Disability Commission expires on June 30, 2004. In order to continue the important work of the Commission, commissioners recommended another reauthorization, this time through June 30, 2007.

Senator Toddy Puller introduced the Commission recommendation as Senate Bill 381. Delegate Marian Van Landingham introduced the Commission recommendation as House Bill 817.

### **Legislation to Raise Revenues to Support Continuation of Brain Injury Programs**

The Commission received extensive public comment regarding the need to continue some of the programs funded by the Commonwealth Neurotrauma Initiative (CNI) Trust Fund. This initiative was passed in 1998 legislation to establish a special nonreverting fund in the state treasury and a \$30 reinstatement fee to restore driver's license revoked or suspended for specified offenses (e.g., DUI, hit-and-run, reckless driving, habitual offenses). The Department of Motor Vehicles (DMV) collects the \$30 fee to reinstate operator's license and directs \$25 to the CNI Trust Fund, with \$5 to DMV (if DUI-related, then \$5 to VASAP). The total revenue collected between SFY 1998 – SFY 2003 is \$5,966,733.



This year, based upon analyses completed by the DRS, the Commission determined that key programs (with the best outcomes) could be continued if the fees were doubled to **\$60**. Commissioners agreed that raising the driver's license reinstatement fees for these Virginians, who often cause the traumatic brain injuries through reckless driving, may be the only option to continue Brain Injury Programs.

Senator Puller introduced the Commission recommendation as Senate Bill 380.

### **Accessible Housing Legislation**

Local comprehensive plans are currently required to plan for "affordable" housing in all communities. Consideration of "accessible" housing is not required. The national consultants, the National Disability Institute, NCB Development Corporation, Washington, DC and Technical Assistance Collaborative, Inc., recommended that a requirement to plan for accessible housing should be added to the requirements for comprehensive planning at the community level.

Delegate Van Landingham introduced the Commission recommendation as House Bill 1433.

### **Resolutions Commending Commissioners Bloxom and Broman**

Two resolutions were submitted this year commending the Commissioners who were retiring: the Vice Chairman, the Honorable Robert Bloxom; and a newer member, the Honorable George Broman. The Commission submitted the resolutions in conjunction with the Virginia Board of People with Disabilities.

### **2004 OTHER ADMINISTRATIVE ACTIONS SUGGESTED**

**Review of Olmstead "no cost" recommendations-** The Commission will review the recent report from the VA Centers for Independent Living (VACIL's) that recommended that the Commonwealth adopt the "no-cost" Olmstead Recommendations first, especially the recommended changes to the Nurse Practices Act. These latter changes would allow more flexibility for Personal Assistants to be able to perform some health maintenance tasks, now prohibited. Legislative changes like this in Kansas and other states have promoted more consumer-direction and consumer control of services and more cost effective services. The Commission agreed to explore this approach with thoughtful deliberation, and will involve all parties affected, including the State Board of Nursing, DMAS, DRS and consumer advocates. The Chairman prepared a letter to the Secretary of Health and Human Resources asking her to carefully study possible changes to the Nurse Practices Act. (Appendix 6)

**Housing Work Group Administration Action Recommendations-** In addition to the legislative housing action recommended above, the Disability Commission's Housing Work Group provided a rich list of potential administrative actions to help guide the Commission after the 2004 General Assembly (Appendix 7). The Commission agreed to explore these changes at its next meeting in the Spring 2004.



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August 12, 2003

The Honorable Mark R. Warner,  
Governor of Virginia  
State Capitol, 3<sup>rd</sup> Floor  
Richmond, VA 23219

The Honorable Jerry Kilgore,  
Virginia Attorney General  
900 East Main Street  
6<sup>th</sup> Floor  
Richmond, VA 23219

Dear Governor Warner and General Kilgore:

I write you as Chairman of Virginia's Disability Commission. On September 30<sup>th</sup>, the Commission unanimously passed a resolution requesting that Virginia file an amicus curiae brief in a critical case in the United States Supreme Court regarding the Americans with Disabilities Act (ADA). The Commission urges you to join the other states in order to demonstrate Virginia's commitment to the ADA.

The ADA is the federal law guaranteeing that citizens with disabilities will be treated in a fair manner. The ADA has helped countless Virginians, many of whom obtained their disabilities in service to the Commonwealth and the nation. As former President Bush stated when signing the ADA into law, Americans with disabilities "have faced persistent discrimination in the workplace, and barriers posed by inaccessible public transportation, public accommodation and telecommunications. It is altogether fitting that the American people have once again given clear expression to our most basic ideals of freedom and equality."

In *State of Tennessee v. George Lane, et. al.*, Tennessee asserts that Title II of the ADA, guaranteeing fair treatment of disabled citizens in the provision of governmental services, is unconstitutional. In the case that gave rise to this appeal, the parties challenged their own state for the failure to provide courthouses and courtrooms, which are accessible to everyone. The

Appendix 1

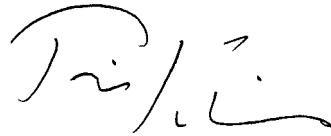
district court and the 6<sup>th</sup> Circuit Court of Appeals both ruled in favor of the disabled citizens of Tennessee.

The Bush Administration will file a brief supporting the ADA. Numerous organizations and other states are also expected to file similar supporting amicus briefs. We ask that Virginia join the President in supporting the constitutionality of the ADA. November 7 is the date for parties filing amicus briefs.

Virginia has nothing to fear from a law that requires government services to be offered to all citizens in a fair manner. We should hold ourselves to the highest standard, in order to ensure that all Virginians have equal access to public buildings and services.

With warm regards, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Kaine". The signature is fluid and cursive, with a large initial "T" and a long horizontal stroke at the end.

Timothy M. Kaine  
Lieutenant Governor of Virginia

Appendix 2

HOUSE BILL NO. 817 (same as SB381)

**Offered January 14, 2004**

**Prefiled January 14, 2004**

**A BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 34, consisting of sections numbered 30-226 through 30-233, relating to the Virginia Disability Commission; report.**

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**Patrons-- Van Lanningham, Barlow, Brink, Ebbin, McQuigg and Orrock; Senators: Miller and Puller**

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**Referred to Committee on Rules**

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Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 34, consisting of sections numbered [30-226](#) through [30-233](#), as follows:

**CHAPTER 34.  
VIRGINIA DISABILITY COMMISSION.**

§ [30-226](#). Virginia Disability Commission; purpose.

The Virginia Disability Commission (the "Commission") is established in the legislative branch of state government. The purpose of the Commission is to identify and recommend legislative priorities and policies that should be adopted or examined by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with disabilities.

§ [30-227](#). Membership; terms; vacancies; chairman and vice chairman.

The Commission shall consist of 18 members that include nine legislative members and two former legislative members, six nonlegislative citizen members, and the Lieutenant Governor. Members shall be appointed as follows: three members of the Senate and one former member of the Senate, to be appointed by the Senate Committee on Privileges and Elections; six members of the House of Delegates and one former member of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three nonlegislative citizen members, one of whom shall be a consumer with a disability, and the remaining two shall be members of the medical, insurance, or rehabilitation professions to be appointed by the Senate Committee on Privileges and Elections upon consideration of the recommendation of the Governor; three nonlegislative citizen members, one of whom shall be a consumer with a disability, and the remaining two shall be members of the medical, insurance, or rehabilitation professions to be appointed by the Speaker of the House of Delegates upon consideration of the

## Appendix 2

recommendation of the Governor; and the Lieutenant Governor. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings.

Legislative members of the Commission and the Lieutenant Governor shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Lieutenant Governor shall serve as chairman and the Commission shall elect a vice chairman from among its legislative membership.

§ [30-228](#). Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ [30-229](#). Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § [30-19.12](#), and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § [2.2-2813](#). All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#). However, all such compensation and expenses shall be paid from existing appropriations to the Commission, or, if underfunded, shall be approved by the Joint Rules Committee.

§ [30-230](#). Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Serve as the primary forum in the Commonwealth where the needs and issues of people with disabilities are addressed through the collaboration of members of the legislative and executive branches of state government, and citizens of the Commonwealth;

## Appendix 2

2. Evaluate and advance budget proposals and policy issues oriented towards a service system that maximizes the self-sufficiency of Virginians with disabilities;
3. Develop and review recommendations for service program changes and funding related to services for persons with physical and sensory disabilities; and
4. Advise on local, state and federal policies and programs relevant to citizens with disabilities.

### § [30-231](#). Staffing.

The Commission may appoint and employ and, at its pleasure, remove an executive director and such other persons as it deems necessary to assist it in carrying out its duties as set forth in this chapter. The Commission may determine the duties of such staff and fix their salaries or compensation within the amounts appropriated thereof.

If funds are not appropriated for staffing, then administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the vice chairman of the Commission serves, and the Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Commission.

All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

### § [30-232](#). Chairman's executive summary of activity and work of the Commission.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

### § [30-233](#). Sunset.

This chapter shall expire on July 1, 2007.

2. That for its first year of existence, if the Commission is not funded by a separate appropriation in the Appropriation Act, the Commission may be funded from the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon the approval of the Joint Rules Committee. If the Commission is not funded by a separate appropriation in the Appropriation Act for any year thereafter, this chapter shall expire on July 1 of the fiscal year that the Commission fails to receive such funding.

Appendix 3

SENATE BILL NO. 380  
Offered January 14, 2004  
Prefiled January 14, 2004

*A BILL to amend and reenact § 46.2-411 of the Code of Virginia, relating to fee for reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle.*

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**Patron-- Puller**

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**Referred to Committee on Transportation**  
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Be it enacted by the General Assembly of Virginia:

1. That § [46.2-411](#) of the Code of Virginia is amended and reenacted as follows:

§ [46.2-411](#). Reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle; proof of financial responsibility; reinstatement fee.

The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public on the highways in the Commonwealth.

Before granting or restoring a license or registration to any person whose driver's license or other privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended pursuant to §§ [46.2-389](#), [46.2-391](#), [46.2-391.1](#) or § [46.2-417](#), the Commissioner shall require proof of financial responsibility in the future as provided in Article 15 (§ [46.2-435](#) et seq.) of this chapter, but no person shall be licensed who may not be licensed under the provisions of §§ [46.2-389](#) through [46.2-431](#).

Whenever the driver's license or registration cards, license plates and decals, or other privilege to drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to complying with all other provisions of law, pays to the Commissioner a reinstatement fee of ~~thirty dollars~~ \$60. The reinstatement fee shall be increased by thirty dollars whenever such suspension or revocation results from conviction of involuntary manslaughter in violation of § [18.2-36.1](#); conviction of maiming resulting from driving while intoxicated in violation of § [18.2-51.4](#); conviction of driving while intoxicated in violation of § [18.2-266](#) or § [46.2-341.24](#); conviction of driving after illegally consuming alcohol in violation of § [18.2-266.1](#) or failure to comply with court imposed conditions pursuant to subsection D of § [18.2-271.1](#); unreasonable refusal to submit to drug or alcohol testing in

### Appendix 3

violation of § [18.2-268.2](#); conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation of § [46.2-301](#) or § [46.2-341.21](#); disqualification pursuant to § [46.2-341.20](#); violation of driver's license probation pursuant to § [46.2-499](#); failure to attend a driver improvement clinic pursuant to § [46.2-503](#) or habitual offender interventions pursuant to former § [46.2-351.1](#); conviction of eluding police in violation of § [46.2-817](#); conviction of hit and run in violation of § [46.2-894](#); conviction of reckless driving in violation of Article 7 (§ [46.2-852](#) et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the additional amount shall be retained by the Department as provided in this section and twenty-five dollars shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of Title 51.5. When three years have elapsed from the termination date of the order of suspension or revocation and the person has complied with all other provisions of law, the Commissioner may relieve him of paying the reinstatement fee.

No reinstatement fee shall be required when the suspension or revocation of license results from the person's suffering from mental or physical infirmities or disabilities from natural causes not related to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any person whose license is suspended by a court of competent jurisdiction for any reason, other than a cause for mandatory suspension as provided in this title, provided the court ordering the suspension is not required by § [46.2-398](#) to forward the license to the Department during the suspended period.

Except as otherwise provided in this section and § [18.2-271.1](#), reinstatement fees collected under the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.



Appendix 4

HOUSE BILL NO. 1433  
Offered January 23, 2004

*A BILL to amend and reenact § 15.2-2223 of the Code of Virginia, relating to comprehensive plan; accessible housing.*

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**Patron-- Van Landingham**  
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**Referred to Committee on Counties, Cities and Towns**  
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Be it enacted by the General Assembly of Virginia:

1. That § [15.2-2223](#) of the Code of Virginia is amended and reenacted as follows:

§ [15.2-2223](#). Comprehensive plan to be prepared and adopted; scope and purpose.

The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body shall adopt a comprehensive plan for the territory under its jurisdiction.

In the preparation of a comprehensive plan the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

The plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, business, industrial, agricultural, mineral resources, conservation, recreation, public service, flood plain and drainage, and other areas;
2. The designation of a system of transportation facilities such as streets, roads, highways, parkways, railways, bridges, viaducts, waterways, airports, ports, terminals, and other like facilities;

## Appendix 4

3. The designation of a system of community service facilities such as parks, forests, schools, playgrounds, public buildings and institutions, hospitals, community centers, waterworks, sewage disposal or waste disposal areas, and the like;
4. The designation of historical areas and areas for urban renewal or other treatment;
5. The designation of areas for the implementation of reasonable ground water protection measures;
6. An official map, a capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable; and
7. The location of existing or proposed recycling centers.

The plan shall include: the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable *and accessible* housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

**HOUSE JOINT RESOLUTION NO. 492**

**Offered March 8, 2004**  
***Commending Robert S. Bloxom.***

-----

Patrons-- Van Landingham, Amundson, Armstrong, Barlow, Brink, Callahan, Council, Dillard, Hall, Hamilton, Hargrove, Landes, Lewis, May, McQuigg, Melvin, Moran, Morgan, O'Bannon, Orrock, Parrish, Plum, Pollard, Purkey, Scott, J.M., Sherwood, Shuler, Tata and Watts

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WHEREAS, *Robert S. Bloxom*, after twenty seven years of tireless and dedicated work in the Virginia House of delegates, often with special focus on behalf of those Virginians with the greatest needs, has announced his retirement in 2003; and

WHEREAS, Robert S. Bloxom, Vice Chairman of the Disability Commission, has demonstrated outstanding commitment and vigorous efforts toward improving the quality of life of Virginians with disabilities throughout his tenure in the House;

WHEREAS, Robert S. Bloxom, ranking seventh in House seniority and long admired by colleagues and voters from all parties, successfully implemented his brand of responsive and responsible government on behalf for those who are most in need and more vulnerable environments; and

Whereas, Robert S. Bloxom, admired for his adherence to principle and courage to stand up for his beliefs, has consistently made difficult, and sometimes unpopular decisions, and introduced bills that have helped to build more supportive communities that include all people; and

Whereas, Robert S. Bloxom, whose fiscal conservatism has been well blended with the wisdom, has work to assure that the health, safety, and well being of children and those with special needs would not be ignored; and.

Whereas, Robert S. Bloxom, with great resolve, introduced and pressed legislation that established an independent agency for the protection and advocacy of the persons with mental disabilities; and

WHEREAS, Robert S. Bloxom, who has served honorably; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Robert S. Bloxom on his retirement from the Virginia House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Delegate Robert S. Bloxom, as an expression of the General Assembly's admiration, appreciation, and best wishes.

**HOUSE JOINT RESOLUTION NO. 107**

**Offered January 14, 2004**  
**Prefiled January 13, 2004**  
***Commending George E. Broman.***

-----  
Patrons-- McQuigg, Hull, Orrock, Scott, E.T., and Van Landingham; Senator: Puller  
-----

WHEREAS, George E. Broman, a prominent member of the House of Delegates who represented the 30th District, including the counties of Culpeper, Madison, and part of Orange, did not seek reelection in 2003; and

WHEREAS, George E. Broman, a physician and a member of the Disability Commission, demonstrated commitment and took action toward improving the quality of health care of Virginians with disabilities throughout his tenure in the House of Delegates and throughout his life; and

WHEREAS, George E. Broman, admired by the Virginia Board for Persons with Disabilities for his integrity, honesty, community involvement, and caring, approached disability problems with an open mind and based his decisions on fair principles; and

WHEREAS, George E. Broman, who considers health an individual's most valuable asset, sought to make sure health care issues were addressed and supportive services were increased for Virginians with disabilities and their families whenever feasible; and

WHEREAS, George E. Broman sought to share his medical expertise to assist the brain injury community in analyzing residential needs and in agreeing to seek community Medicaid waiver services rather than nursing facility placements; and

WHEREAS, George E. Broman leveraged his credibility as a retired surgeon and his accomplishments as president of such organizations as the Culpeper County Medical Society, the Medical Society of Virginia, the Culpeper Memorial Hospital Foundation, the Culpeper Chapter of the American Red Cross, and as a member of the Culpeper Chamber of Commerce to bring about increased attention to key health-related services for persons with disabilities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend George E. Broman on the occasion of his retirement from the House of Delegates of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George E. Broman as an expression of the General Assembly's admiration, appreciation and best wishes.



**COMMONWEALTH of VIRGINIA**

Office of the Lieutenant Governor  
900 E. Main Street, Suite 1400  
Richmond, VA 23219

Timothy M. Kaine  
Lieutenant Governor

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

*October 24, 2003*

The Honorable Mark R. Warner  
Governor  
Commonwealth of Virginia  
State Capitol, 3rd Floor  
Richmond, Virginia 23219

Dear Governor Warner:

On behalf of the Disability Commission, I am writing to request your support in helping us preserve the consumer-requested disability services built through the efforts of the Commission and the General Assembly over the last 13 years.

As you know, Virginia's Disability Commission has been integral in developing a coordinated, community-based and consumer-driven system of services for individuals with physical, sensory and other disabilities in the Commonwealth. Thanks to these efforts, Virginians may now access flexible Consumer Services Funds, Rehabilitation Incentive Funds, Personal Assistance Services, the Developmental Disabilities Medicaid Waiver, the Assistive Technology Loan Fund, Centers for Independent Living, Disability Services Boards and more. The Commission is proud that its programs have been forward thinking and are fully in line with the Olmstead Decision. The evolution of the Commission's success is best understood through the attached matrix showing service growth over our existence.

There are two areas of importance to which I would like to draw your attention as you focus on this year's budget: recommendations from the Olmstead Task Force and the Commission's funding priorities.

Regarding Olmstead, the Commission would like to congratulate you and the entire team that you put together to approach this task. Several of the Commission members, as well as a member of my staff, were on the Task Force and have reported to us that the process was very effective and efficient. The proof of this is reflected in the quality and thoughtfulness of the final report. In analyzing the report, we separated the recommendations into two broad categories: (1) items that require immediate attention to bring Virginia into compliance with the Olmstead

## Appendix 7

decision, and (2) items that, while they will greatly enhance the lives of Virginians with disabilities, are broader than the Supreme Court's mandate to the states.

It is the recommendation of the Commission that Virginia begin to make immediate progress on those core Olmstead compliance issues. While the broader recommendations in the Task Force Report are laudable goals, given the approach you have taken to fiscal responsibility, we should move quickly toward assisting those Virginians who desire to live in the community and receive services in the most appropriate setting. The Commission has reviewed the recommendations of the Virginia Centers for Independent Living regarding final report and would like to point you to those recommendations that can be implemented at no cost to the Commonwealth. In implementing your action agenda on Olmstead, the Commission urges you to focus on those recommendations which will aid the Commonwealth in developing a meaningful plan for ensuring that qualified Virginians with disabilities are placed in the least restrictive settings and that our waiting lists are not only accurate, but move at a reasonable pace. One particular item that surprised the Commission members is the fact that many of our waiting lists do not reflect the actual need. We would strongly encourage you to require agencies to keep full and accurate waiting lists, so that we will all have the entire picture.

While the Commission has been committed to the expansion of the services to meet consumer needs, new budget requests were not submitted for the last two years, regardless of program merit or need, due to the State's challenging budget situation. This year, the Commission has again determined that *preservation of existing programs*, not expansion, must be the Commission's primary goal. We are requesting that you protect these existing programs.

After preservation of the existing programs, there are two Commission initiatives that we have been working on for the past several years, the Medicaid Buy-In and the Brain Injury Waiver. The future effectiveness of these two programs will ensure increased self-sufficiency and reduced service costs of Virginians with disabilities. For example, when the Medicaid Buy-In program is fully implemented, many highly qualified employees will be added to the workforce, increasing our tax base and addressing some of the forecasted employee shortfall.

The current design of the Buy-In will serve 200 individuals, will only require about \$200,000 from the Commonwealth and will be a strong pilot for the final program. The Brain Injury Waiver is designed to serve 100 people at a cost of \$1.5 million. Both of these programs have been carefully crafted to maximize the benefits, while remaining fiscally conservative. Additionally, both programs effectively leverage the investment by the Commonwealth by drawing down federal matching dollars. We have designed these programs as demonstration projects, in order to "go live and learn" the actual costs and benefits of each. We are now at the point of approaching the Centers for Medicare and Medicaid Services (CMS), however we cannot submit the waiver application without an appropriation. Therefore, we respectfully request that you include these items in your upcoming budget.

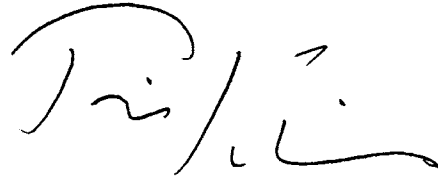
I am convinced that our programs have strengthened the foundation of the Virginia service delivery system and must be maintained as we strive to comply with the Olmstead Decision to help Virginians with disabilities become more self-sufficient and productive members of the community. It is our hope that the Commission's endorsement of these programs as genuine

Appendix 7

consumer-requested services will validate their importance as you embark on the difficult budget planning process ahead. The attached matrix of programs provides you with information regarding our budget recommendations for the upcoming session. It also provides you with information regarding the outcomes and benefits these programs have provided.

Thank you in advance for your consideration of these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Kaine". The signature is fluid and cursive, with a large initial "T" and "K".

Timothy M. Kaine  
Lieutenant Governor  
Commonwealth of Virginia

Attachment: Matrix





Appendix 7

**Disability Commission Initiatives: Outcomes and Budget Reduction Impact – October 24, 2003**

Program	Original Disability Commission Recommendation	Appropriation FY 2003	2004 FY Budget Level After Budget Cuts	Service Description, Documented Need, and Outcomes
<b>Personal Assistance Services (PAS)</b>	<b>\$1,500,000</b>	<b>\$2,612,937</b>	<b>\$2,595,472</b>	<p>The PAS program provides consumer-directed personal assistance services to persons with significant physical disabilities who need assistance in performing daily living activities related to employment or living independently in the community. Many would be at risk of nursing home placement and/or unemployment without these services.</p> <p>The average nursing homes cost in Virginia is \$40,000.00 - \$70,000.00</p> <ul style="list-style-type: none"> <li>▪ 214 consumers currently receiving services (67 are employed)</li> <li>▪ 32 individuals approved and on waiting list:</li> <li>▪ 60-75: Estimated additional eligible individuals</li> </ul>
<b>Centers for Independent Living (CILs)</b>	<b>\$ 479,000</b>	<p><b>\$1,395,000</b></p> <p><b>(\$770,000 for New CILs and \$625,000 for Youth Transition)</b></p> <p><b>\$1,385,000 (federal funds)</b></p>	<p><b>\$1,338,263.00</b></p> <p><b>(State funding for the 16 CILs is \$4,400,366)</b></p>	<p>CILs are non-residential centers where persons with disabilities learn independence and develop the skills necessary to live and work in the community. CILs receive both state and federal funding.</p> <ul style="list-style-type: none"> <li>▪ 16 CILs and two satellite CILs serve over 7,600 people with disabilities, and provided 19,000 hours of community support services.</li> <li>▪ Six CILs, remain funded below the recommended national funding base for Centers (\$250,000.)</li> <li>▪ The CIL philosophy does not allow for “waiting lists”, so lack of funding affects ability to provide the highest level of service.</li> </ul> <p>CIL services directly affect an individual’s ability to live and work independently in the community.</p>

Appendix 7

Program	Original Disability Commission Recommendation	Appropriation FY 2003	2004 FY Budget Level After Budget Cuts	Service Description, Documented Need, and Outcomes
<b>Long-Term Rehabilitative Case Management Program (LTRCM)</b>	<b>\$ 669,900</b>	<b>\$500,000</b>	<b>\$473,758</b>	<p><b>LTRCM matches rehabilitative needs with appropriate services. The program assists individuals with severe physical and sensory disabilities to work, to establish self-esteem, and to prevent, eliminate or reduce economic and personal dependency</b></p> <ul style="list-style-type: none"> <li>▪ <b>443 individuals who have neurological and other severe physical disabilities receive intensive service support and coordination.</b></li> <li>▪ <b>248 individuals and families, not in “active” status, receive technical assistance.</b></li> <li>▪ <b>171 individuals on a waiting list:</b>            Central 72      Northern 20      Southwest 7            Eastern 13      Tidewater 59         </li> </ul>
<b>Consumer Service Fund (CSF)</b>	<b>\$2,900,000</b>	<b>\$600,000</b>	<b>\$473,394</b>	<p><b>This “fund of last resort” is a special state fund designed to help individuals with physical or sensory disabilities living in Virginia access services that cannot be funded through existing programs. Funds were used to purchase assistive technology devices and services, home accessibility modifications, vehicle modifications and vehicle purchases.</b></p> <ul style="list-style-type: none"> <li>▪ <b>117 individuals served in FY2003.</b></li> <li>▪ <b>248 applications received</b></li> </ul>

Appendix 7

Program	Original Disability Commission Recommendation	Appropriation FY 2003	2004 FY Budget Level After Budget Cuts	Service Description, Documented Need, and Outcomes
<b>Disability Services Boards (DSBs)</b>	<b>\$ 354,960</b>	<b>\$550,000</b>	<b>\$467,500</b>	<p><b>DSBs boards consist of consumers, local government representatives, and businesses working to increase access and develop consumer-oriented, community-based services for persons with physical and sensory disabilities.</b></p> <p><b>DSBs administer the Rehabilitative Services Incentive Fund (RSIF), provide information and referral sources to the local governments on the ADA, provide technical assistance regarding the needs of consumers with disabilities, conduct needs assessments and serve as catalysts for the development of public and private funding.</b></p> <ul style="list-style-type: none"> <li>▪ <b>There are 40 DSBs serving their communities</b></li> <li>▪ <b>They conduct surveys of the needs of people with disabilities.</b></li> </ul>
<b>Brain Injury Direct Services (BIDS) Fund (formerly called Cognitive Rehabilitation Program)</b>	<b>\$ 1,179,479</b> <b>(\$200,000 BIDS and \$979,479 WWRC)</b>	<b>\$ 375,000</b> <b>(\$200,000 BIDS and \$175,000 WWRC)</b>	<b>\$366,250</b>  <b>[2002 DC endorsed \$1,300,000 to expand general brain injury services in the state (in addition to the BIDS Fund); no new funds allocated.]</b> <b>(\$26,250 restored by the 2003 GA)</b>	<p><b>The Brain Injury Direct Services (BIDS) provides short-term specialized treatment, rehabilitation, and other forms of assistance to people with acquired brain injury</b></p> <ul style="list-style-type: none"> <li>• <b>Fifteen (15) individuals with brain injuries received services.</b></li> <li>• <b>One (1) individual received residential rehabilitation/treatment services.</b></li> <li>• <b>\$35,000: in conjunction with DRS vocational rehabilitation funds, supported operation of The Mill House, serving 25 people with brain injury.</b></li> <li>• <b>\$50,000: used as state match for a federal TBI Act grant (“Project START”) totaling \$200,000 in federal dollars. Project START established Regional Brain Injury Resource Centers in three underserved areas of the Commonwealth.</b></li> </ul>

				<ul style="list-style-type: none"> <li>• 148 persons served by the WWRC BIS Program.</li> <li>• The average waiting period for BIS Program services in FY '03 was three months; for the BIS Outpatient Evaluation Clinic, the average waiting period was one month.</li> </ul> <p><b><u>Budget reduction impacts to date:</u></b></p> <ul style="list-style-type: none"> <li>• (10) individuals denied of services (and unknown number of others who did not apply due to lack of funding).</li> <li>• 13 people on the BIS Program services waiting list</li> </ul>
<p><b>Rehabilitative Services Incentive Fund (RSIF)</b></p>	<p><b>\$3,000,000</b></p>	<p><b>\$912,500</b></p>	<p><b>\$182,530</b></p>	<p>RSIF grants are awarded to address unmet or underserved needs identified by local Disability Services Boards and to develop community programs for people with physical and/or sensory disabilities.</p> <ul style="list-style-type: none"> <li>• 80 grants awarded last year totaling \$796,223 (\$275,094 paid out after the budget cut). Individual Disability Services Board allocations ranged from \$5,000 to \$130,000 in FY02.</li> <li>• At the beginning of FY 2003, 68 grants were awarded and 13 multi-year grants were carried over from the previous fiscal year</li> </ul> <p><b><u>Budget reduction impacts to date:</u></b></p> <ul style="list-style-type: none"> <li>• Due to budget cuts in FY03 the above grants were cancelled 3 months into the contract period. Due to the cuts (80%), the normal allocations for FY04 were not possible, instead the FY04 dollars were distributed by a competitive grant process.</li> <li>• An estimated 1,500 people with physical and/or sensory disabilities will not receive direct services. Elimination of one hourly position.</li> </ul>



**COMMONWEALTH of VIRGINIA**

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**December 15, 2003**

The Honorable Jane Woods  
Secretary of Health and Human Resources  
Ninth Street Office Building, Suite 622  
202 North Ninth Street  
Richmond, VA 23219

Dear Secretary Woods:

On behalf of the Disability Commission, I am writing to commend the work of your Secretariat for the strong collaboration within the Olmstead Task Force process and final report. The proof of your involvement and leadership is clearly reflected in the quality and thoughtfulness of the final report.

The breadth of the recommendations in the Task Force Report represent comprehensive and laudable goals for our system in Virginia and will require extensive resources. Today, however, the Commission would like to bring your attention to one of the no-cost recommendations in the Waiver Issues Team report that we believe deserves careful study and which, if resolved, may reduce costs and eliminate barriers to consumer-directed services in VA. This recommendation involves the *review of regulations controlling the range of health maintenance activities that may be performed safely within the home by Personal Assistants*. As you know, the Virginia Board of Nursing promulgates regulations related to the Nurse Practice Act.

The Commission has become aware of work in other states, most notably, Kansas, which recently formed a Long-Term Care Action Committee, with representatives from many agencies, to develop a statewide long-term care plan. The Kansas plan focused on: consumer-choice, quality, cost-effectiveness, and development of community-based options. After much collaborative deliberation

## Appendix 8

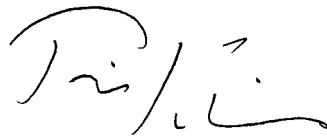
with all involved agencies, Kansas passed legislation allowing personal assistants to perform "health maintenance activities, if the activities may [typically] be performed by the individual, if the individual were physically capable, and the procedure may be safely performed in the home." Kansas also included a number of essential health safeguards. See [http://www.hcbs.org/cms2002conference/E.Phelps\\_T.Galutia.pdf](http://www.hcbs.org/cms2002conference/E.Phelps_T.Galutia.pdf) for more information. Major efficiencies for the service system are anticipated.

The Disability Commission, urged by advocates from many sectors, would like to recommend your consideration of a work group, developed under your leadership, to examine all sides of this type of service change, with particular attention to health and safety issues for Virginians using Personal Assistance Services (PAS). Minimally, this collaborative work group would need to include representatives from the Virginia Board of Nursing under the DOH, DMAS Long Term Services Division, DRS PAS program, and consumer advocates. The work group would likely need to meet for several months to thoroughly examine issues, pro and con, as this level of consumer-control is often considered to be controversial.

The Commission believes that, while extensive deliberation, involving all parties affected is critical, a modification in regulations that potentially could enhance consumer-directedness and cost effectiveness of in-home services that prevent nursing or ICF-MR facility placements, is certainly worthy of careful review. It is our hope that the Commission's endorsement of this work group, as a genuine consumer-requested review, will validate its importance to you as a needed quality improvement effort for 2004.

Thank you again for your outstanding leadership and consideration of this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Kaine". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Timothy M. Kaine  
Lieutenant Governor  
Commonwealth of Virginia

**Virginia Disability Commission**

**Housing Work Group Recommendations for 2004 Administrative Actions from the Commission:**

1. With a consensus that the State needs to amend the Virginia Fair Housing Act to include "origin of income" protections as a protected class, the Commission should seek to build an effective legislative strategy over the next year to effectively accomplish this goal during the 2005 session. The term "source of housing payment" will be encouraged instead of "origin of income.
2. After the VA Housing Registry is developed, consider how to incent or promote owners/managers of accessible units to post advance notice of vacancies before offering them on open market.
3. Request that the Secretary of Health Human Resources (HHR) give consideration to the appointment of a Housing Coordination Director (Executive Level Staff Position dedicated to Housing) to work in concert with the Olmstead Director, all Disability service agencies, and housing agencies (state and local) to maximize federal funding, multi-agency cooperation and optimization of resources, etc.).<sup>2</sup>
4. Prepare a letter for the Chairman's signature to Virginia's Congressional delegation articulating the Disability Commission's concerns that the currently proposed federal Housing Voucher reforms may have potentially negative consequences in Virginia especially in light of Olmstead Strategic targets. The Commission may recommend greater prioritization of persons with disabilities for existing vouchers and procedural safeguards on cost-cutting measures.
5. Prepare a letter for the Chairman's signature to the Secretary of HHR to consider the inclusion of the additional housing recommendations from the HB 813 report (NCB/TAC reports) as a supplement to Olmstead Housing team report for the purpose of prioritizing housing activities.
6. Prepare a letter for the Chairman's signature to the Secretary of Transportation and/or Director of Department of Rail and Public Transit to require the Interagency Specialized Transportation Team to find ways to link local public transit with housing and services as per Olmstead Taskforce recommendations (i.e., to require or develop incentives for public transit routes and stops to be located near and accessible to housing and social service agencies/program, and ensure curb and ramp issues are addressed).
7. Prepare a letter for the Chairman's signature to Chair of the VA Board for People with Disabilities that the Board consider funding a "Housing Leadership Academy" with federal Developmental Disabilities Funds to encourage self-advocates, parents, and family members to become more active at the state and local level with housing resource decision making and policy development as per HB 813 report.
8. Prepare a letter for the Chairman's signature to the Housing Study Commission Chair recognizing their upcoming efforts to develop a *state housing policy* and offering the assistance of the Disability Commission's existing Housing Work Group to help coordinate and inform on disability issues.

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<sup>2</sup> Many on the work group believed that this position could be appointed from existing agency staff with housing responsibilities or partially funded from several agencies and grants for a pilot test period.

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